PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Whitley Penn LLP, Susan Lunn Powell, CPA, Jeffry Shannon Lawlis, CPA, and John Griffin Babb, CPA,* *Respondents.*	PCAOB Release No. 105-2020-002 March 24, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon Whitley Penn LLP ("WP" or the "Firm"), Susan Lunn Powell, CPA ("Powell"), Jeffry Shannon Lawlis, CPA ("Lawlis") and John Griffin Babb, CPA ("Babb") (collectively, "Respondents"). The Board is:

(1) requiring WP to undertake certain remedial actions, as described in Section IV of this Order, and imposing a $200,000 civil money penalty on WP;

(2) barring Powell from being associated with a registered public accounting firm,[1] limiting Powell's activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for an additional period of one year following the termination of the bar, requiring that Powell complete forty additional hours of continuing professional education ("CPE"), and imposing a $25,000 civil money penalty on Powell;

(3) suspending Lawlis from being associated with a registered public accounting firm for a period of one year, limiting Lawlis's activities in connection with any "audit," as that term is defined in Section 110(1) of the Act for an additional period of one year following his suspension, requiring that Lawlis complete twenty additional hours of CPE, and imposing a $15,000 civil money penalty on Lawlis; and

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

(4) limiting Babb's activities in connection with any "audit," as that term is defined in Section 110(1) of the Act for a period of two years, requiring that Babb complete ten additional hours of CPE, and imposing a $10,000 civil money penalty on Babb.

The Board is imposing these sanctions based on its findings that: (1) Powell and Babb violated PCAOB rules and standards[2] in connection with the audits of the 2012-2014 financial statements of United Development Funding III, L.P., and the review of that issuer's Q3 2015 interim financial statements; (2) Lawlis violated PCAOB rules and standards in connection with the audits of the 2013-2014 financial statements of United Development Funding IV and the review of that issuer's Q3 2015 interim financial statements; and (3) WP violated PCAOB rules and standards by failing to design, implement, and maintain appropriate quality control policies and procedures.

I.

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

II.

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

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[2] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of audits discussed herein. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules, PCAOB Release No. 2015-002 (Mar. 31, 2015).

Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **Whitley Penn LLP** is a limited liability partnership organized under the laws of the State of Texas and headquartered in Fort Worth, Texas. The Firm is licensed by the State Boards of Accountancy in Texas (License No. P05377), California (License No. OFR659), New Jersey (License No. 20CZ00034600), Oklahoma (License No. 13919), and Minnesota (License No. F2269). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Susan Lunn Powell, CPA**, is a certified public accountant licensed by the Texas State Board of Accountancy (License No. 078380). At all relevant times, Powell was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **Jeffry Shannon Lawlis, CPA**, is a certified public accountant licensed by the Texas State Board of Accountancy (License No. 058485). At all relevant times, Lawlis was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

4. **John Griffin Babb, CPA**, is a certified public accountant licensed by the Texas State Board of Accountancy (License No. 081948). Babb is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Issuers

5. **United Development Funding III, L.P. ("UDF III"),** was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). UDF III's public filings disclosed that it originated, acquired, serviced, and managed mortgage loans secured by real property or equity interests that held real property already subject to other mortgages.

6. **United Development Funding IV ("UDF IV")** was, at all relevant times, a Maryland real estate investment trust, and an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). UDF IV's public filings disclosed that it originated, purchased, participated in, and held for investment secured loans to persons and entities relating to real estate development.

7. UDF III and UDF IV were affiliates of one another and were under common management, along with several other affiliates (collectively, the "UDF Entities").

C. Summary

8. WP was the UDF Entities' external auditor, including for the year ended December 31, 2012 and continuing through the third quarter of 2015. Powell was the engagement partner for the audits and reviews of UDF III's 2012 through Q3 2015 financial statements. Babb was the engagement quality review ("EQR") partner for those same UDF III audits and reviews. Lawlis was the engagement partner for the audits and reviews of UDF IV's 2013 through Q3 2015 financial statements.

9. This matter concerns, among other things, (a) Powell's, Lawlis's, and Babb's failures to exercise due professional care, including professional skepticism, in connection with procedures they performed concerning loans made by UDF III and UDF IV to a key borrower, which accounted for a significant portion of each issuer's assets; (b) Powell's and Lawlis's failures to appropriately respond to evidence of possible undisclosed related party transactions between UDF III and UDF IV during the 2013 and 2014 audits; and (c) Whitley Penn's failure to maintain an adequate system of quality control ("QC system") both during and after those audit failures.

10. Specifically, Powell repeatedly failed to gather sufficient appropriate evidence to determine whether a significant loan was properly valued, and failed to adequately consider evidence indicating UDF III needed to record a substantial reserve for that loan. By Q3 2015, that loan accounted for $104 million (26%) of UDF III's assets. Evidence gathered by Powell indicated that it could be impaired by as much as $73 million at Q3 2015, which was approximately three times UDF III's total allowance for loan losses. Powell also failed to adequately respond to (a) evidence from confirmation procedures of a possible dispute between UDF III and the borrower for that loan and (b) the fact that UDF IV was repeatedly transferring cash to UDF III without either fund disclosing the transfers as related party transactions.

11. Lawlis failed to adequately respond to evidence from confirmation procedures of a possible dispute between UDF IV and that same key borrower, whose loans accounted for approximately 10% of UDF IV's assets. Lawlis also failed to adequately respond to the transfers from UDF IV to UDF III that were not disclosed as related party transactions.

12. Babb, in connection with his EQRs for the UDF III audits, repeatedly failed to properly evaluate, with due professional care, the significant judgments that Powell made concerning the UDF III loan to the key borrower described above.

13. The above violations resulted, at least in part, from WP's insufficient QC system. During the period of the violations, WP's QC system failed to provide reasonable assurance that WP and its personnel performed audit work in accordance with professional standards or appropriately consulted with persons outside of the engagement team when necessary.

D. Background

Notes Receivable and Key Customer

14. The vast majority of UDF III's and UDF IV's assets were comprised of the notes receivable and accrued interest receivable balances from the loans they made. WP understood that the loans funded long-term development projects, with typical interest of 15% and above for UDF III, and 13% and above for UDF IV. WP also understood that UDF III and UDF IV typically set maturity dates on the loans for dates that were prior to the expected completion dates for the development projects. WP expected that UDF III and UDF IV would renew loans for ongoing projects if UDF III and UDF IV believed that the loan was adequately performing and collectable.

15. UDF III and UDF IV each reported their notes receivable both on a gross basis and net of an allowance for loan losses ("ALL"). The ALL was comprised of two components: (1) provisions for expected losses on loans individually evaluated for impairment ("specific reserves"), and (2) an accrual for losses on non-impaired loans.

16. UDF III and UDF IV recognized interest income from their loans on an accrual basis. Both funds disclosed that they suspend recognition of interest income on a loan when full recovery of principal and income was no longer probable. Accordingly, a loan that was impaired and not fully recoverable would also generally require suspension of interest revenue recognition.

17. One of the key borrowers for both UDF III and UDF IV was a group of related land development entities based in Austin, Texas (the "Austin Developer"). At all relevant times, UDF IV had several outstanding loans to the Austin Developer, which accounted for approximately 10% of UDF IV's assets and revenues. UDF III had just one outstanding loan to the Austin Developer, a line of credit (the "LOC"), which accounted for more than

20% of UDF III's assets and revenues. The LOC bore interest at 15%, and was subordinate to both the UDF IV loans and other senior debt.

18. In December 2016, the UDF Entities entered into a settlement with the Austin Developer, which resulted in UDF III forgiving more than $122 million of the Austin Developer's indebtedness to UDF III associated with the LOC.[5] Although UDF III disclosed that the settlement may have a material adverse impact on its financial statements, UDF III has not publicly filed any financial statements after the Q3 2015 financial statements that WP reviewed. WP completed its Q3 2015 review for UDF III in November 2015, and then declined to stand for reappointment as the UDF Entities' auditors three days later.

Settlement with the Commission

19. On July 3, 2018, UDF III and UDF IV, along with several members of their management, entered into a settlement with the U.S. Securities and Exchange Commission ("Commission").[6] The settlement stemmed from a Commission investigation that WP first learned about during the 2014 audits. The settlement concerned allegations by the Commission that UDF III had failed to recognize a specific impairment on the LOC and put the LOC on non-accrual status. It also concerned allegations that the UDF Entities did not disclose the true nature of the transactions involving cash transfers from UDF IV to UDF III for distribution to UDF III investors.

E. Powell Failed to Obtain Sufficient Appropriate Evidence Concerning the ALL During the 2012-2014 UDF III Audits

20. PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[7] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit

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[5] See Form 8-K filed by UDF III (Jan. 6, 2017). The impact of the settlement on UDF IV's financial statements has not been publicly reported.

[6] See *SEC Charges Real Estate Investment Funds and Executives for Misleading Investors*, SEC Lit. Rel. No. 24185 (Jul. 3, 2018); *Securities and Exchange Commission v. United Development Funding III, LP, et al.*, No. 3:18-cv-01735-L (N.D. Tex. filed July 3, 2018; final judgments entered Jul. 31, 2018).

[7] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

performed in accordance with PCAOB standards.[8] PCAOB standards require, among other things, that an auditor plan and perform the audit with due professional care[9] and to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[10]

21. The auditor must design and implement audit responses that address the risks of material misstatement that are identified and assessed during the audit.[11] In designing the audit procedures to be performed, the auditor should obtain more persuasive audit evidence the higher the auditor's assessment of risk.[12] To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based.[13]

22. Powell identified notes receivable as a significant account for each of the UDF III audits, and assessed that there were significant risks, including fraud risks, associated with that account. Powell designated the ALL as a "critical issue" and identified it as a significant estimate giving rise to high inherent risk for valuation of the net notes receivable balance. Powell also identified that management could perpetrate and conceal fraudulent financial reporting in connection with its notes receivable, including through understatement of the ALL.

23. Despite identifying those significant risks relating to UDF III's notes receivable, including the ALL, Powell failed to exercise due professional care, including professional skepticism when performing audit procedures over that account. In violation of PCAOB rules and standards, Powell failed to gather sufficient appropriate audit evidence about the value of the LOC, which was a significant loan. She also improperly relied on management estimates, data, and assumptions about that loan, without sufficiently evaluating their reasonableness.[14]

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

[9] See AU § 230.01, *Due Professional Care in the Performance of Work*.

[10] See AS 15, *Audit Evidence*, ¶ 4.

[11] See AS 13, *The Auditor's Responses to the Risks of Material Misstatement*, ¶ 3.

[12] See AS 13 ¶ 9.

[13] See AS 15 ¶ 6.

[14] See AU §§ 342.09-.10, *Auditing Accounting Estimates*.

2012 Evaluation of the LOC

24. At year-end 2012, the LOC accounted for approximately 22% ($80 million) of UDF III's assets. UDF III's records indicated that the LOC collateral was also securing $49 million in additional debt at year-end 2012, including $26 million in senior debt. Powell knew that the LOC was past due as of year-end 2012 and UDF III management designated the LOC as impaired, but did not record any specific reserve for it in UDF III's ALL. During the audit, management asserted to Powell that it believed the loan was collectable. Management also provided Powell with documentation showing UDF III renewed the LOC in late March 2013.

25. In her initial analysis of the LOC for the 2012 audit, Powell noted that, if all of the land currently listed as collateral for the LOC was fully developed and sold, the lot sales would not generate sufficient proceeds to repay the LOC and other senior debt secured by the same collateral.

26. Nevertheless, Powell ultimately agreed with management that UDF III likely could collect the full amount of principal and interest, and that no specific reserve or suspension of revenue recognition was necessary. Powell based her conclusion on a revised projection that the Austin Developer's total future cash receipts from the development and sale of all lots would be approximately $152 million, exceeding the outstanding total debt and accrued interest by approximately $23 million. That calculation was based on management-provided data about the number of lots available for sale to repay the loan, the projected sale prices of those lots, and the amounts the Austin Developer would receive in development incentives.

27. Powell, however, failed to perform her analysis with due professional care and, as a result, failed to obtain sufficient appropriate audit evidence to support her conclusions about the LOC.[15] For example, in performing that analysis, Powell did not adequately:

- Test the accuracy and completeness of management-provided data that was critical to her calculation,[16] including the number of lots that remained for sale, despite receiving a schedule from management indicating that some of the lots identified as collateral might have been sold already;

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[15] See AS 15 ¶ 4.

[16] See AS 15 ¶ 10.

- Evaluate the reasonableness of key factors and assumptions that were significant to the analysis, including the projected costs that would affect the collectability of the loan (e.g., future development costs being funded through senior debt);[17] and

- Discount the future cash receipts to present value in her analysis, despite knowing that the interest rate on the LOC was 15% and the developments would take several more years to complete.[18]

28. Powell also considered that management had informed her that the Austin Developer had "pledged" additional collateral to support the repayment of the LOC, which it claimed would increase the number of lots available for sale. However, Powell did not take adequate steps during the 2012 audit to analyze that pledge and determine whether it, in fact, added valuable collateral to the LOC. Powell also did not consider whether that pledged collateral was, itself, subject to senior liens that affected the collateral's value.

29. As a result of these deficiencies, Powell failed to obtain sufficient appropriate audit evidence to determine whether UDF III's reported 2012 notes receivable was properly valued and whether revenue recognition should have been suspended for the LOC.

2013 Evaluation of the LOC

30. For the 2013 audit, Powell again failed to appropriately evaluate management's conclusions concerning the impairment and specific reserves of the LOC.

31. During the 2013 audit, Powell identified that available appraisals or other initial WP testing did not support the valuation of the LOC, which then accounted for approximately 23% ($84 million) of UDF III's assets. The engagement team asked management for additional support for the value of the LOC and, in response, received a cash flow analysis reflecting management's conclusions concerning the collectability and value of the LOC. Management's analysis for the LOC calculated that there would be $173 million of cash flows that could be used to satisfy that loan.

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[17] See AU § 342.09.

[18] Cf. ASC 310-10-35-25 ("If a creditor bases its measure of loan impairment on a present value amount, the creditor shall calculate that present value amount based on an estimate of the expected future cash flows of the impaired loan, discounted at the loan's effective interest rate.").

32. Powell, however, failed to adequately evaluate whether the information contained within the cash flow projection was sufficient and appropriate for purposes of the audit, as required by PCAOB standards.[19] She failed to adequately test the accuracy and completeness of the information in the cash flow projections, or to test the controls over the accuracy and completeness of that information.[20] She also failed to adequately evaluate whether the information was sufficiently precise and detailed for purposes of the audit.[21]

33. Specifically, while Powell performed testing procedures over certain data in the management cash-flow analysis, such as lot pricing data, she failed to plan or perform procedures to evaluate or test certain other critical data and assumptions. For example, she failed to test the accuracy, completeness and reasonableness of:

- Data in the cash flow model about the number of lots that would be developed and were available for sale in the future, including whether the underlying projects existed;

- Data and assumptions in the cash flow model relating to the amount of future development costs that would be incurred as senior debt; and

- Data and assumptions in the cash flow model about the timing of the estimated cash advances and repayments, which were important to the analysis because of the LOC's 15% interest rate.

34. As a result of these deficiencies with the LOC testing, Powell failed to obtain sufficient appropriate audit evidence to determine whether UDF III's reported 2013 notes receivable was properly valued and whether revenue recognition should have been suspended for the LOC.

2014 Evaluation of the LOC

35. For the 2014 audit, Powell again failed to appropriately evaluate management's conclusions concerning the impairment and specific reserves of the LOC. By that time, the LOC accounted for approximately 24% ($94 million) of UDF III's assets.

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[19] See AS 15 ¶ 10.

[20] See id.

[21] See id.

Management's 2014 analysis for the LOC calculated that there would be $176 million of cash flows that could be used to satisfy the LOC.

36. By the time of the 2014 audit, Powell was aware that the Commission had commenced an investigation of the UDF Entities that included questions about UDF III's monitoring of the LOC, the valuation of the LOC's collateral, and management's decision to renew the LOC in 2013. This information should have caused her to exercise heightened professional skepticism when testing the value and impairment of the LOC, but she failed to do so.[22]

37. Powell also failed to adequately consider additional information which should have caused her to review the analyses with heightened professional skepticism. For example, during the 2014 audit, UDF III told Powell that the principal of the Austin Developer had informed the UDF Entities of his desire to retire, and was negotiating a settlement with the UDF Entities. Management indicated that the settlement negotiations were ongoing, and that management anticipated a settlement involving another developer taking over the projects reflected in the LOC cash flow analysis, which consisted of both existing projects and "future projects."

38. Powell also failed to adequately consider that:

- There had not been any cash payments of principal on the LOC during 2014, despite management's 2013 cash flow analysis projecting a substantial pay-down of the LOC in 2014;

- The cash flow analysis for the LOC included proceeds from "future projects," for which the WP engagement team had no evidence to support that they existed; and

- The ongoing settlement negotiations with the Austin Developer could indicate a dispute with the Austin Developer, and the Austin Developer did not respond to confirmation requests about its 2014 loan balance, despite responding to similar requests in prior audits.[23]

39. Powell again relied on management's cash flow analysis in testing the LOC for potential impairment, but she again failed to adequately test the accuracy and completeness of the information in the cash flow projections, despite all of the foregoing information. Powell reviewed a summary cash flow for the LOC, as well as a selection of five cash flow analyses for individual development projects that she understood were

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[22] See AU § 230.07.

[23] See Section III.F, infra.

generating repayments reflected in the summary cash flow. Powell also discussed the cash flow analysis with management, and reviewed management's support for the lot pricing management used in the cash flow model. Based on those steps, and inquiry to management about the LOC's status, Powell concluded that the LOC was fully collectable.

40. However, Powell again failed to adequately evaluate whether the information contained within the cash flow projection was sufficient and appropriate for purposes of the audit.[24] While she performed testing procedures over certain data in the cash flow projection, she again failed to test the completeness and accuracy of other critical data and assumptions, including the number of lots that would repay the loans, the timing of estimated cash advances and repayments, or the projected amounts of future development costs.[25] Powell also failed to take adequate steps during the 2014 audit to understand the nature of the "future projects" management included in its cash flow projection, and their qualitative and quantitative impact on the cash flow analysis. As a result, Powell failed to obtain sufficient appropriate audit evidence to determine whether UDF III's reported 2014 notes receivable was properly valued and whether revenue recognition should have been suspended for the LOC. [26]

F. Powell and Lawlis Failed to Properly Evaluate the Results of the Confirmation Procedures Concerning the Austin Developer during the 2014 UDF III and UDF IV Audits

41. Both Powell and Lawlis violated PCAOB rules and standards in their respective UDF III and UDF IV 2014 audits by failing to follow-up on (a) loan confirmation requests to the Austin Developer and (b) information that management provided to explain the Austin Developer's failure to respond to a confirmation request.[27]

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[24] See AS 15 ¶ 10.

[25] See AS 15 ¶ 10; AU § 342.09.

[26] See AS 15 ¶¶ 4-6.

[27] See AU § 330.30, *The Confirmation Process* ("When using confirmation requests other than the negative form, the auditor should generally follow up with a second and sometimes a third request to those parties from whom replies have not been received."); AU § 330.33 ("If the combined evidence provided by the confirmations, alternative procedures, and other procedures is not sufficient, the auditor should request

42. At year-end 2014, the Austin Developer's debt to UDF III was comprised entirely of the LOC. The Austin Developer's debt to UDF IV was comprised of multiple loans, accounting for approximately 10% of UDF IV's assets. Roughly half of the Austin Developer's debt to UDF IV was overdue at the time of the audit and designated as impaired by management.

43. Both engagement teams considered it appropriate to send confirmation requests to the Austin Developer. After receiving confirmation requests from the engagement teams, the Austin Developer did not respond, despite having responded to such requests in the past, including for the 2013 audits. Management for the UDF Entities then informed both Powell and Lawlis that the Austin Developer would not respond to confirmation requests due to its principal's intent to retire and ongoing negotiations between the UDF Entities and the Austin Developer. The UDF Entities also informed Powell and Lawlis that it would not further extend the due dates on any of the Austin Developer's loans.[28] Both Powell and Lawlis should have understood from those statements that there was a potential dispute between the Austin Developer and the UDF Entities, including UDF III and UDF IV. Nevertheless, they both failed to follow up with a second confirmation request.[29]

44. Having not received a response to their loan confirmation request, both engagement teams performed alternative procedures. The alternative procedures consisted of tying a selection of loan draws and paydowns to management provided documentation, including third party bank statements and draw requests signed by the borrowers, to roll forward the prior year's audited balance. However, the alternative procedures failed to provide sufficient evidence about the potential dispute concerning the Austin Developer and whether that dispute affected the loans' valuation. As a result, Powell and Lawlis failed to obtain sufficient audit evidence to determine whether the notes receivable were, among other things, properly valued for 2014.[30]

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additional confirmations or extend other tests, such as tests of details or analytical procedures.").

[28] Because management classified all overdue loans as impaired, Powell and Lawlis knew or should have known that such loans were likely to be classified as impaired by management as they came due, and therefore that they would need to be assessed for a potential specific reserve.

[29] See AU § 330.30.

[30] See AU § 330.33; AS 15 ¶¶ 4-6.

G. Powell and Lawlis Failed To Perform Sufficient Related Parties Procedures During the 2013 and 2014 UDF III and UDF IV Audits

45. PCAOB standards recognize that, "[d]uring the course of the audit, the auditor may become aware of significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment."[31] The standards further provide that "[t]he auditor should gain an understanding of the business rationale for such transactions and whether that rationale (or the lack thereof) suggests that the transactions may have been entered into to engage in fraudulent financial reporting or conceal misappropriation of assets."[32]

46. PCAOB standards also provide that, when examining related party transactions, "the auditor should be aware that the substance of a particular transaction could be significantly different from its form and that financial statements should recognize the substance of particular transactions rather than merely their legal form."[33] After identifying related party transactions, "the auditor should apply the procedures he considers necessary to obtain satisfaction concerning the purpose, nature, and extent of these transactions and their effect on the financial statements."[34] For each material related party transaction (or aggregation of similar transactions), "the auditor should evaluate all the information available to him and satisfy himself that it is adequately disclosed in the financial statements."[35]

47. During their respective 2013 and 2014 UDF III and UDF IV audits, Powell and Lawlis designated related party transactions as a significant audit issue, but failed to

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[31] AU § 316.66, *Consideration of Fraud in a Financial Statement Audit*.

[32] Id.

[33] AU § 334.02, *Related Parties*; see also AU § 411.06, *The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles* ("Generally accepted accounting principles recognize the importance of reporting transactions and events in accordance with their substance. The auditor should consider whether the substance of transactions or events differs materially from their form.").

[34] AU § 334.09.

[35] See AU § 334.11; see also Rule 4-08(k) of Regulation S-X, *Related party transactions which affect the financial statements,* codified as 17 C.F.R. 210.4-08(k).

properly respond to evidence of unusual transfers from UDF IV to UDF III that were not disclosed as related party transactions.

Evaluation of Transfers During the 2013 Audits

48. During the 2013 audits, the WP engagement teams brought to the attention of both Powell and Lawlis certain unusual transfers from UDF IV to UDF III that management did not present or disclose as related party transactions. During the 2013 audits, the engagement teams learned that UDF IV transferred $1.2 million to UDF III in January 2014 so that UDF III, which otherwise lacked sufficient cash, could make distributions to its investors that same day. The engagement teams also understood that the transfer had been recorded as loans by UDF IV to third-party borrowers and pay-downs of loans by those same borrowers to UDF III, even though: (a) UDF IV and UDF III's joint management had initiated the transfer, without the prior request or approval of any third-party borrower; (b) the transfer flowed directly from UDF IV to UDF III without notice to any third-party borrower; and (c) UDF IV and UDF III's joint management had unilaterally selected which third-party borrower and loans it would use to record the transfer, and did not finalize that selection until after the transfer had already been completed. The engagement teams communicated that understanding to Powell and Lawlis, sent them supporting documentation, and also advised them that there might be additional similar transactions.

49. Both Powell and Lawlis initially agreed that the transaction flagged by the engagement team was "strange" and questioned why the initial transfer was not recorded as a payable/receivable between UDF III and UDF IV, which they knew were related parties. Powell and Lawlis also agreed that they should determine how many similar transactions took place in 2013. Nevertheless, Powell and Lawlis failed to perform sufficient procedures to obtain satisfaction concerning the extent of those transactions and their effect on the financial statements in 2013, including whether the transactions had been properly presented and disclosed.[36]

50. Instead, Powell and Lawlis improperly concluded that no further analysis of the accounting for the transfers was required after management pointed to language in its loan agreements that it claimed allowed UDF IV to make discretionary advances on a borrower's behalf, in certain limited circumstances, without advance consent from the borrower. Powell and Lawlis accepted management's assertion that the loan agreement provision allowed the UDF Entities to characterize the transfers as third-party loan activity, even though management had initiated the transfers on its own, without any borrower request, and for the express purpose of enabling cash distributions to UDF III's investors.

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[36] See AU §§ 334.02, .09, .11; see also Rule 4-08(k) of Regulation S-X.

Although Powell and Lawlis read the loan provision that management identified, they did not determine whether the transfers fit into the limited circumstances described in the loan provision or obtain any other evidence to support management's interpretation. They also failed to consider whether the substance of the transaction, regardless of its form, required disclosure as a related party transaction.[37]

Evaluation of Transfers During the 2014 Audits

51. During the 2014 UDF IV audit and reviews, Lawlis became aware that UDF IV made additional transfers to UDF III similar to the January 2014 transfer, but he failed to adequately address them. Lawlis again knew that UDF IV recorded those transfers as third-party loan advances even though there was no evidence of the borrower's request or approval for the transfer. UDF IV also confirmed to Lawlis that it had initiated some transfers to its affiliates without the third-party borrowers' prior consent and obtained approval afterward. Nevertheless, Lawlis again failed to perform sufficient procedures to obtain satisfaction concerning the extent of the transactions and their effect on the financial statements, including whether the transactions had been properly presented and disclosed.[38] For the additional transfers that came to the engagement team's attention, the team either verified that the relevant borrower eventually approved the transaction, or that the loan agreements included the provision for discretionary advances. However, Lawlis again failed to consider whether the substance of the transactions, regardless of their form, required disclosure as a related party transactions.[39]

52. For the 2014 UDF III audit, Powell failed to perform any procedures over the transfers to UDF III from UDF IV.

H. Powell and Lawlis Failed to Act with Due Professional Care During the Q3 2015 UDF III and UDF IV Reviews

53. In an interim review, an accountant may become aware of information that leads him or her to believe that the interim financial information under review may not be in conformity with GAAP in all material respects. In such circumstances, PCAOB standards provide that the accountant should make additional inquiries or perform other

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[37] See AU § 334.02.

[38] See AU §§ 334.02, .09, .11; see also Rule 4-08(k) of Regulation S-X.

[39] See AU § 334.02.

procedures to provide a basis for communicating whether he or she is aware of any material modifications that should be made to the interim financial information.[40]

54. If the accountant becomes aware of information which relates to a prior audit report and is of such a nature and from such a source that he would have investigated it had it come to his attention during the course of his audit, PCAOB standards also require that he take certain steps concerning his prior report.[41] First, he should determine whether the information is reliable and whether the facts existed at the date of his report.[42] If those conditions are satisfied, the auditor should then consider if the nature and effect of the matter are such that (a) his report would have been affected if the information had been known to him at the date of his report and had not been reflected in the financial statements and (b) he believes there are persons currently relying or likely to rely on the financial statements who would attach importance to the information.[43] The auditor is then required to consider whether to take action to prevent future reliance on his report.[44]

55. As discussed below, during their respective Q3 2015 reviews, Powell and Lawlis became aware of facts indicating material modifications may have been necessary in UDF III's and UDF IV's Q3 2015 financial statements, specifically to the notes receivable balances. That information also cast doubt on UDF III's previously audited annual financial statements. Although Powell and Lawlis performed procedures to respond to those facts for purposes of the Q3 2015 financial statements, they failed to perform those procedures with due professional care.[45] Powell also failed to appropriately consider the possible implications for WP's previously issued audit reports on UDF III's financial statements.[46]

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[40] See AU § 722.22, *Interim Financial Information*.

[41] See AU §§ 561.04-.06, *Subsequent Discovery of Facts Existing at the Date of the Auditor's Report*.

[42] See AU § 561.04.

[43] See AU § 561.05.

[44] See AU § 561.06.

[45] See AU § 722.22.

[46] See AU §§ 561.04-.05.

Powell Failed to Adequately Consider Indications of Potential Impairment for the LOC at 2013, 2014, and Q3 2015

56. Before the start of the Q3 2015 reviews, Powell was interviewed by the Commission staff, in connection with its investigation. During the interview, Powell was shown documents and asked questions by the Commission staff that called into question the veracity and accuracy of information that UDF III provided to the WP engagement team in connection with the FY 2013 and 2014 audits concerning the expected cash flows for the LOC. Specifically, Powell was shown documents that, at minimum, raised questions about whether the UDF Entities misstated their cash flow projections for the LOC to conceal its impairment by unilaterally including potential "future projects" in addition to current projects.

57. During the Q3 2015 review, Powell performed procedures to follow-up on the information she learned from the Commission staff, which included inquiries of management and reviewing additional documentation relating to the Commission's investigation and the LOC. Through these procedures, Powell verified that, in March 2014, the Austin Developer had provided its own cash flow projection to the UDF Entities, indicating that it would be unable to repay a substantial portion of its LOC balance. Powell also corroborated that UDF III had modified the version of the projection that it provided to WP for both 2013 and 2014, adding cash flows from "future projects" that the Austin Developer did not own and did not plan to develop.

58. During the review, Powell and the engagement team also quantified the amounts in management's LOC cash flow projections for 2013, 2014, and Q3 2015 that were attributable to existing projects, excluding the amounts attributable to future projects. That analysis showed that, in each of those periods, the cash flows from the existing projects were expected to leave a substantial portion of the LOC unpaid. By Q3 2015, the analysis projected a shortfall of approximately $73 million,[47] suggesting that material modifications to the interim financial information might be necessary.

59. Despite this information, Powell did not adequately consider whether to withdraw WP's earlier audit reports.[48] Powell also failed to propose that UDF III record any specific reserve for the LOC at Q3 2015 or suspend revenue recognition on the LOC. Instead, Powell concluded that UDF III could file Q3 2015 interim financial statements

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[47] At year-end 2013 and year-end 2014, the projected shortfall indicated by WP's calculation was $27 million and $60 million, respectively. The 2013 and 2014 financial statements did not include any specific reserve for the LOC.

[48] See AU §§ 561.04-.05.

that continued interest revenue recognition from the LOC, contained no specific reserve for the LOC, and included a total ALL for all loans of just $24.5 million.[49] However, as discussed below, she failed to perform sufficient other procedures to provide a basis for that conclusion.[50]

Powell Inappropriately Relied on Non-Binding Letters of Intent at Q3 2015

60. Powell's conclusion that no specific reserve was required at Q3 2015 was based on three management-provided non-binding letters of intent. One of those letters, dated October 21, 2015, was between the Austin Developer and the UDF Entities and described that the Austin Developer would surrender its collateral in full satisfaction of its debts. The other letters, dated November 12, 2015, were between the UDF Entities and two new developers and described a proposal for new developers to take possession of the LOC collateral, pledge additional collateral, and assume the LOC debt as part of two larger transactions with UDF III.

61. Powell reviewed the letters and discussed them with management. From those discussions, Powell understood that management expected that the transactions described in the letters of intent would occur in late November or early December 2015.

62. After discussing the letters of intent with management, Powell concluded that she would rely upon them for the purpose of evaluating the LOC's impairment for the quarterly review. However, Powell failed to consider with due professional care whether they provided a basis to determine whether a material modification should be made to the interim financial statements to record an impairment for the LOC.[51] For example, Powell did not adequately consider that:

- The letters did not reliably indicate whether the transactions described in the letters would occur, because the letters each stated they were "intended as a non-binding expression of intent" and "subject to the preparation, negotiation and full execution of the agreement"; and

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[49] UDF III management had initially calculated that its Q3 2015 ALL should be $23.9 million. During the review, Powell performed a calculation of the general reserve portion of UDF III's ALL with different reserve ratios for certain loans, which she based on her discussions with management. Powell's calculation resulted in a total ALL that was approximately $600,000 higher, and UDF III adjusted its total ALL accordingly.

[50] See AU § 722.22.

[51] See AU § 722.22.

- The letters did not support that the LOC was properly valued, because they indicated that the UDF Entities would provide as yet unquantified fees and concessions to the new developers for them to take over the LOC and its related development projects.

Powell and Lawlis Failed to Appropriately Respond to New Evidence of a Dispute between the Austin Developer and the UDF Entities at Q3 2015

63. Based on documents they reviewed concerning the Commission's investigation, Powell and Lawlis both understood, among other things, that the Commission staff was examining whether UDF Entities, or persons associated with them, may have made false statements or material omissions about the credit quality of loan portfolios and the use of cash proceeds relating to certain loans.

64. As a result, Powell and Lawlis concluded that it was appropriate to send confirmation requests for all of the Austin Developer's loans as part of their respective Q3 2015 reviews for UDF III and UDF IV. In response to each request, the Austin Developer wrote that it could not confirm its loan balances or loan collateral because "the lender has failed to properly apply or adjust certain payments made on the loan or related loans. In addition, lender and its affiliates have, from time to time, transferred or collaterally assigned their rights with respect to the collateral under various loans to affiliates or third parties."

65. To follow up on the confirmation response, Lawlis emailed the Austin Developer, asking whether it could provide additional information. The response of the Austin Developer, however, provided no additional detail. Powell and Lawlis, in turn, relied on management inquiry to understand the nature of the potential dispute and once again rolled forward the prior year's audited balance by tying a selection of draws and payments to management-provided documents including third-party bank statements and draw requests signed by the borrowers. However, the alternative procedures failed to provide sufficient appropriate evidence about the potential dispute concerning the Austin Developer and whether that dispute affected the loans' valuation. As a result, Powell and Lawlis failed to adequately extend the review procedures to resolve the questions raised by the Austin Developer's confirmation response.[52]

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[52] See AU § 722.22.

I. Babb Failed to Perform His Engagement Quality Reviews for the 2012-2014 UDF III Audits and Q3 2015 UDF III Review with Due Professional Care

66. The EQR partner is responsible for evaluating the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report, if a report is to be issued.[53] In an audit, the EQR partner is responsible for evaluating the engagement team's responses to significant risks identified by the team and the EQR partner.[54] In both audits and reviews, the EQR partner should evaluate whether the documentation that he or she reviewed supports the conclusions reached by the engagement team with respect to the matters reviewed.[55] The EQR partner is also responsible for evaluating whether appropriate consultations took place on difficult or contentious matters during the audits and reviews.[56] The EQR partner must perform his or her responsibilities with due professional care and skepticism.[57]

67. In each of the engagements discussed above, Babb reviewed the critical work papers relating to the UDF III engagement teams' response to the significant risks, including fraud risks, identified concerning notes receivable and ALL. However, Babb violated PCAOB rules and standards in those engagements by failing to properly evaluate, with due professional care, whether that documentation indicated that the engagement team responded appropriately to the significant risks and/or supported the conclusions reached by the engagement team.[58]

68. During the 2012 audit, Babb knew that the LOC was significant to the notes receivable balance and that UDF III management had classified the LOC as impaired without recording any specific reserve. Although Babb reviewed the documentation of the engagement team's testing of the LOC for impairment, there is no evidence he discussed it with the engagement team. Furthermore, he failed to evaluate with due professional care whether that testing adequately supported the conclusion that no specific reserves

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53 See AS 7, *Engagement Quality Review*, ¶¶ 9, 14.

54 See AS 7 ¶ 10(b).

55 See AS 7 ¶¶ 11,16.

56 See AS 7 ¶¶ 10(h), 15(f).

57 See AS 7 ¶¶ 12, 17; AU §§ 230.07-.09.

58 See Rule 3100; AS 7 ¶¶ 10(b), 11, 16.

were required for the LOC.[59] For example, Babb did not consider whether the engagement team had tested the completeness and accuracy of the management-provided data used in that test. He also did not consider, among other things, that the engagement team had not discounted the future cash flows to present value for its impairment analysis.

69. During the 2013 and 2014 audits, Babb was aware that the engagement team changed its audit approach from 2012. Specifically, he knew that the engagement teams for those audits used management-provided cash flow projections to test the valuation of certain notes receivable and the adequacy of the ALL, including for the LOC. Babb reviewed the audit documentation describing the review of the cash flow analyses, but he failed to properly evaluate whether the engagement team's approach provided an appropriate response to the significant risks concerning the ALL.[60] For example, Babb did not properly consider whether the engagement team had adequately tested whether the information contained within the cash flow projections was sufficient and appropriate for purposes of the audit. He also did not consider whether the engagement team had appropriately responded to the inclusion of "future projects" in the cash flow projections, in light of the fraud risk for ALL.

70. During the Q3 2015 review, Babb reviewed the engagement team's Summary Review Memorandum ("SRM") and he discussed with Powell the issues that had arisen concerning the LOC.[61] Babb also reviewed each of the documents that were referenced in the SRM as pertaining to the analysis of the LOC's impairment. Those documents included the engagement team's analysis showing that the existing project cash flows would leave approximately $73 million of the LOC balance unpaid. They also included the non-binding letters of intent, which Babb understood Powell had relied on for her conclusions that the LOC did not need to be specifically reserved at Q3 2015 and that the prior audit reports did not need to be withdrawn. However, Babb failed to properly evaluate whether those letters of intent actually supported Powell's conclusion.[62]

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[59] See AS 7 ¶ 11.

[60] See AS 7 ¶¶ 10(b),11.

[61] The SRM served as the engagement team's engagement completion document for the Q3 2015 review, which Babb was required to review. See AS 3, *Audit Documentation*, ¶ 13; AS 7 ¶ 15(c).

[62] See AS 7 ¶ 16.

71. Babb also failed to properly evaluate whether appropriate consultations had taken place on the difficult and contentious issues that arose during the UDF III Q3 2015 review.[63] Babb understood that WP's Partner-in-Charge of Technical Resolution ("Technical Partner") had been consulted during the review. However, Babb failed to determine whether the consultation, which was limited to reviewing the clarity of the documentation in two work papers, was appropriate in the circumstances.

72. As a result, Babb violated AS 7 by providing his concurring approval of issuance in each of those engagements without performing his EQR with due professional care.[64]

J. Whitley Penn Failed to Comply with PCAOB Quality Control Standards

73. PCAOB rules and standards require that registered firms establish and maintain an adequate system of quality control.[65] "A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and procedures established to provide the firm with reasonable assurance of complying with professional standards."[66] "The nature, extent, and formality of a firm's quality control policies and procedures should be appropriately comprehensive and suitably designed in relation to the firm's size, the number of its offices, the degree of authority allowed its personnel and its offices, the knowledge and experience of its personnel, the nature and complexity of the firm's practice, and appropriate cost-benefit considerations."[67]

74. A firm's system of quality control should, among other things, include policies and procedures for engagement performance.[68] A firm should establish policies and procedures to provide it with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory

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[63] See AS 7 ¶ 15(f).

[64] See AS 7 ¶¶ 12, 17; AU § 230.01.

[65] See Rule 3400T, *Interim Quality Control Standards*; Quality Control Standard 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20").

[66] QC § 20.04.

[67] QC § 20.04.

[68] See QC § 20.07.

requirements, and the firm's standards of quality.[69] It should also establish policies and procedures to provide it with reasonable assurance that personnel consult, on a timely basis, with individuals within or outside the firm, when appropriate (for example, when dealing with complex, unusual, or unfamiliar issues).[70] A firm should also establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures are suitably designed and are being effectively applied.[71]

75. During the period of the violations described above, WP failed to design, implement and maintain appropriately comprehensive and suitably designed quality control policies and procedures in relation to the firm's size [72] and the complexity of its practice. In particular, WP did not have appropriately comprehensive policies and procedures concerning consultations with persons outside of the engagement team.[73] Although WP designated one of its partners as the Technical Partner, it failed to implement specific policies or procedures concerning the Technical Partner's role. Among other things, there were no established procedures to provide reasonable assurance that the Technical Partner was qualified for the consultations he was asked to perform regarding the complex, unusual and unfamiliar issues that arose during the Q3 2015 UDF III review. [74]

76. WP also failed to design, implement and maintain appropriately comprehensive policies and procedures to provide reasonable assurance that its personnel complied with professional standards and regulatory requirements.[75] Many of the violations described above were repeated across multiple years and, in some cases, across multiple audit teams with different partners. Additionally, Powell's failure to

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[69] See QC § 20.17.

[70] See QC § 20.19. Individuals consulted should have appropriate levels of knowledge, competence, judgment, and authority. See id.

[71] See QC § 20.20; Quality Control Standard 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[72] As indicated by the Board's inspection reports, WP grew from having 137 partners and professional staff in 2011 to 248 partners and professional staff by 2015.

[73] See QC § 20.19.

[74] See id.

[75] See QC § 20.17.

adequately consider whether to withdraw the 2013 and 2014 audit reports during the Q3 2015 review resulted, in part, from WP's failure to have sufficiently comprehensive policies and procedures relating to consideration of subsequently discovered information relating to previously issued audit reports. Multiple partners besides Powell and Babb, including partners in WP's leadership, were aware that WP had learned information during the Q3 2015 review that related to UDF III's 2013 and 2014 financial statements. However, WP's QC system failed to include policies or procedures to provide reasonable assurance that the information was actually evaluated with due professional care and in accordance with AU § 561.[76]

IV.

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

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Powell is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[77]

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

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[76] WP has represented to the Board that, since the events described in this Order, WP established and implemented the following changes to its quality control processes and procedures: (1) WP hired a full-time Director of Quality Control, (2) WP hired a full-time Learning and Development Coordinator, (3) WP assigned a Senior Manager to its quality control function on a half-time basis, and (4) WP amended its quality control policies and procedures relating to consultations and pre-issuance reviews.

[77] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Susan Lunn Powell, CPA. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

C. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for one year following the termination of the bar ordered in paragraph B, Powell's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Powell shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Lawlis is suspended, for one year from the date of this Order, from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act;[78]

E. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for one year following the suspension ordered in paragraph E, Lawlis's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Lawlis shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising

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[78] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act, discussed *supra,* at n.77, will apply with respect to Jeffry Shannon Lawlis, CPA.

authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

F. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two years from the date of this Order, Babb's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Babb shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

1. Whitley Penn LLP, $200,000;

2. Susan Lunn Powell, $25,000;

3. Jeffry Shannon Lawlis, $15,000; and,

4. John Griffin Babb, $10,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay these civil money penalties within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board,

(b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

H. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Powell, Lawlis, and Babb, are required to complete continuing professional education ("CPE") in subjects that are related to the audits of issuer financial statements under PCAOB standards (such hours shall be in addition to, and shall not be counted in, the CPE they are required to obtain in connection with any professional license) as follows:

1. Powell shall complete forty additional hours of CPE before filing any petition for Board consent to associate with a registered public accounting firm, including CPE related to allowances for loan losses and the auditing of related party transactions under PCAOB standards;

2. Lawlis shall complete twenty additional hours of CPE within one year of this Order, including CPE related to allowances for loan losses and the auditing of related party transactions under PCAOB standards; and

3. Babb shall complete ten additional hours of CPE within one year from the date of this Order, including CPE related to allowances for loan losses and the performance of engagement quality reviews under PCAOB standards.

I. Pursuant to Sections 105(c)(4)(F) and (G) of the Act and PCAOB Rules 5300(a)(6) and (9), the Firm shall carry out the following Undertakings:

1. Within 30 days of the date of this Order, WP shall retain and pay the fees and reasonable expenses for an independent consultant acceptable to the PCAOB staff who has experience with, and is knowledgeable concerning, PCAOB auditing and quality control standards ("Independent Consultant") and promptly notify the PCAOB staff of the identity, qualifications, and proposed terms of retention of the Independent Consultant.

2. To ensure the independence of the Independent Consultant, WP: (i) shall not have the authority to terminate the Independent Consultant

or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the PCAOB staff; and (ii) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

3. WP shall cooperate fully with the Independent Consultant and shall provide reasonable access to its personnel, information, and records as the Independent Consultant may reasonably request for the Independent Consultant's evaluation and certification.

4. Within 90 days of this Order, WP will review, evaluate, and implement any necessary enhancements to, WP's quality control policies and procedures applicable to audits and reviews conducted pursuant to PCAOB standards as they relate to the following areas:

    a. consideration of the subsequent discovery of facts existing at the date of the auditor's report;

    b. consultations (including but not limited to determining and documenting the scope of consultations, and the evaluation of such consultations by an EQR partner); and

    c. monitoring (including selection of audits for pre-issuance review, root cause analysis, post-issuance review, or other enhanced monitoring based on engagement risk).

5. *Independent Consultant Certifications*.

    a. Within 90 days of the Independent Consultant being retained, WP will brief the Independent Consultant regarding: (i) WP's review, evaluation and implementation of enhancements to its system of quality control in the areas identified in Paragraph IV.I.4 above, and (ii) how those quality control policies and procedures, and any enhancements to them since the time of the conduct described in this Order, are reasonably designed to ensure that WP system of quality control is appropriately comprehensive and suitably designed in relation to the firm's size, the number of its offices, the degree of authority allowed its personnel and its offices, the knowledge and experience of its personnel, the nature and complexity of the firm's practice, and appropriate cost-benefit considerations.

b. Within 120 days of the Independent Consultant being retained, WP shall require the Independent Consultant to evaluate WP's review, evaluation and implementation of enhancements its system of quality control in the areas identified in Paragraph IV.I.4, above. If, as a result of that evaluation, it appears to the Independent Consultant that any further enhancements to the system of quality control are necessary, it shall recommend such enhancements to WP.

c. Within 180 days of the Independent Consultant being retained, WP shall either, (1) implement any recommendations received from the Independent Consultant, pursuant to Paragraph IV.I.5.b, and have the Independent Consultant certify that WP complied with those recommendations, or (2) communicate to the Director of the Division of Enforcement and Investigations the recommendations of the Independent Consultant that it did not implement, and the reasons for doing so.

d. Pursuant to Section 105(c)(4)(C) of the Act, Whitley Penn shall within twelve months of the date of the Order cause the Independent Consultant to certify in writing to the Director of the Division of Enforcement and Investigations, PCAOB, 1666 K Street N.W., Washington DC 20006, the Firm's compliance with the above paragraphs. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The certification shall include a description of the specific enhancements implemented to WP's system of quality control in the areas identified in Paragraph IV.I.4, above, since the time of the conduct described in the Order. WP shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

e. For good cause shown, the PCAOB staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

f. WP agrees that the Division of Enforcement and Investigations may petition the Board to reopen this matter to determine whether additional sanctions or findings are appropriate if it believes that WP has not satisfied these undertakings.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

March 24, 2020

PCAOB
Public Company Accounting Oversight Board

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ORDER MAKING FINDINGS AND IMPOSING SANCTIONS *In the Matter of Green & Company CPAs, LLC, and Travis J. Green, CPA,* Respondents.	PCAOB Release No. 105-2020-003 April 16, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is revoking the registration of Green & Company CPAs, LLC ("Green & Company" or "Firm"); and barring Travis J. Green, CPA ("Green") from being an associated person of a registered public accounting firm. The Board is imposing these sanctions on the basis of its findings that the Firm and Green (collectively, "Respondents") violated PCAOB rules and standards in connection with the audits of multiple issuer clients.

I.

The Board instituted non-public disciplinary proceedings against Respondents on February 7, 2019.[1] Pursuant to PCAOB Rule 5205, Respondents have each submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to entry of this Order Making Findings and Imposing Sanctions ("Order").[2]

[1] Section 105(c)(2) of the Sarbanes-Oxley Act of 2002, as amended, 15 U.S.C. § 7215 (c)(5) ("Act"), provides that litigated disciplinary proceedings shall not be public, "unless otherwise ordered by the Board for good cause shown, with the consent of the parties…." Although the Board found good cause for making the proceedings public, Respondents did not consent, as permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203.

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

II.

On the basis of Respondents' Offers, the Board finds that:[3]

A. Respondents

1. **Green & Company CPAs, LLC** is a limited liability company organized under the laws of the State of Florida and headquartered in Tampa, Florida. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. It is licensed by the State of Florida (License No. AD68626).

2. **Travis J. Green, CPA**, 37, of Lutz, Florida, is a certified public accountant licensed by the State of Florida (License No. AC46652). Green was, at all relevant times, an associated person of a registered public accounting firm as that term is defined by Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. Green & Company was the external auditor for 11 issuer audits (Issuer A through Issuer K collectively, "Issuer Audits"). Green was the managing partner and majority owner of the Firm and also served as the partner with final responsibility for each of the Issuer Audits. Green and/or the Firm violated PCAOB rules and standards in conducting the Issuer Audits.

4. First, Respondents violated PCAOB rules and standards in connection with four of the Issuer Audits (Issuer A through Issuer D) by failing to exercise due professional care, including professional skepticism, and failing to obtain sufficient appropriate audit evidence in connection with those audits. In fact, with respect to two of those audits, Green performed virtually no audit work or testing. Second, the Firm violated Auditing Standard No. 7, *Engagement Quality Review* ("AS 7"), with respect to each of the Issuer Audits, because it failed to obtain concurring approvals of issuance of engagement reports for any of those audits. Green substantially contributed to the Firm's violations of AS 7, thereby violating PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations.* Finally, Respondents failed to assemble a complete and final set of audit documentation for retention as of a date not more than 45 days after the report

[3] The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5) of the Act, which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

release date with respect to each of the Issuer Audits, as required by Auditing Standard No. 3, *Audit Documentation* ("AS 3").[4]

C. Respondent Repeatedly Violated PCAOB Rules and Standards in Connection with Issuer Audits A through D

1. Applicable PCAOB Rules and Standards

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6] PCAOB standards require, among other things, that an auditor exercise due professional care, including professional skepticism, and obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[7]

6. PCAOB standards also state that, in planning an audit, an auditor should, among other things, establish an overall audit strategy for the engagement and develop an audit plan.[8] The auditor should identify and assess the risks of material misstatement at the financial statement level and the assertion level, and design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for

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[4] See AS 3 ¶¶ 14-15.

[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; and PCAOB Rule 3200T, *Interim Auditing Standards*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its rules and auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2016), available on the Board's website.

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

[7] See AU § 150.02, *Generally Accepted Auditing Standards*; AU §§ 230.01, .07-.09, *Due Professional Care in the Performance of Work*; Auditing Standard No. 15, *Audit Evidence* ("AS 15"), ¶ 4.

[8] See Auditing Standard No. 9, *Audit Planning* ("AS 9"), ¶¶ 4-5.

each relevant assertion of each significant account and disclosure.[9] The auditor should also "establish a materiality level for the financial statements as a whole that is appropriate in light of the particular circumstances."[10]

7. PCAOB standards further require that an auditor evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[11] The auditor "should take into account all relevant audit evidence, regardless of whether it appears to corroborate or to contradict the assertions in the financial statements."[12] PCAOB standards also require that, if an auditor has not obtained sufficient appropriate audit evidence about a relevant assertion, the auditor should perform procedures to obtain further audit evidence to address the matter.[13] Finally, PCAOB standards require that the auditor document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[14]

8. Management representations "are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[15] Management representations are "'a complement to other auditing procedures.'"[16]

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[9] See Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"), ¶ 59; Auditing Standard No. 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS 13"), ¶¶ 3, 8.

[10] Auditing Standard No. 11, *Consideration of Materiality in Planning and Performing an Audit*, ("AS 11"), ¶ 6.

[11] See Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), ¶ 2.

[12] Id. ¶ 3.

[13] See id. ¶ 35.

[14] See AS 3 ¶¶ 4-9A.

[15] AU § 333.02, *Management Representations*.

[16] *In re Gale Moore, CPA,* PCAOB Rel. No. 105-2012-004 (Final Decision) (August 23, 2016) at 31, *citing S.W. Hatfield, C.P.A.*, SEC Rel. No. 34-69930, 2013 SEC LEXIS 1954, *6 (July 3, 2013).

9. As discussed more fully below, Respondents violated these and other PCAOB standards in performing the audits of Issuer A, Issuer B, Issuer C, and Issuer D.

2. 2014 Issuer A Audit

10. Issuer A was, at all relevant times, a Delaware corporation headquartered in Sarasota, Florida. Issuer A's public filings disclose that, at the time of the audit, it was a development stage company which planned on providing a mix of professional service offerings and proprietary patent-pending software solutions related to managing IT assets.

11. Green & Company issued an audit report dated April 10, 2015, which contained an unqualified audit opinion on Issuer A's financial statements for fiscal year ending ("FYE") December 31, 2014 ("2014 Issuer A Audit"). That report was included in a Form 10-K that Issuer A filed with the U.S. Securities and Exchange Commission ("Commission") on April 15, 2015. Green, the engagement partner, authorized the issuance of the report. The report stated, among other things, that the Firm had "audited the accompanying balance sheets of [Issuer A] as of December 31, 2014, and the related statement of operations, stockholders' deficiency, and cash flows for the year ended December 31, 2014." It also stated that the Firm had conducted the audit "in accordance with the standards of the Public Company Accounting Oversight Board (United States)."

12. In connection with the 2014 Issuer A Audit, Respondents failed to exercise due professional care, including professional skepticism, by failing to plan and perform the audit in accordance with PCAOB standards.[17] Respondents failed to: establish an overall audit strategy for the engagement and to develop an audit plan;[18] establish a materiality level for the financial statements as a whole;[19] determine an amount or amounts of tolerable misstatement;[20] or perform any risk assessment procedures to identify and assess the risks of material misstatement, whether due to error or fraud.[21]

13. Respondents also failed to obtain sufficient appropriate audit evidence concerning a significant account in Issuer A's financial statements. Issuer A reported an investment of approximately $4.8 million, which, at year-end, constituted approximately 99% of Issuer A's assets. But other than obtaining representations from management, Respondents failed to perform any procedures relating to the investment.

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[17] See AU §§ 230.01, .07-.09.

[18] See AS 9 ¶¶ 4-5.

[19] See AS 11 ¶ 6.

[20] Id. ¶¶ 8-9.

[21] See AS 12 ¶ 4.

14. Respondents thus failed to exercise due professional care, including professional skepticism, and obtain sufficient appropriate audit evidence to provide a reasonable basis for the Firm's opinion in connection with the 2014 Issuer A Audit.

3. 2014 Issuer B Audit

15. Issuer B, at all relevant times, was a Delaware corporation headquartered in Englewood, Colorado. Issuer B's public filings disclose that, at the time of the audit, it operated in the juice beverage manufacture and sales industry.

16. Green & Company issued an audit report dated April 15, 2015, which contained an unqualified audit opinion with respect to Issuer B's financial statements for FYE December 31, 2014 ("2014 Issuer B Audit"). That report was included in a Form 10-K that Issuer B filed with the Commission on April 15, 2015. Green, the engagement partner, authorized the issuance of the report. The report stated, among other things, that the Firm had "audited the accompanying balance sheets of [Issuer B] as of December 31, 2014, and the related statement of operations, stockholders' deficiency, and cash flows for the year ended December 31, 2014." It also stated that the Firm had conducted the audit "in accordance with the standards of the Public Company Accounting Oversight Board (United States)."

17. In connection with the 2014 Issuer B Audit, Respondents failed to exercise due professional care, including professional skepticism, by failing to plan and perform the audit in accordance with PCAOB standards.[22] Respondents failed to establish an overall audit strategy for the engagement and to develop an audit plan.[23] Respondents also failed to establish a materiality level for the financial statements as a whole;[24] determine an amount or amounts of tolerable misstatement; or perform any risk assessment procedures to identify and assess the risks of material misstatement, whether due to error or fraud.[25]

18. Respondents also failed to obtain sufficient appropriate audit evidence concerning significant accounts and disclosures in Issuer B's financial statements.[26] Indeed, Respondents failed to perform any procedures relating to Issuer B's reported assets apart from obtaining two bank statements. In addition, other than obtaining representations from management, Respondents failed to perform any procedures

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[22] See AU §§ 230.01, .07-.09.

[23] See AS 9 ¶¶ 4-5.

[24] See AS 11 ¶ 6.

[25] See AS 12 ¶ 4.

[26] See AS 15 ¶¶ 4-6; AS 14 ¶¶ 32-36; AS 13 ¶ 8.

relating to Issuer B's reported liabilities, stockholder's equity, revenue, cost of goods sold and expenses.

19. Respondents thus failed to exercise due professional care, including professional skepticism, and obtain sufficient appropriate audit evidence to provide a reasonable basis for the Firm's opinion in connection with the 2014 Issuer B Audit.

4. 2014 Issuer C Audit

20. Issuer C, at all relevant times, was a Colorado corporation headquartered in Clearwater, Florida. Issuer C's public filings disclosed in its 2014 financial statements that it derived most of its revenues from manufacturing and marketing blast mitigation products, and provided other safety and protective gear for military and police use. Green & Company issued an audit report dated March 27, 2015, on Issuer C's FYE December 31, 2014 financial statements, which expressed an unqualified opinion, with an explanatory going concern paragraph, and was included in Issuer C's Form 10-K filed with the Commission on March 30, 2015 ("2014 Issuer C Audit"). The Firm's audit report stated, among other things, that the audit of Issuer C's 2014 financial statements had been conducted in accordance with PCAOB standards. Green not only served as the engagement partner on the 2014 Issuer C Audit and authorized the issuance of the audit report, but also personally performed all of the audit procedures for the audit.

21. In connection with the 2014 Issuer C Audit, Green failed to exercise due professional care, including professional skepticism,[27] and failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for the audit opinion issued by the Firm.[28]

a. Failure to Perform Procedures to Evaluate the Existence of Inventory for the 2014 Issuer C Audit

22. Issuer C's FY 2014 financial statements reported an inventory balance of $1,348,827, which represented 83% of total current assets and 34% of total assets.

23. Under PCAOB standards, the observation of inventories is a generally accepted auditing procedure.[29] PCAOB standards also note that it is "ordinarily necessary for the independent auditor to be present at the time of [inventory] count and, by suitable observation, tests, and inquiries, satisfy himself respecting the effectiveness of the

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[27] See AU 150.02; AU §§ 230.01, .07-.09.

[28] See AS 15 ¶ 4.

[29] See AU § 331.01, *Inventories.*

methods of inventory-taking…."[30] The independent auditor who issues an opinion when he or she has not performed an inventory observation bears the burden of justifying the opinion expressed.[31]

24. Respondents failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence with respect to Issuer C's inventory at the time of the 2014 Issuer C Audit. No inventory observation procedures were performed, nor was evidence obtained or conclusions reached, to determine whether inventory physically existed in salable condition and represented property held for sale during the 2014 Issuer C Audit.[32]

b. Failure to Obtain Sufficient Appropriate Evidence to Evaluate the Existence and Valuation of Issuer C's Goodwill in 2014

25. As of FYE December 31, 2014, Issuer C reported that its goodwill balance was $2,061,649, which represented 52% of total assets. Issuer C also reported that it had $16,016,905 in accumulated losses. Issuer C further reported that it had operating income of $2,513,801 in 2014. Goodwill is an asset representing the future economic benefits arising from other assets acquired in a business combination that are required to be tested for impairment on, at least, an annual basis. Respondents identified goodwill as a significant audit area.

26. Respondents failed to perform sufficient procedures regarding the existence and valuation of goodwill during the 2014 Issuer C Audit.[33] Specifically, Respondents failed to perform any procedures other than reviewing a trial balance and a one-page transaction report obtained from management. Respondents also obtained management representations that goodwill was not impaired.

c. Failure to Obtain Sufficient Appropriate Evidence to Test Issuer C's Reported Revenue for 2014

27. As of FYE December 31, 2014, Issuer C reported revenue of $5,048,190, which was a 40% increase over revenue reported at FYE December 31, 2013.

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30 Id. ¶ .09.

31 See id. ¶ .01.

32 See AU § 331.01; AU § 150.02; AU §§ 230.01, .07-.09; AS 15.

33 See AS 15 ¶¶ 4, 11; AS 9 ¶¶ 18-19.

Respondents identified revenue as a significant audit area and as a risk of fraud while planning the 2014 Issuer C Audit.

28. During the 2014 Issuer C Audit, Respondents failed to perform sufficient procedures regarding revenue. Despite planning to audit revenue controls in response to the risk of fraud identified during planning, Respondents failed to do so.[34] Respondents also failed to perform any substantive procedures to mitigate the identified fraud risk as required by PCAOB standards,[35] including testing whether revenue throughout the year was properly recorded in conformity with the applicable financial reporting framework in the proper period and was properly valued.[36] The only audit procedure performed by Respondents was cut-off testing for the period December 20, 2014 to January 10, 2015, which consisted of using information produced by Issuer C that had not been tested for completeness and accuracy as required by PCAOB standards.[37]

d. Failure to Perform Journal Entry Testing for 2014 Issuer C Audit

29. In performing the 2014 Issuer C Audit, Respondents violated PCAOB standards due to their failure to design or perform any procedures to test the appropriateness of journal entries or other adjustments recorded in the general ledger and adjustments made in the preparation of the financial statements. Specifically, Respondents failed to examine journal entries and other adjustments for evidence of possible material misstatement due to fraud, including but not limited to, selecting from the general ledger journal entries to be tested and examining support for those items.[38]

5. 2015 Issuer C Audit

30. On April 5, 2016, Green authorized the issuance of the Firm's audit report on Issuer C's FYE December 31, 2015 financial statements, which expressed an unqualified opinion, with an explanatory going concern paragraph, and was included in Issuer C's Form 10-K filed with the Commission on April 6, 2016 ("2015 Issuer C Audit"). The Firm's audit report stated, among other things, that the audit of Issuer C's 2015 financial statements had been conducted in accordance with PCAOB standards.

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34 See AS 13 ¶¶ 12-15.

35 Id. ¶ 11.

36 See AS 14 ¶¶ 30-31; AS 13 ¶¶ 12-15; AS 15 ¶¶ 11-12.

37 See AS 15 ¶ 10.

38 See AU §§ 316.01, .58-.62.

31. Green served as the engagement partner on the 2015 Issuer C Audit and authorized the issuance of the Firm's audit report on the 2015 financial statements of Issuer C.

32. For FYE December 31, 2015, Issuer C reported that its inventory balance was $1,206,222, which represented 52% of total current assets and 26% of total assets. During the 2015 Issuer C Audit, Respondents identified inventory as a significant audit area and significant risk of material misstatement. Yet Respondents failed to perform any procedures to determine whether Issuer C's inventory was properly valued.

33. In connection with the 2015 Issuer C Audit, Green failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for the audit opinion issued by the Firm.

6. 2014 Issuer D Audit

a. Background

34. Issuer D, at all relevant times, was a Nevada corporation headquartered in West Palm Beach, Florida. Issuer D's public filings disclosed that, at the time of the audit, its principal line of business was clinical laboratory blood and urine testing services. It was the Firm's largest issuer client by revenue dollars (approximately $77 million in reported gross revenue) at the time the Firm audited the financial statements of Issuer D for FYE December 31, 2014 ("2014 Issuer D Audit"). On March 6, 2015, Issuer D filed a non-timely Form 10-Q/A for the quarter ending September 30, 2014 with the Commission. Issuer D disclosed in that filing that management had identified a material weakness in internal control over financial reporting, which was reviewed by Issuer D's predecessor auditor. It stated that "[i]nsufficient staffing and accounting processes and procedures [had] led to a lack of contemporaneous documentation supporting the accounting for certain transactions."

35. On March 19, 2015, Issuer D disclosed in a Form 8-K filed with the Commission that its predecessor auditor had resigned as the Company's independent registered public accounting firm effective March 13, 2015. Issuer D also disclosed that its Board of Directors had engaged Green & Company as its independent registered public accounting firm effective March 13, 2015.

36. On April 15, 2015, barely a month later, Green, who served as the engagement partner and supervised the engagement team on the 2014 Issuer D Audit, authorized the issuance of his Firm's audit report, which expressed an unqualified opinion on Issuer D's 2014 financial statements and was included in Issuer D's 2014 Form 10-K, which was filed with the Commission the same day. The Firm's audit report stated, among other things, that the audit of Issuer D's 2014 financial statements had been conducted in accordance with PCAOB standards.

37. As discussed more fully below, in connection with the 2014 Issuer D Audit, Green failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for the audit opinion issued by the Firm.

b. Failure to Perform Sufficient Appropriate Audit Procedures to Test Accounts Receivable During the 2014 Issuer D Audit

38. In its 2014 financial statements, Issuer D reported accounts receivable of $17,463,947 at year-end, which represented 49% of total assets.

39. Respondents identified accounts receivable as a significant risk area, including a risk of material misstatement due to fraud, while planning the 2014 Issuer D Audit. Respondents also indicated during planning for the audit that they would perform cut-off testing and subsequent cash collections testing in response to the identified accounts receivable fraud risk. Despite identifying accounts receivable as a fraud risk, Respondents failed to perform any procedures regarding Issuer D's accounts receivable during the 2014 Issuer D Audit.[39]

c. Failure to Appropriately Evaluate Whether Issuer D Had Omitted Information Essential to the Fair Presentation of its Accounting Policy for Revenue in 2014

40. In its 2014 financial statements, Issuer D reported net revenue of $57,927,820, which was a 38.3% increase over the $41,888,871 in revenue reported at FYE December 31, 2013. Respondents identified revenue as a significant audit area and as a fraud risk while planning the 2014 Issuer D Audit.

41. Issuer D reported in its 2014 financial statements that revenues were recognized at the time testing services were performed and were reported at the estimated net realizable amounts. Green, however, understood at the time of the 2014 Issuer D Audit that Issuer D recognized revenue at the time of billing and not at the time testing services were performed. Despite this understanding, Respondents failed to evaluate whether Issuer D's 2014 financial statements were presented fairly, in all material respects, in accordance with U.S. generally accepted accounting principles.[40]

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[39] See AS 15 ¶ 4; AS 13 ¶¶ 12-15.

[40] See AS 14 ¶ 30-31; AS 15 ¶ 11 (see fifth bullet – *Presentation and Disclosure*).

d. Green Failed to Adequately Supervise Staff on the 2014 Issuer D Audit

42. As the engagement partner, Green was responsible for the 2014 Issuer D engagement and its performance.[41] Green was therefore responsible for proper supervision of the work of engagement team members and for the team's compliance with PCAOB standards.[42] Green was also required to review the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[43]

43. As discussed above, Respondents failed to obtain sufficient appropriate audit evidence in several audit areas. In addition, for each of these areas, Green failed to adequately supervise the staff as required by PCAOB standards. In particular, Green failed to inform the staff about their responsibilities, direct them to bring significant accounting and auditing issues to his attention, or review the work performed by audit staff to evaluate whether work was performed and documented, objectives were achieved, and the results supported the conclusions reached. At least 20 work papers purportedly prepared by members of the engagement team, which Green signed off on as the reviewer or lead partner, actually contained no audit work or were blank templates. For example, the 2014 Issuer D audit work papers indicate that the *PCA-AP-14 Audit Program for Income and Expense*, *Revenue Memo*, *Audit Program for Property*, and *2014 Im[p]airment Test v5*, were prepared by members of the engagement team and approved by Green in spite of the fact that those work papers were templates that did not evidence the performance of any audit procedures.

44. Green also failed, when determining the extent of supervision necessary for engagement team members to perform their work as directed and form appropriate conclusions, to take into account the knowledge, skill, and ability of each engagement team member.[44] Green's failure in this regard was particularly egregious because he staffed the 2014 Issuer D Audit principally with contract auditors who were supervised, at times, by the Firm's sole audit staff employee. This audit assistant, who also performed the revenue testing, had less than two years of experience and virtually no training regarding the auditing of public companies under PCAOB standards. Despite being aware

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[41] Auditing Standard No. 10, *Supervision of the Audit Engagement* ("AS 10"), ¶ 3.

[42] Id.

[43] Id. ¶ 5.

[44] Id. ¶ 6.

of this, Green failed to properly supervise the engagement team members during the 2014 Issuer D Audit.

D. Respondents Violated PCAOB Standards by Granting 11 Issuer Clients Permission to Use the Firm's Audit Reports Without Obtaining Concurring Approvals of Issuance from the Engagement Quality Reviewer for the Issuer Audits

45. PCAOB standards require that an engagement quality review be performed on audit engagements and reviews of interim financial information conducted pursuant to PCAOB standards.[45] PCAOB standards also provide that, in an audit, a firm may grant permission to a client to use an audit report only after an engagement quality reviewer provides concurring approval of issuance.[46]

46. The engagement quality reviewer for 11 Issuer Audits identified in the attached Appendix A, did not provide concurring approval of issuance for any of those reports prior to their issuance. In each instance, the audit was of an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), and Green was aware that the engagement quality reviewer had not provided concurring approval of issuance when he authorized the release of the Firm's audit report for the Issuer Audits. As a result, for each of the Issuer Audits, the Firm violated PCAOB standards by improperly permitting the issuance of an audit report without obtaining concurring approvals of issuance from the engagement quality reviewer.

47. Green, the majority owner and managing partner of the Firm, was the engagement partner for each of the Issuer Audits at all relevant times and was principally responsible for the audits conducted by the Firm. Accordingly, Green had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Green knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 7, with respect to the Issuer Audits. As a result, he violated PCAOB Rule 3502.

E. Respondents Violated Audit Documentation Standards For 11 Issuer Audits

48. AS 3 requires that the complete and final set of documentation for an audit be assembled for retention by the "documentation completion date," a date no later than 45 days from the date on which the auditor grants permission to use its report ("report

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[45] See AS 7 ¶ 1; see also ¶¶ 9-13.

[46] Id. ¶ 13.

release date").[47] AS 3 also requires that "[p]rior to the report release date, the auditor must have completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report."[48] It also requires that the auditor "document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial assertions. Audit documentation must clearly demonstrate that the work was in fact performed."[49]

49. The Firm's computer records and audit software indicate that the audit work papers for the Issuer Audits were not "archived" or otherwise retained in such a manner that the work papers could not be deleted, or added to, without attribution until January 2017, nearly two years after the report release date for those audits. Respondents thus violated AS 3 by failing to assemble a complete and final set of audit documentation for retention as of a date not more than 45 days after the report release date for any of the Issuer Audits.[50]

III.

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

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Travis J. Green is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[51] and

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[47] See AS 3 ¶¶ 14-15.

[48] Id. ¶ 15.

[49] Id. ¶ 6.

[50] Id. ¶ 15.

[51] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Green. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Green & Company CPAs LLC, is revoked.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 16, 2020

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of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Appendix A

At all relevant times, each of the 11 issuers identified below was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

Issuer	Fiscal Year Ended	Date of Audit Report	Date Financial Statements Filed with Securities and Exchange Commission
1. Issuer A	December 31, 2014	April 10, 2015	April 15, 2015
2. Issuer B	December 31, 2014	April 15, 2015	April 15, 2015
3. Issuer C	December 31, 2014	March 27, 2015	March 30, 2015
4. Issuer D	December 31, 2014	April 15, 2015	April 15, 2015
5. Issuer E	December 31, 2014	March 27, 2015	March 31, 2015
6. Issuer F	December 31, 2014	March 27, 2015	April 3, 2015
7. Issuer G	December 31, 2014	April 10, 2015	April 10, 2015
8. Issuer H	December 31, 2014	May 4, 2015	May 6, 2015
9. Issuer I	December 31, 2014	June 29, 2015	June 30, 2015
10. Issuer J	July 31, 2015	November12,2015	November 13, 2015
11. Issuer K	September 30, 2015	January 13, 2016	January 13, 2016

PCAOB
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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2020-004
In the Matter of Ahmed & Associates CPA P.C. and Rizwan Ahmed, CPA,	April 21, 2020
Respondents.	

By this Order, the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is revoking Ahmed & Associates CPA P.C.'s ("Firm") registration,[1] barring Rizwan Ahmed, CPA ("Ahmed") from being an associated person for a registered public accounting firm,[2] and imposing a civil money penalty jointly and severally in the amount of $10,000 upon the Firm and Ahmed (collectively, "Respondents"). The Board is imposing these sanctions on the basis of its findings that: (1) Respondents violated PCAOB rules and standards in connection with the Firm's audits of three issuer audit clients; and (2) Respondents violated PCAOB rules in connection with the Firm's failure to disclose reportable events to the Board on PCAOB Form 3, *Special Report*.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings

[1] The Firm may reapply for registration after three (3) years from the date of this Order.

[2] Ahmed may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. **Ahmed & Associates CPA P.C.** is, and at all relevant times was, a professional corporation organized under New York law, and headquartered in New Hyde Park, New York. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and is licensed by the New York State Education Department (license no. 096353). At all relevant times, the Firm was the external auditor for the issuers identified below.

2. **Rizwan Ahmed, CPA** is, and at all relevant times was, a certified public accountant licensed by the New York State Education Department (license no. 099486). At all relevant times, Ahmed was the sole owner of the Firm and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

3. Ahmed and the Firm violated PCAOB rules and standards with respect to the three audit engagements. Specifically, the Firm failed to comply with AS 1220, *Engagement Quality Review*,[5] with respect to three issuer audit clients

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

[4] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. §7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[5] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits.

by failing to obtain an engagement quality review of each audit. Further, the Firm failed to disclose certain reportable events to the Board on Form 3 as required by PCAOB rules. Ahmed directly and substantially contributed to each of these violations.

C. Respondents Violated PCAOB Rules and Standards

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

5. AS 1220 requires that an engagement quality review be performed on audits and interim reviews conducted pursuant to PCAOB standards.[7] AS 1220 also provides that a firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance.[8]

6. In addition, PCAOB rules prohibit an associated person of a registered public accounting firm from "tak[ing] or omit[ting] to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the [Securities and Exchange] Commission [("Commission")] issued under the Act, or professional standards."[9]

7. As described below, Respondents failed to comply with PCAOB rules and standards.

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[6] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[7] See AS 1220.01.

[8] See id. at .13.

[9] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

Audit of Issuer A's Financial Statements

8. At all relevant times, Issuer A was a New York corporation headquartered in Flushing, New York, and an issuer as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

9. The Firm served as the auditor of Issuer A's financial statements for the year ended March 31, 2017. The Firm issued an audit report, dated June 22, 2017, which was included in Issuer A's Form 10-K filed with the Commission on June 27, 2017. The Firm improperly permitted the issuance of that report without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 1220.[10]

Audit of Issuer B's Financial Statements

10. At all relevant times, Issuer B was a New York corporation headquartered in Flushing, New York, and an issuer as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

11. The Firm served as the auditor of Issuer B's financial statements for the year ended March 31, 2018. The Firm issued an audit report, dated June 30, 2018, which was included in Issuer B's Form 10-K filed with the Commission on June 29, 2018. The Firm improperly permitted the issuance of that report without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm violated AS 1220.[11]

Audits of Issuer C's Financial Statements

12. At all relevant times, Issuer C was a Delaware corporation headquartered in New York, New York, and an issuer as defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

13. The Firm served as the auditor of Issuer C's financial statements for the years ended December 31, 2017 and December 31, 2018. The Firm issued two audit reports, both dated May 24, 2019, which were included in Issuer C's Form 10-Ks filed with the Commission on May 31, 2019 and June 3, 2019, respectively. The Firm improperly permitted the issuance of those reports without

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[10] See AS 1220.13.

[11] See id.

obtaining engagement quality reviews and concurring approvals of issuance. As a result, the Firm violated AS 1220.[12]

Ahmed Contributed to the Firm's Violations

14. Ahmed, the sole owner of the Firm, was the engagement partner for each of the audits described above. Accordingly, Ahmed had overall responsibility for ensuring that the Firm complied with PCAOB rules and standards. Ahmed knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violations of AS 1220, as described above. As a result, he violated PCAOB Rule 3502.

The Firm Failed to Disclose Reportable Events to the Board in Violation of PCAOB Rules and Ahmed Contributed to the Firm's Violation

15. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[13] One such specified event occurs when a firm "has become aware that a partner, shareholder, principal, owner, member, or *audit* manager of the Firm who provided at least ten hours of *audit services* for any *issuer, broker, or dealer* during the Firm's current fiscal year or its most recently completed fiscal year has become a defendant in a criminal proceeding prosecuted by a governmental criminal law enforcement authority and is charged with fraud, embezzlement, forgery, extortion, bribery, obstruction of justice, perjury, or false statements; or charged with any crime arising out of alleged conduct relating to accounting, auditing, securities, banking, commodities, taxation, consumer protection, or insurance" ("Item 2.6 Proceeding").[14]

16. On July 28, 2017, Ahmed was named as a defendant in a criminal proceeding prosecuted by the United States of America, and was charged with theft of government Medicare funds. On August 14, 2018, Ahmed pleaded guilty to the charge of theft of government Medicare funds. The Firm, owned by Ahmed,

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[12] See id.

[13] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[14] PCAOB Form 3, at Item 2.6 (italics in original).

learned of these events at the time they occurred, but no later than August 14, 2018. These events constituted an Item 2.6 Proceeding.

17. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the Item 2.6 Proceeding.

18. Ahmed knew, or was reckless in not knowing, that he was directly and substantially contributing to the Firm's violation of Rule 2203, as described above. As a result, he violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Ahmed is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[15]

B. After three (3) years from the date of this Order, Ahmed may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

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

D. After three (3) years from the date of this Order, the Firm may reapply for registration by filing an application pursuant to PCAOB Rule 2101; and

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[15] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Ahmed. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed jointly and severally upon the Firm and Ahmed. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies the Firm and Ahmed as Respondents in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***Respondents understand that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm, or any reapplication for registration pursuant to PCAOB Rule 2101***.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

April 21, 2020

PCAOB
Public Company Accounting Oversight Board

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS	PCAOB Release No. 105-2020-008
In the Matter of HLB Mann Judd, Darryl Swindells, and Aidan Smith,	June 29, 2020
Respondents.	

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon HLB Mann Judd ("Firm"), Darryl Swindells, and Aidan Smith (collectively, "Respondents"). The Board is:

(1) revoking the registration of HLB Mann Judd[1] and imposing on the Firm a $50,000 civil money penalty;

(2) barring Swindells from being an associated person of a registered public accounting firm[2] and imposing on him a $15,000 civil money penalty;

(3) barring Smith from being an associated person of a registered public accounting firm[3] and imposing on him a $10,000 civil money penalty; and

(4) requiring Swindells and Smith each to complete 40 hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license, before filing a petition for Board consent to associate with a registered firm.

The Board is imposing these sanctions on the basis of its findings that: (a) Respondents violated PCAOB rules and auditing standards in connection with the Firm's audits of an issuer client's financial statements for six fiscal years; and (b) the Firm violated PCAOB rules and quality control standards.

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[1] The Firm may reapply for registration after three years from the date of this Order.

[2] Swindells may file a petition for Board consent to associate with a registered public accounting firm after three years from the date of this Order.

[3] Smith may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement ("Offer," collectively "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds[5] that:

A. Respondents

1. **HLB Mann Judd** is a partnership located in Sydney, Australia. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Darryl Swindells** is a registered company auditor registered with the Australian Securities and Investments Commission (registration number 15487) and a chartered accountant licensed by the Institute of Chartered Accountants in Australia and New Zealand. Swindells was a partner of HLB Mann Judd before retiring in December 2019. He served, among other things, on the Firm's Quality Control and Independence Committee, its Risk Management Committee, and its Audit & Corporate Advisory

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

[5] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, which provides that such sanctions may be imposed in the event of (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

Divisional Committee. Swindells was also the Nominated Head of Quality Control for the Firm's audit practice, responsible—among other things—for ensuring the Firm had adequate resources to undertake its audit appointments and for compliance by Firm personnel with the Firm's quality control and independence procedures. Swindells is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **Aidan Smith** is a registered company auditor registered with the Australian Securities and Investments Commission (registration number 323195) and a chartered accountant licensed by the Institute of Chartered Accountants in Australia and New Zealand and the Institute of Chartered Accountants of Scotland. Smith is a partner of HLB Mann Judd and serves on the Firm's Audit & Corporate Advisory Divisional Committee. Smith is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer A

4. Issuer A was, at all relevant times, an Australian corporation headquartered in Sydney, Australia. Issuer A's public filings disclose that, at the time of the relevant audits, Issuer A was in the business of installing and optimizing renewable power generation systems and delivering products and services designed to increase the efficiency of climate control and other systems. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. In February 2015, HLB Mann Judd registered with the Board. It did so in order to take on Issuer A as an audit client. Issuer A was the only issuer the Firm ever audited.

6. HLB Mann Judd issued a total of four audit reports for Issuer A. The Firm's first report concerned three years of financial statements—reaudits of Issuer A's fiscal year ("FY") 2012 and 2013 financial statements,[6] as well as an original audit of Issuer A's FY 2014 financial statements.[7] Thereafter, the Firm successively issued three audit

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[6] Reaudits of Issuer A's FY 2012 and FY 2013 financial statements were performed after Issuer A's audit committee, following discussions with its prior outside auditor, determined that its previously issued audited financial statements for those fiscal years should no longer be relied upon.

[7] Issuer A's fiscal year ran from July 1 through June 30. Issuer A prepared its financial statements in accordance with International Financial Reporting Standards ("IFRS") as issued by the International Accounting Standards Board.

reports on three years of Issuer A's financial statements: FY 2015, FY 2016, and FY 2017. All four audit reports contained unqualified opinions with going concern paragraphs.

7. Swindells was the engagement partner who authorized the issuance of the Firm's first three audit reports on the Issuer A engagement, and who had final responsibility for the audits of Issuer A's FY 2012 through FY 2016 financial statements. Smith was Swindells' successor on the engagement, served as the engagement partner who authorized the issuance of the Firm's fourth audit report on the Issuer A engagement, and had final responsibility for the audit of Issuer A's FY 2017 financial statements.

8. When HLB Mann Judd accepted Issuer A as an audit client and performed audits of six years of Issuer A's financial statements, the Firm was not in a position to adequately audit issuer clients under PCAOB rules and standards. It failed to (i) train its personnel to perform issuer audits in accordance with PCAOB standards and (ii) staff its audits of Issuer A with auditors qualified and knowledgeable to perform issuer audits in accordance with such standards. The Firm also lacked quality control policies and procedures that addressed the requirements of, or otherwise referenced considerations distinctive to, issuer audits. As a result, the Firm violated PCAOB rules, auditing standards, and quality control standards.

9. Swindells and Smith also violated PCAOB rules and auditing standards in connection with their audits of Issuer A. They did so in connection with three aspects of those audits: client acceptance and continuance; audit planning and performance; and documentation. With respect to audit planning and performance, those deficiencies arose in key areas of the audits: risk assessment for Swindells, and revenue testing and goodwill valuation testing for Swindells and Smith.

D. Respondents Violated PCAOB Rules and Standards

10. PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[8] An auditor may express an unqualified opinion on an issuer's financial

[8] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards* (applicable as of December 31, 2016); PCAOB Rule 3200T, *Interim Auditing Standards* (applicable before December 31, 2016); PCAOB Rule 3400T, *Interim Quality Control Standards*. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (March 31, 2015). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondents' conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[9] PCAOB standards require, among other things, that an auditor plan and perform the audit with due professional care[10] and obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[11]

11. As detailed below, Respondents failed to comply with PCAOB rules and standards.

1. Client Acceptance and Continuance

12. PCAOB auditing standards state that "before starting an initial audit" an auditor should "[p]erform procedures regarding the acceptance of the client relationship and the specific audit engagement."[12] PCAOB auditing standards also require certain procedures at the beginning of an audit, including any subsequent audit of an existing client: "The auditor should perform the following activities at the beginning of the audit: . . . Perform procedures regarding the continuance of the client relationship and the specific audit engagement . . . ."[13]

13. In January 2015, Swindells accepted Issuer A as an audit client on behalf of HLB Mann Judd. Before doing so, however, Swindells failed to adequately consider whether the Firm was professionally competent to audit Issuer A in accordance with applicable PCAOB rules and standards, including whether it had (i) sufficiently qualified and experienced personnel knowledgeable of them and (ii) quality control policies and procedures to provide reasonable assurance of compliance with them.[14] Swindells failed to do so before the Firm's initial audit engagement for Issuer A—the audit of its FY 2014 financial statements ("2014 Audit") and the reaudit of its FY 2012 and FY 2013 financial

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[9] AS 3101.07 (formerly AU § 508), *Reports on Audited Financial Statements*. AS 3101 was subsequently replaced for audits of fiscal years ending on or after December 15, 2017. All references to AS 3101 in this Order are to the version of that standard in effect as of the Board's December 31, 2016 reorganization of its auditing standards.

[10] See AS 1015.01 (formerly AU § 230), *Due Professional Care in the Performance of Work*.

[11] See AS 1105.04 (formerly Auditing Standard No. 15), *Audit Evidence*.

[12] AS 2101.18.a (formerly Auditing Standard No. 9), *Audit Planning*.

[13] AS 2101.06 (footnote omitted).

[14] See id.; see also AS 2101.18.

statements (collectively, the "2012-2014 Audits")—and he also failed to do so before each of the two audits thereafter ("2015 Audit" and "2016 Audit").

14. Swindells undertook to address the question of whether the Firm could audit issuer clients in two work papers completed for the 2012-2014 Audits, each two pages long. The first, titled "Considerations - Audit Report," contained without elaboration the statement: "I know from my work with HLB International's Global Audit Working Group that there are very few differences between US Audit Standards and ASAs [Australian Auditing Standards], therefore we are justified in issuing an audit report under US Standards." The second, titled "Comparison of ISAs [International Standards on Auditing] and PCAOB Standards," referenced versions of PCAOB auditing standards effective before December 15, 2010—not those applicable to the work HLB Mann Judd was performing over four years later as part of the 2012-2014 Audits.

15. Swindells during the 2012 through 2016 Audits used audit programs—work paper templates setting out audit-related procedures and considerations for planning and performing an audit—that referenced Australian Auditing Standards, not PCAOB auditing standards. Swindells did so without adequately considering what, if any, differences relevant to the planning and performance of the audit existed between Australian Auditing Standards and PCAOB standards.

16. Smith similarly failed to perform sufficient client continuance procedures before the Firm's audit of Issuer A's FY 2017 financial statements ("2017 Audit"). Smith failed to consider the Firm's professional competence to audit Issuer A in accordance with applicable requirements before the 2017 Audit. None of the client continuance procedures performed by Smith's engagement team included acknowledgment, let alone evaluation, of auditing standards or quality control policies and procedures that were applicable to issuer audits. As with the previous audits supervised by Swindells, the audit programs used during the 2017 Audit referenced Australian Auditing Standards, not PCAOB auditing standards. Smith failed to consider what, if any, differences relevant to the planning and performance of the audit existed between Australian Auditing Standards and PCAOB auditing standards.

2. Training and Staffing

17. PCAOB auditing standards required the Firm's audits of Issuer A "to be performed by a person or persons having adequate technical training and proficiency as an auditor."[15] The personnel assigned to the Issuer A audits were required to "undergo training adequate to meet the requirements of a professional," which "must be adequate

[15] AS 1010.01 (formerly AU § 210), *Training and Proficiency of the Independent Auditor*.

in technical scope."[16] Moreover, auditors "should be assigned to tasks . . . commensurate with their level of knowledge, skill, and ability so that they can evaluate the audit evidence they are examining."[17] Swindells and Smith, as the engagement partners responsible for the Firm's audits of Issuer A, "should know, at a minimum, the relevant professional accounting and auditing standards."[18]

18. Other than a 20-minute session on "Information/discussion for foreign PCAOB registrants" that Smith attended in 2015, none of the members of the engagement teams assigned to the Firm's audits of Issuer A received training in PCAOB auditing standards before or during those engagements. By failing in its audits of Issuer A to assign personnel with adequate technical training and proficiency in issuer audit work, and failing to exercise due professional care in ensuring the engagement teams had knowledge commensurate with their responsibilities in performing issuer audits, the Firm violated AS 1010 and AS 1015.

3. Audit Deficiencies

Inadequate Risk Assessment

19. PCAOB standards require auditors to perform risk assessment procedures that are sufficient to provide a reasonable basis for identifying and assessing the risks of material misstatement, whether due to error or fraud.[19] Auditors "should presume that there is a fraud risk involving improper revenue recognition and evaluate which types of revenue, revenue transactions, or assertions may give rise to such risks."[20] PCAOB standards state that fraud risks are significant risks.[21]

20. During the 2015 Audit and the 2017 Audit, the engagement team identified a fraud risk and significant risk with respect to revenue. During the 2014 Audit and the 2016 Audit, however, Swindells failed to identify improper revenue recognition as a fraud risk—even though the engagement team's work papers acknowledged such a presumption was required—and failed to document any basis to overcome the

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[16] AS 1010.03.

[17] AS 1015.06.

[18] Id.

[19] See AS 2110.04 (formerly Auditing Standard No. 12), *Identifying and Assessing Risks of Material Misstatement*.

[20] AS 2110.68.

[21] See AS 2110.71.b.

presumption that improper revenue recognition should have been identified as a fraud risk.[22]

Inadequate Revenue Testing

21. In each of the 2014, 2015, 2016, and 2017 Audits, the engagement team identified revenue as a significant account. PCAOB standards require auditors to perform substantive procedures for each relevant assertion of each significant account and disclosure.[23]

22. However, Swindells failed in each of the 2014, 2015, and 2016 Audits to perform any procedures to test revenue beyond a year-over-year comparison of revenue and inquiry of management. In performing these comparisons, Swindells failed to (1) develop an expectation at a sufficient level of precision to provide the necessary degree of assurance that differences that could be potential material misstatements, individually or when aggregated with other misstatements, would be identified for investigation,[24] or (2) establish a threshold for identifying significant differences and evaluate significant unexpected differences requiring further investigation.[25] As a result, the year-over-year revenue comparisons were not substantive analytical procedures, and Swindells failed to obtain sufficient appropriate audit evidence relating to the occurrence and valuation of revenue—that is, whether revenue was recorded in the proper period and in the proper amount—in each of the 2014, 2015, and 2016 Audits. Moreover, because the engagement team in the 2015 Audit identified and assessed a fraud risk relating to revenue, Swindells' failure to perform substantive procedures during the 2015 Audit additionally violated the requirement that an auditor perform substantive procedures, including tests of details, that are specifically responsive to the assessed fraud risk.[26]

23. During the 2017 Audit, Smith and the engagement team identified the occurrence and allocation of revenue as a fraud risk and a significant risk. In FY 2017, Issuer A derived approximately 77 percent of its revenue from one operating segment ("Segment 1"). The majority of Segment 1's revenue (or 66 percent of Issuer A's total revenue) was recognized using the percentage of completion ("POC") method of

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[22] See AS 2401.83 (formerly AU § 316), *Consideration of Fraud in a Financial Statement Audit*.

[23] See AS 2301.36 (formerly Auditing Standard No. 13), *The Auditor's Responses to the Risks of Material Misstatement*.

[24] See AS 2305.17 (formerly AU § 329), *Substantive Analytical Procedures*.

[25] See AS 2305.20-.21.

[26] See AS 2301.11, .13.

accounting.[27] To apply the POC method, some basis or standard for measuring the progress to completion for each contract at particular interim dates is necessary. Issuer A disclosed that its basis for measuring the stage of completion of a project was contract costs incurred to date as a percentage of the estimated total costs for the contract. Issuer A recognized gross revenue from projects in Segment 1 throughout a reporting period based on invoices issued to the customer for amounts specified in the contract with that customer (progress billings). Then, at the end of each reporting period, Issuer A recorded for each project an adjustment to the gross revenue amount to reflect management's calculated stage of completion for that project ("POC Adjustment").

24. To test gross POC revenue from projects in Segment 1, the engagement team selected a sample of revenue transactions recorded in the last three months of FY 2017 and compared the recorded amounts to the amounts specified in customer invoices obtained from Issuer A and in the contracts with those customers. The engagement team also obtained a schedule of projects outstanding at year end in which management calculated the POC Adjustment for each incomplete project using actual costs to date and estimated costs to complete. To test the POC Adjustments at year end, the engagement team selected two projects from the issuer's schedule of outstanding projects and (1) compared the costs to date for each selected project to cost information in reports from the issuer's project management system and (2) made inquiry of Issuer A's management and personnel about its process for estimating costs to complete the selected projects.

25. Smith and the engagement team, however, failed to perform adequate procedures to determine whether revenue was recorded in the proper period and properly valued. First, the engagement team limited its selection of revenue transactions for Segment 1 to sales recorded in the last three months of the year. These selections were not representative of the entire population, as all items in the population did not have an opportunity to be selected.[28] In addition, in its testing of the POC Adjustments recorded at year end, the engagement team failed to perform any procedures to test estimated costs of completion beyond inquiry of management and personnel.[29] Furthermore, the engagement team failed to test the accuracy and completeness of (1) the issuer's schedule of projects outstanding at year end and (2) the system-generated reports of

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[27] See International Accounting Standard ("IAS") 11, *Construction Contracts.* Under IFRS, when the outcome of a construction contract can be estimated reliably, contract revenue and contract costs associated with the construction contract are required to be recognized as revenue and expense respectively by reference to the stage of completion of the contract activity at the end of the reporting period.

[28] See AS 1105.27; AS 2315.24 (formerly AU § 350), *Audit Sampling*.

[29] See AS 2805.02 (formerly AU § 333), *Management Representations*; see also 2501.11 (formerly AU § 342), *Auditing Accounting Estimates*.

costs to date that the engagement team used in testing costs to date for the selected projects.[30]

26. In FY 2017, Issuer A derived approximately 11 percent of its revenue from product sales by its U.S. subsidiary. During the 2017 Audit, Smith failed to perform adequate procedures to test whether revenue relating to this subsidiary was recorded in the proper period and in the proper amount, as the engagement team failed to perform substantive procedures, including tests of details, that were specifically responsive to the assessed fraud risk.[31] The engagement team failed to perform any procedures beyond a year-over-year comparison of product sales revenue and inquiry of management, and that year-over-year comparison—which (like those performed in the previous audits) lacked a sufficiently precise expectation and a threshold for identifying significant differences—was not a substantive analytical procedure.[32]

Inadequate Goodwill Valuation Testing

27. Issuer A reported goodwill relating to one of its operating segments ("Segment 2") in both its FY 2015 and FY 2016 financial statements. As of June 30, 2015 and 2016, Segment 2 goodwill represented approximately 40 percent and 35 percent, respectively, of Issuer A's total assets.

28. Goodwill should be tested for impairment at least annually, and whenever there is an indication that the goodwill may be impaired.[33] Issuer A disclosed that impairment was determined by assessing the recoverable amount, or value-in-use, of Segment 2 as compared to its carrying amount. Issuer A's management prepared an impairment analysis of goodwill allocated to Segment 2 at each fiscal year end that purported to calculate the recoverable amount of Segment 2 using discounted projected cash flows.

29. In both the 2015 and 2016 Audits, Swindells and the engagement teams identified a significant risk relating to the valuation of goodwill. Moreover, Swindells understood that management's calculation of the recoverable amount of Segment 2 was an estimate.

30. In both audits, however, Swindells failed to adequately evaluate the reasonableness of that estimate. Swindells should have used one or a combination of the

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30 See AS 1105.10.

31 See AS 2301.11, .13.

32 See AS 2305.17, .20-.21.

33 See IAS 36, *Impairment of Assets.*

following approaches in evaluating the reasonableness of Issuer A's recoverable amount estimate for Segment 2:

> "a. Review and test the process used by management to develop the estimate.
>
> b. Develop an independent expectation of the estimate to corroborate the reasonableness of management's estimate.
>
> c. Review subsequent events or transactions occurring prior to the date of the auditor's report."[34]

31. Swindells and the engagement teams failed to adequately perform any of these approaches. They understood that management used certain projected amounts—such as the projected number of new and renewing customers each year (megawatts installed), the projected average price per megawatt, and the associated projected cost of sales—as key assumptions in formulating the cash flow projections on which it based its impairment analysis. Swindells and the engagement teams, however, failed to perform adequate procedures to evaluate those assumptions or otherwise test the process for generating those projected amounts.[35] Nor did they develop an independent expectation of the estimated recoverable amount or review subsequent events or transactions to evaluate its reasonableness.

32. Swindells failed to perform adequate procedures even though he communicated in a report to Issuer A's audit committee during each of the 2015 and 2016 Audits that it was "highly likely" that impairment of goodwill for Segment 2 would be required absent significantly better performance in the future than had been achieved in recent years. Swindells also communicated to the audit committee during the 2016 Audit, in connection with Issuer A's valuation of Segment 2's goodwill, that Issuer A had a history of not meeting its forecasts. He was aware that, in its goodwill impairment analysis prepared during the 2015 Audit, Issuer A forecasted FY 2016 revenues of A$7.5 million for Segment 2, but reported only A$2.6 million in such revenue in its FY 2016 financial statements.[36]

33. As of June 30, 2017, goodwill relating to Segment 2 represented approximately 44 percent of Issuer A's total assets. Like Swindells in prior audits, Smith

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[34] AS 2501.10.

[35] See AS 2501.11.

[36] See AS 2501.09 ("The auditor normally should consider the historical experience of the entity in making past estimates as well as the auditor's experience in the industry.")

and the engagement team during the 2017 Audit identified a significant risk relating to the valuation of goodwill.

34. Smith and the engagement team obtained an issuer-prepared impairment analysis relating to Segment 2's goodwill. That analysis calculated the recoverable amount of Segment 2 based largely on cash flow projections. Like Swindells in prior audits, however, Smith failed during the 2017 Audit to adequately evaluate the reasonableness of that recoverable amount estimate. Although Smith, like Swindells in previous audits, identified certain key assumptions as part of management's process in formulating those projections, Smith and the engagement team failed to perform adequate procedures to evaluate those assumptions or otherwise test the process for generating those projected amounts.[37] Smith also failed to test the accuracy and completeness of system-generated reports used to test certain other assumptions.[38] Nor did Smith develop an independent expectation of the estimated recoverable amount or review subsequent events or transactions to evaluate its reasonableness.[39]

35. Smith failed to perform adequate procedures even though (1) he knew that during the 2016 Audit Issuer A had forecasted A$11.5 million in FY 2017 revenue for Segment 2 as part of its goodwill impairment analysis but reported only A$4 million in its FY 2017 financial statements, and (2) he communicated in a report to Issuer A's audit committee during the 2017 Audit that the recoverability of goodwill for Segment 2 depended on significantly better performance in the future and that Issuer A had a history of not meeting its forecasts.[40]

4. Documentation

36. PCAOB auditing standards state: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[41] Swindells and Smith failed to timely assemble final sets of audit documentation for their respective engagements.

37. Engagement teams at HLB Mann Judd used an archiving (or "lock-down") feature in HLB Mann Judd's audit software to assemble final sets of audit documentation.

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37 See AS 2501.11.

38 See id.; AS 1105.10.

39 See AS 2501.10.

40 See AS 2501.09.

41 AS 1215.15 (formerly Auditing Standard No. 3), *Audit Documentation*.

Swindells and Smith did the same in their Issuer A audits. However, they both failed to do so by the applicable documentation completion date. Specifically, Swindells assembled a final set of audit documentation for the 2012-2014 Audits over three months late, for the 2015 Audit one week late, and for the 2016 Audit five months late. Similarly, Smith assembled a final set of audit documentation for the 2017 Audit over three weeks late.

5. Quality Control

38. PCAOB rules and quality control standards require that a registered firm have a system of quality control for its auditing practice.[42] A firm should establish policies and procedures to encompass, among other things, personnel management, acceptance and continuance of clients and engagements, engagement performance, and monitoring.[43] As described below, HLB Mann Judd violated PCAOB quality control standards in several respects.

Client Acceptance and Continuance

39. A firm should establish policies and procedures "for deciding whether to accept or continue a client relationship and whether to perform a specific engagement for that client."[44] These policies and procedures should provide reasonable assurance that the firm "[u]ndertakes only those engagements that the firm can reasonably expect to be completed with professional competence" and "[a]ppropriately considers the risks associated with providing professional services in the particular circumstances."[45]

40. Throughout the time period of the Issuer A audits, the Firm failed to establish and implement policies and procedures necessary to decide whether to accept or continue a client relationship with an issuer and whether to perform a specific engagement for that client. The Firm's policies and procedures, for instance, prescribed two different forms of client acceptance documentation for use by engagement team members—one for audits of entities subject to the reporting requirements of Australia's Corporations Act 2001 ("Corporations Act") and the other for entities not subject to the Corporations Act—but neither reflected, nor otherwise directed the attention of engagement team members to, considerations applicable to audits of issuers. Moreover, HLB Mann Judd's policies assigned to engagement partners the responsibilities to ensure appropriate acceptance and continuance procedures, to determine the nature and extent

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[42] See PCAOB Rule 3400T; QC § 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice.*

[43] See QC § 20.07.

[44] QC § 20.14.

[45] QC § 20.15.

of those procedures, and to determine whether the most recent acceptance or continuance decision remained appropriate for the current audit engagement, but did so without taking steps to ensure that the engagement partners assigned to the Firm's only issuer audit—Swindells and Smith—had sufficient knowledge, experience, training, and proficiency to carry out those responsibilities in connection with an issuer client.

Personnel Management

41. A firm should establish policies and procedures to provide reasonable assurance that, among other things, (1) "[w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances," and (2) "[p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned."[46] A firm's policies and procedures should also provide reasonable assurance that "individuals possess the kinds of competencies that are appropriate given the circumstances of individual client engagements,"[47] and that "a practitioner-in-charge of an engagement possesses the competencies necessary to fulfill his or her engagement responsibilities."[48]

42. Throughout the time period of the Issuer A audits, the Firm failed to establish policies and procedures to provide reasonable assurance that personnel assigned to the Issuer A engagement had the technical training, proficiency, and competencies required to audit an issuer in accordance with PCAOB rules and standards. Moreover, the Firm failed to establish policies and procedures to ensure personnel assigned to Issuer A had proficiency with, and participated in continuing professional education related to, PCAOB standards and relevant regulatory requirements.

Engagement Performance

43. A firm should establish policies and procedures to provide reasonable assurance "that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[49]

44. Throughout the time period of the Issuer A audits, the Firm failed to implement and maintain a system of quality control that would provide it with reasonable

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[46] QC § 20.13; QC § 40.02, *The Personnel Management Element of a Firm's System of Quality Control-Competencies Required by a Practitioner-in-Charge of an Attest Engagement.*

[47] QC § 40.03.

[48] QC § 40.06.

[49] QC § 20.17.

assurance that the work performed by the Issuer A engagement personnel would comply with applicable PCAOB professional standards. As described above, the Firm failed to have in place adequate policies and procedures to provide reasonable assurance that the Firm and its personnel performed and documented their work in accordance with PCAOB auditing standards. Among other things, HLB Mann Judd's deficient system of quality control failed to prevent the repeated failures (1) to plan and perform procedures in compliance with PCAOB standards during the course of the Issuer A audits and (2) to timely archive audit work papers in accordance with PCAOB standards.

Monitoring

45. A firm should establish policies and procedures to provide reasonable assurance that its quality control policies and procedures "are suitably designed and are being effectively applied."[50] Monitoring involves an ongoing consideration and evaluation of, among other things, the (1) "[r]elevance and adequacy of the firm's policies and procedures"; (2) "[a]ppropriateness of the firm's guidance materials and any practice aids"; and (3) "[e]ffectiveness of professional development activities."[51] HLB Mann Judd failed, both at the time it accepted Issuer A as an audit client and throughout the time period of the Issuer A audits, to adequately consider and evaluate whether the Firm's policies and procedures, its guidance materials and practice aids (including audit programs), and its professional development activities were being effectively applied to audits of issuers.

IV.

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

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

B. After three years from the date of this Order, HLB Mann Judd may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Darryl Swindells and Aidan Smith are each barred from being an associated

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[50] See QC § 20.20; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[51] Id.

person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[52]

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

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

F. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Darryl Swindells and Aidan Smith are each required to complete, before filing a petition for Board consent to associate with a registered firm, forty hours of professional education and training relating to PCAOB auditing standards (such hours shall be in addition to, and shall not be counted in, the continuing professional education each is required to obtain in connection with any professional license); and

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), civil money penalties are imposed in the amounts of $50,000 upon HLB Mann Judd, $15,000 upon Darryl Swindells, and $10,000 upon Aidan Smith. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. HLB Mann Judd shall pay the civil money penalty imposed within ten days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter that identifies the payer as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of said cover letter and money order or check shall be sent to Office of the Secretary,

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[52] As a consequence of the bars, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to both Darryl Swindells and Aidan Smith. Section 105(c)(7)(B) of the Act provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. Pursuant to the same procedures, Darryl Swindells shall pay $3,750 of the penalty within ten days of the issuance of this Order, an additional $3,750 by September 30, 2020, an additional $3,750 by December 31, 2020, and the remaining $3,750 by March 31, 2021. Pursuant to the same procedures, Aidan Smith shall pay $2,500 of the penalty within ten days of the issuance of this Order, an additional $2,500 by September 30, 2020, an additional $2,500 by December 31, 2020, and the remaining $2,500 by March 31, 2021. ***Respondents understand that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm, or any reapplication for registration pursuant to PCAOB Rule 2101.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

June 29, 2020

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Ryan J. Collins, CPA,* Respondent.	PCAOB Release No. 105-2020-009 July 21, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is barring Ryan J. Collins, CPA ("Collins" or "Respondent") from being an associated person of a registered public accounting firm.[1] The Board is imposing this sanction on the basis of its findings that Collins failed to cooperate with a Board inspection in connection with the audit of an issuer.

I.

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

II.

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

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

to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds[3] that:

A. Respondent

1. **Ryan J. Collins** is, and at all relevant times was, a certified public accountant licensed by the Indiana Board of Accountancy (license no. CP11300016). Collins was employed by PricewaterhouseCoopers LLP ("PwC") between September 2010 and May 2019. At all relevant times, Collins was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

2. This matter concerns Respondent's failure to cooperate with a Board inspection. Collins was a senior manager for PwC's integrated audit of the financial statements and internal control over financial reporting of an issuer ("Issuer A") for the fiscal year-ended September 30, 2018 ("Audit").[4] As part of the Board's annual inspection of PwC for 2019, Board staff selected the Audit for review ("Inspection"). During field work for the Inspection, Collins: (a) made a misleading statement to the Board's inspectors; and (b) prepared a misleading document that he understood would be presented to the inspectors in response to a specific request from the inspectors. Through his actions and omissions Collins violated his obligation to cooperate with the Board's Inspection.

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

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] At all relevant times, Issuer A was an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Respondent Violated a PCAOB Rule

Applicable PCAOB Rule

3. PCAOB Rule 4006 provides that "[e]very registered public accounting firm, and every associated person of a registered public accounting firm, shall cooperate with the Board in the performance of any Board inspection." Cooperation includes complying with requests for "any record in the possession, custody, or control of such firm or person" as well as complying with requests to "provide information by oral interviews, written responses, or otherwise." Id. "Implicit in this cooperation requirement is that auditors provide accurate and truthful information" to the Board's inspectors.[5]

Background Related to the Inspection

4. Collins began working on PwC's audit of Issuer A in 2010. Collins worked on each audit of Issuer A for fiscal years 2010 through 2018. Also, Collins participated in two Board inspections of PwC's audits of Issuer A prior to the Inspection.

5. In early-March 2019, Collins learned that the Board would inspect the Audit as part of its annual inspection of PwC. Prior to the beginning of inspection field work, Collins understood that taxes would be one of the focus areas for the Inspection.

Collins Made a Misleading Statement and Provided a Misleading Document to the Board's Inspectors During the Inspection.

6. Inspection field work commenced on April 1, 2019. During field work, the Board's inspectors asked the engagement team questions related to the tax focus area and, specifically, related to transfer pricing.

7. During his preparations for the Inspection, Collins opened the archived work papers for the 2009 audit of Issuer A and found a memo that related to transfer pricing ("2009 Memo").

8. During the evening of April 3, 2019, in an attempt to respond to open questions from the inspectors related to transfer pricing, Collins met with the other members of the engagement team. As part of addressing questions from the Board's inspectors related to transfer pricing, he downloaded the 2009 Memo from the archived 2009 work papers. After downloading the 2009 Memo, Mr. Collins edited the 2009 Memo, which included deleting both the date on the memo and information that was not relevant

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[5] *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), *petition for review denied*, *Kabani & Co., Inc. v. SEC*, 733 Fed. App'x 918 (9th Cir. 2018). See also *Humayoun G. Khan*, PCAOB Rel. No. 105-2019-013 (June 4, 2019).

to the questions of the inspectors. Collins made additional changes to the 2009 Memo the following morning (as modified, the "2019 Memo").

9. Collins and other members of the engagement team for the Audit met with the Board's inspectors during the morning of April 4, 2019. During that meeting, another member of the engagement team used the 2019 Memo to answer questions from the inspectors related to transfer pricing. At some point during that meeting, the other engagement team member provided the 2019 Memo to the inspectors.

10. The inspectors asked what the document was and why it was not dated. Collins responded that the document was from the "2010 audit." Collins did not inform the inspectors that the 2019 Memo was, in fact, prepared the previous day and finalized earlier that same morning, April 4, 2019. Likewise, he did not explain to the inspectors that the 2019 Memo was based on a 2009 work paper, not a 2010 work paper.

11. His decision to tell the inspectors that the document was from 2010, and not from 2009, was intentional. Collins knew that information PwC sent to the Board's inspectors in advance of Inspection field work stated that Collins started working on the Issuer A audit in 2010, and Collins thought it would raise questions if he identified the document as predating his work on the Audit.

12. After the meeting at which Collins provided the inspectors the misleading information about the 2019 Memo, the inspectors asked the Audit engagement partner to provide the original memo from the archived 2010 work papers. The engagement partner asked Collins to send a copy of the original work paper to the engagement partner.

13. Collins understood that the engagement partner would provide that document to the inspectors. Collins went back into the archived 2009 work papers, downloaded a copy of the 2009 Memo, and changed the date on the memo from 2009 to 2010, *i.e.*, to a date that was consistent with his misrepresentation to the Board's inspectors earlier that morning. Collins then sent that document ("Purported 2010 Memo") to the engagement partner. And the engagement partner provided the Purported 2010 Memo to the Board's inspectors.

14. At no time did Collins advise the inspectors that the Purported 2010 Memo was really from the 2009 work papers and that Collins had changed the date on that document on April 4, 2019.

15. By his statements, actions, and omissions, Collins violated his duty to cooperate with the Board's Inspection of the Audit.[6]

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[6] See PCAOB Rule 4006.

IV.

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

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Collins is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[7] and

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

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 21, 2020

[7] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Collins. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS *In the Matter of Liggett & Webb, P.A., James Howard Liggett, CPA, and Derek Martin Webb, CPA,* *Respondents.*	PCAOB Release No. 105-2020-010 August 25, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon Liggett & Webb, P.A. ("L&W" or "Firm"), James Howard Liggett, CPA ("Liggett"), and Derek Martin Webb, CPA ("Webb") (collectively, "Respondents"). The Board is:

(1) censuring L&W and imposing a $20,000 civil money penalty on the Firm;

(2) barring Liggett from being associated with a registered public accounting firm,[1] limiting Liggett's activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for an additional period of one year following the termination of the bar, and imposing a $20,000 civil money penalty on Liggett; and

(3) limiting Webb's activities in connection with any "audit," as that term is defined in Section 110(1) of the Act, for a period of one year and imposing a $10,000 civil money penalty on Webb.

The Board is imposing these sanctions based on its findings that Respondents violated PCAOB rules and standards in connection with the audits of the financial statements of Issuer A for the years ended March 31, 2016 and March 31, 2017 (the "Audits").

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

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), as set forth below.[2]

III.

On the basis of Respondents' Offers, the Board finds that:[3]

A. Respondents

1. **Liggett & Webb, P.A.** is a professional association organized under the laws of the State of Florida, and headquartered in Boynton Beach, Florida. The Firm is licensed in Florida (License No. AD63352), Georgia (License No. ACF006411), and New York (License No. 101655). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **James Howard Liggett** is a certified public accountant licensed by the New Jersey State Board of Accountancy (License No. 20CC02486800) and the New York

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

[3] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

State Board of Accountancy (License No. 081585). At all relevant times, Liggett was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **Derek Martin Webb** is a certified public accountant licensed by the Florida State Board of Accountancy (License No. AC0030565). At all relevant times, Webb was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Summary

4. This matter concerns Liggett's violations of PCAOB rules and standards in connection with the Audits. Liggett failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence concerning, among other things, transactions between Issuer A and an undisclosed related party ("Distributor").

5. This matter also concerns Webb's violations of AS 1220, *Engagement Quality Review*, while serving as the engagement quality review ("EQR") partner for the Audits.[4] During his EQR, Webb failed to properly evaluate, with due professional care, significant judgments made by Liggett and the engagement team concerning the transactions with Distributor.

6. This matter also concerns the Firm's violations of PCAOB rules and quality control standards by failing to establish quality control policies and procedures sufficient to provide it with reasonable assurance that its personnel would comply with applicable professional standards and the Firm's standards of quality.

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[4] As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017). While Respondents' conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity. With the exception of references to the reorganized numbering, all references to PCAOB rules and standards in this Order are to the versions of those rules and standards in effect at the time of audits discussed herein.

C. Respondents Violated PCAOB Rules and Standards in Connection with the Audits

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on the financial statements of a company only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6]

8. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit.[7] Due professional care requires that the auditor exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[8]

9. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report, including obtaining reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud.[9] Auditors must design and implement audit responses that address the identified and assessed risks of material misstatement.[10] In designing the audit procedures to be performed, the auditor should obtain more persuasive audit evidence the higher the auditor's assessment of risk.[11] Auditors are required to evaluate the results

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[5] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards;* PCAOB Rule 3200*, Auditing Standards* (applicable as of December 31, 2016)*;* and PCAOB Rule 3200T, *Interim Auditing Standards* (applicable before December 31, 2016).

[6] See AS 3101.07, *Reports on Audited Financial Statements*.

[7] See AS 1015.01, *Due Professional Care in the Performance of Work*.

[8] See AS 1015.07-.09; AS 2401.13, *Consideration of Fraud in a Financial Statement Audit*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*.

[9] See AS 1105.04, *Audit Evidence*; AS 2401.01, .12.

[10] See AS 2301.03, .08.

[11] See AS 2301.09.

of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[12]

10. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[13] PCAOB standards require a registered public accounting firm to establish policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements and the firm's standards of quality.[14]

11. As detailed below, Respondents failed to comply with the aforementioned rules and standards, among others, in connection with the Audits.

1. Background

12. Issuer A's public filings disclosed that it operated an India-based mobile electronic wallet service used to pay for goods and services from a mobile phone. During the 2016 and 2017 fiscal years, Issuer A's business included purchasing mobile phone minutes at wholesale rates and reselling the minutes to distributors. Issuer A required the majority of its distributors to pay an advance from which Issuer A would draw down as the distributor purchased phone minutes. For a small minority of distributors, Issuer A sold mobile phone minutes on credit.

13. L&W served as the external auditor of Issuer A for the Audits. Liggett was the engagement partner for the Audits and Webb was the EQR partner. Liggett authorized the Firm's issuance of audit reports dated August 19, 2016 and July 6, 2017, expressing unqualified audit opinions. The reports were included with Issuer A's Forms 10-K filed with the Securities and Exchange Commission on August 19, 2016 and July 6, 2017, respectively.

14. Just prior to Issuer A's March 31, 2016 fiscal year-end, Issuer A purportedly sold approximately $4.6 million of mobile phone minutes to Distributor on credit, resulting in a $4.6 million receivable at year-end (the "Distributor Receivable"). As of March 31, 2016, the Distributor Receivable made up ninety-three percent of Issuer A's accounts receivable, fifty-four percent of its total current assets, and fifteen percent of the

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[12] See AS 2810.02, .33, *Evaluating Audit Results*.

[13] PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards.*

[14] See QC § 20.17, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

company's total assets. The Distributor Receivable also drove a 622 percent increase in Issuer A's receivable balance from year-end 2015.

15. Two months after Issuer A's fiscal 2016 year-end, during L&W's audit of Issuer A's 2016 financial statements, and while the Distributor Receivable was still outstanding, Issuer A management emailed Liggett and another member of the engagement team to inform them of Issuer A's intent to acquire Distributor "in the next two weeks." Attached to the email was a draft memorandum concerning the accounting for the proposed acquisition. Embedded in the draft memorandum attachment was a draft acquisition agreement between Issuer A and Distributor, as well as other supporting documents. The draft acquisition agreement identified the owners of Distributor as family members of, and businesses controlled by, managers and directors of Issuer A's Indian operations. Liggett did not review the draft acquisition agreement.

16. Issuer A's acquisition of Distributor closed on July 20, 2016 (the "Acquisition"). Under the terms of the Acquisition, Issuer A, among other things, was to receive more than five percent of Issuer A stock purportedly owned by Distributor in exchange for forgiveness of the outstanding Distributor Receivable.

17. In November 2016, as part of L&W's review of Issuer A's second quarter financial statements, Issuer A management provided Liggett and other members of the L&W engagement team with a revised memorandum describing the company's accounting for the Acquisition. Embedded in the updated memorandum was a copy of the executed acquisition agreement. Liggett failed to review the executed acquisition agreement either during the second quarter review or the 2017 fiscal year-end audit.

2. Liggett Failed to Obtain Sufficient Appropriate Evidence Concerning the Distributor Receivable During the 2016 Audit

18. During the 2016 audit, Liggett identified a fraud risk related to management recording fictitious receivables and also identified a significant risk of "overstatement" for Issuer A's accounts receivable balance, but failed to exercise due professional care, including professional skepticism, when performing audit procedures over that account.[15] He failed to gather sufficient appropriate audit evidence to determine whether the Distributor Receivable was properly valued.[16] Although Liggett understood while conducting the 2016 audit that the Distributor Receivable remained unpaid months after the fiscal 2016 year-end and that Issuer A planned to acquire Distributor in order to settle

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[15] See AS 1015.01, .07-.09; AS 2301.03, .08.

[16] See AS 1105.04.

the Distributor Receivable, Liggett failed to read the draft acquisition agreement or inquire as to the status of the acquisition at any point during the 2016 audit.

19. In addition, although the Distributor Receivable was a significant unusual transaction due to its size and nature, Liggett failed to perform sufficient procedures in evaluating the receivable.[17] For example, Liggett failed to review the documentation underlying the 2016 sales to Distributor and he failed to evaluate Distributor's financial capability with respect to its obligations to repay the Distributor Receivable. He also failed to evaluate whether Issuer A's proffered business purpose for the sales to Distributor indicated that Issuer A might be engaged in fraudulent financial reporting or concealing the misappropriation of assets.[18]

20. Finally, Liggett failed to obtain sufficient appropriate audit evidence to determine whether related parties and relationships and transactions with related parties, including the Distributor Receivable, were properly identified, accounted for, and disclosed in the financial statements.[19] Specifically, Liggett identified that Distributor shared a similar company name with another company disclosed by Issuer A in its public filings as wholly owned by, and holding Issuer A shares on behalf of, a beneficial owner of greater than 5 percent of Issuer A stock. Liggett also understood, based on management representations during the 2016 audit, that Distributor purportedly owned more than 5 percent of Issuer A's stock. Despite this information, Liggett failed to perform procedures, beyond inquiry of management, to determine whether the Distributor Receivable was properly presented and disclosed in the financial statements for the period ended March 31, 2016 as a related party transaction.[20]

3. Liggett Failed to Obtain Sufficient Appropriate Evidence Concerning the Acquisition During the 2017 Audit

21. During the 2017 audit, Liggett failed to exercise due professional care, including professional skepticism, and failed to gather sufficient appropriate audit evidence concerning the Acquisition.[21] Although Liggett received a memorandum from

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17 See AS 2401.66-67A.

18 See id. at .67.

19 See AS 2410.02, *Related Parties*.

20 See id. at .15.

21 See AS 1015.01, .07-.09; AS 1105.04.

Issuer A management detailing the company's accounting for the Acquisition, in which a copy of the executed acquisition agreement was embedded, Liggett neither retained the memorandum in the audit work papers nor reviewed the executed agreement. He failed to perform any other procedures to test the Acquisition.

22. Although the Acquisition was a significant transaction outside the normal course of Issuer A's business, Liggett failed to perform the required procedures for significant unusual transactions.[22] He failed to review the documentation underlying the Acquisition and he failed to evaluate Distributor's financial capability with respect to its obligations under the acquisition agreement. For instance, Liggett and the engagement team failed to verify that Distributor actually held the shares of Issuer A stock that it was supposed to return to Issuer A in exchange for forgiveness of the Distributor Receivable. He also failed to evaluate whether Issuer A's proffered business purpose for the Acquisition indicated that Issuer A might be engaged in fraudulent financial reporting or concealing the misappropriation of assets.

23. Finally, Liggett failed to obtain sufficient appropriate audit evidence to determine whether related parties and relationships and transactions with related parties, including the Acquisition, were properly identified, accounted for, and disclosed in the financial statements.[23] Similar to the 2016 audit, Liggett was aware of the same information indicating Distributor might be a related party. Yet Liggett again failed to perform procedures, beyond management inquiry, to determine whether the Acquisition was, in fact, a related party transaction.[24]

4. Webb Failed to Perform His Engagement Quality Reviews for the Audits with Due Professional Care

24. An EQR is required for all audits conducted pursuant to PCAOB standards.[25] The standards provide that a firm may grant permission to an audit client to use the firm's audit report only after the EQR partner provides concurring approval of issuance of the report.[26]

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[22] See AS 2401.66-67A.

[23] See AS 2410.02, .15.

[24] See id. at .15.

[25] See AS 1220.01.

[26] See id. at .13.

25. The EQR partner is responsible for evaluating the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report, if a report is to be issued.[27] In an audit, the EQR partner is responsible for evaluating the engagement team's responses to significant risks identified by the team and the EQR partner.[28] The EQR partner should also evaluate whether the documentation that he or she reviewed when performing such procedures supports the conclusions reached by the engagement team with respect to the matters reviewed.[29] The EQR partner must perform his or her responsibilities with due professional care, including professional skepticism.[30] The documentation of an EQR should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the EQR partner, including the documents reviewed by the EQR partner.[31]

26. During the 2016 audit, the engagement team identified a fraud risk related to management recording fictitious receivables and also identified a significant risk of "overstatement" for Issuer A's accounts receivable.[32] The team's planned audit response to these significant risks was to test subsequent receipts, send out confirmations, and ascertain the adequacy of the allowance for bad debts.

27. While serving as the EQR partner for the 2016 audit, Webb failed to adequately evaluate the engagement team's response to the significant risks identified by the engagement team related to Issuer A's accounts receivable. Specifically, Webb failed to obtain an understanding of what, if any, procedures had been performed by the engagement team to evaluate the adequacy of the allowance for bad debts with respect to the Distributor Receivable.

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[27] See id. at .09.

[28] See id. at .10(b).

[29] See id. at .11.

[30] See id. at .12; AS 1015.07-.09.

[31] See AS 1220.19.

[32] See AS 2110.71b, *Identifying and Assessing Risks of Material Misstatement* ("fraud risk is a significant risk").

28. In addition, the work papers did not include any documentation of the engagement team's consideration of whether an allowance for bad debt was necessary. Webb failed to adequately evaluate whether the engagement documentation he reviewed indicated that the engagement team responded appropriately to the significant risks they had identified relating to Issuer A's accounts receivable and supported the conclusions reached by the engagement team with respect to those risks.[33]

29. During the 2017 audit, the engagement team identified a significant risk concerning the equity account. The Acquisition materially affected Issuer A's equity account by purportedly requiring Distributor to transfer more than five percent of Issuer A stock back to Issuer A.

30. While serving as the EQR partner for the 2017 audit, Webb failed to adequately evaluate the engagement team's response to the significant risk related to the equity account. Specifically, he failed to obtain an understanding of what procedures were performed by the engagement team to test the Acquisition, including whether the engagement team had obtained an understanding of the business purpose of the transaction.

31. In addition, the work papers did not contain adequate documentation of audit procedures performed by the engagement team regarding the Acquisition. Webb therefore failed to adequately evaluate whether the engagement documentation he reviewed indicated that the engagement team responded appropriately to the significant risk they had identified relating to Issuer A's equity account and supported the conclusions reached by the engagement team with respect to that risk.[34]

32. During both of the Audits, Webb also failed to properly document his EQR because he did not identify any of the specific documents he reviewed.[35] As such, Webb's documentation failed to comply with the requirements of AS 1220.[36]

5. The Firm Violated PCAOB Standards Related to Quality Control

33. Throughout the relevant time period, the Firm violated PCAOB quality control standards because it failed to maintain an adequate system of quality control. As

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33 See AS 1220.11.

34 Id.

35 Id. at .19.

36 Id.

described above, the Firm failed to have in place adequate policies and procedures to provide reasonable assurance that the work performed by its engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality.[37] Among other things, the Firm's deficient system of quality control resulted in Firm personnel repeatedly failing to perform procedures necessary to comply with PCAOB standards during the Audits such as failing to: (i) exercise due professional care; (ii) perform the required procedures for significant unusual transactions; and (iii) obtain sufficient appropriate audit evidence to determine whether related parties and relationships and transactions with related parties, including the Acquisition, were properly identified, accounted for, and disclosed in the financial statements.

IV.

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

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), James Howard Liggett is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[38]

C. Pursuant to PCAOB Rule 5302(b), James Howard Liggett may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

D. If James Howard Liggett is permitted to associate once again with a registered public accounting firm, pursuant to Section 105(c)(4)(C) of the

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[37] QC § 20.17.

[38] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to James Howard Liggett. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Act and PCAOB Rule 5300(a)(3), for one year following the termination of the bar ordered in paragraph B, his role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: James Howard Liggett shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

E. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date of this Order, Derek Martin Webb's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Derek Martin Webb shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

1. Liggett & Webb, P.A., $20,000;

2. James Howard Liggett, $20,000; and

3. Derek Martin Webb, $10,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay these civil money penalties within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***By consenting to this Order, James Howard Liggett acknowledges that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

August 25, 2020

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of Jones Simkins LLC, Michael C. Kidman, CPA, and Mark E. Low, CPA,

Respondents.

PCAOB Release No. 105-2020-011

September 15, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon Jones Simkins LLC ("JS" or the "Firm"), Michael C. Kidman ("Kidman"), and Mark E. Low ("Low") (collectively, "Respondents"). The Board is:

(1) revoking the registration of JS,[1] a registered public accounting firm, and, in the event that the Board grants any future registration application by the Firm, requiring the Firm to undertake certain remedial measures, as described in Section IV of this Order, and imposing a $10,000 civil money penalty on JS;

(2) barring Kidman from being associated with a registered public accounting firm,[2] imposing a $10,000 civil money penalty on Kidman, and requiring Kidman to complete forty (40) additional hours of continuing professional education ("CPE") before filing any petition for Board consent to associate with a registered public accounting firm; and

(3) barring Low from being associated with a registered public accounting firm,[3] imposing a $10,000 civil money penalty on Low, and requiring Low to complete forty (40) additional hours of CPE before filing any petition for Board consent to associate with a registered public accounting firm.

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[1] The Firm may reapply for registration after two years from the date of this Order.

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

[3] Low may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

The Board is imposing these sanctions on the basis of its findings that: (a) the Firm violated PCAOB rules and quality control standards; (b) Kidman violated PCAOB rules and standards in connection with the integrated audits of an issuer, and (c) Low violated PCAOB rules and standards in connection with the integrated audits of an issuer.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds[5] that:

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

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

A. Respondents

1. Jones Simkins LLC is a limited liability company organized under the laws of the State of Utah, and headquartered in Logan, Utah. The Firm is licensed by the Utah Board of Accountancy (Lic. No. 112668-2603). On April 2, 2013, the Firm succeeded to the registration status of its predecessor firm, Jones Simkins, P.C., which registered with the Board on October 16, 2003, pursuant to Section 102 of the Act and PCAOB rules.

2. Michael C. Kidman is a certified public accountant licensed by the Utah Board of Accountancy (Lic. No. 148725-2601). At all relevant times, Mr. Kidman was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. Mark E. Low is a certified public accountant licensed by the Utah Board of Accountancy (Lic. No. 272099-2601). At all relevant times, Mr. Low was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer

4. Issuer A was, at all relevant times, a Utah corporation. Issuer A's public filings disclosed that, at all relevant times, it was in the business of providing medical devices that were predominantly proprietary, disposable and for hospital use. Its common stock was registered, at all relevant times under Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act"). It was, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the integrated audits of Issuer A, for the years ending December 31, 2015 through December 31, 2017. Specifically, Kidman and Low, while serving as engagement partners, repeatedly violated PCAOB rules and standards by failing: (a) in the 2015 through 2017 internal control over financial reporting ("ICFR") audits, to adequately evaluate whether Issuer A's ICFR was effective; and (b) in the 2015 and 2016 financial statement audits, to perform sufficient procedures regarding inventory.

6. In the audit reports for each of the three integrated audits of Issuer A, the Firm expressed an unqualified audit opinion on Issuer A's financial statements and Issuer A's ICFR. These audit reports stated that the Firm's integrated audit was conducted in accordance with

PCAOB standards, that the company's financial statements were fairly presented in all material respects in conformity with U.S. Generally Accepted Accounting Principles ("GAAP"), and that the company maintained effective ICFR based on criteria established in *Internal Control – Integrated Framework* (1992) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). As detailed below, Kidman and Low failed to perform sufficient audit procedures in connection with the issuance of these audit reports in violation of PCAOB rules and auditing standards.

7. Additionally, this matter concerns Kidman and Low's violations of AS 1220, *Engagement Quality Review*,[6] while serving as the engagement quality review ("EQR") partner for the Firm's audits of Issuer A. Kidman was the EQR partner for Issuer A's FY 2015 integrated audit, and Low was the EQR partner for Issuer A's FY 2016 and 2017 integrated audits. In performing these EQRs, Kidman and Low provided their concurring approvals of issuance despite being aware of significant engagement deficiencies. As a consequence, Kidman and Low failed to perform their reviews of the Firm's audits of Issuer A with due professional care.

8. This matter also concerns the Firm's violations of PCAOB rules and quality control standards in connection with the Firm's 2015 through 2017 audits, including after the PCAOB staff brought ICFR and other auditing concerns to the Firm's attention during two inspections. In connection with these audits, the Firm failed to: (a) maintain a system of quality control sufficient to give the Firm reasonable assurance that engagement teams performed issuer audits and reviews in accordance with applicable professional standards, regulatory requirements, and PCAOB auditing standards related to ICFR, and (b) establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures were suitably designed and were being effectively applied.

D. Background

9. JS was Issuer A's external auditor for multiple years, including for the years ending December 31, 2015 through December 31, 2017. Low was the engagement partner for

[6] All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See *Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also *PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondents' conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

the integrated audit of Issuer A for the year ending December 31, 2015 and the EQR partner for the integrated audits for the years ending December 31, 2016 through 2017. Kidman was the engagement partner for the integrated audits of Issuer A for the years ending December 31, 2016 through 2017 and the EQR partner for the integrated audit of Issuer A for the year ending December 31, 2015.

10. In each of Issuer A's Forms 10-K filed with the Commission for the 2015 through 2017 audits, management included its annual ICFR report pursuant to Section 404(a) of the Act and represented that it had assessed the effectiveness of the company's ICFR under the criteria set forth by the 1992 COSO framework.

11. As Kidman and Low were aware during the 2015 through 2017 audits, Issuer A's internal control was highly dependent on the company's enterprise resource planning ("ERP") system. The ERP system included a general ledger module, which collected, stored, and processed all accounting data used to prepare Issuer A's financial statements. The ERP system was also used for operational processes, including inventory management. Indeed, virtually all of Issuer A's key controls were either reliant on data and reports generated by the ERP system or directly performed by the ERP system as automated controls.

12. Kidman and Low knew the ERP system presented an additional risk to Issuer A's ICFR because management had the ability to modify the application source code. Specifically, they knew that management had the ability to change the underlying rules and specifications that controlled how the ERP system functioned. A modification of the source code could impact the effectiveness of automated controls or the accuracy and completeness of system-generated data and reports.

13. In each of the 2015 through 2017 integrated audits, the engagement team tested the effectiveness of information technology general controls ("ITGCs") for the ERP system. ITGCs apply to a company's IT environment and help ensure the integrity of programs, data files, and IT operations. Even though the engagement team considered the ERP system to be highly important to Issuer A's ICFR, they determined that it was not necessary for a person with specialized IT skill or knowledge to participate in the ITGC testing or any other area of the audit.

i. Prior to the 2015 Audit, Respondents Received Notice from PCAOB Inspection of Potential Issues Specific to the Audit of Issuer A

14. In connection with an October 2015 inspection of the Firm, the PCAOB inspection staff brought to the Firm's attention apparent failures by the engagement team concerning the audit of Issuer A's 2014 financial statements and ICFR. Specifically, the

inspection staff informed the Firm that it had failed to comply with PCAOB standards because its audit procedures to evaluate certain ITGCs for the ERP system were limited to inquiry only. Inspection staff also informed the Firm that it had failed to comply with PCAOB standards because it had not sufficiently evaluated the reliability of Issuer A's inventory cycle count process.[7]

15. During the 2015 inspection, the PCAOB inspection staff concluded that, because the Firm had not sufficiently evaluated the effectiveness of ITGCs in the ERP system, the Firm had no basis to conclude that cycle counts produced results substantially the same as a full inventory count. In October 2015, Low agreed with the inspection staff's finding that the engagement team relied on inquiry alone to test the ITGCs of the ERP system.

16. Despite being on notice that the Firm's 2014 ICFR audit failed to comply with PCAOB standards, the Firm did not modify its planned procedures for the 2015 integrated audit of Issuer A, which commenced in December 2015, approximately two months after the inspection.

17. As described below, the Firm failed to comply with PCAOB standards in connection with subsequent audits of Issuer A.

E. Kidman and Low Violated PCAOB Rules and Standards in Connection with the 2015 Through 2017 Audits of Issuer A

18. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[8] An auditor is in a position to express an unqualified opinion on an issuer's financial statements when the auditor has

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[7] In contrast to a full physical inventory count, where a company counts all inventory items simultaneously, a cycle count process involves counting a small subset of inventory on a continuous basis so that each item of inventory is subjected to a count over a certain period. To conduct reliable cycle counts, a company must have reliable controls. Issuer A's cycle count process relied heavily on the ERP system, which managed the company's perpetual inventory records and tracked the results of each cycle count.

[8] See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for fiscal years ending before December 31, 2016); and PCAOB Rule 3200, *Auditing Standards* (applicable to audits for fiscal years ending on or after December 31, 2016).

conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[9] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[10]

19. Section 404 of the Act requires company management to assess and report on the effectiveness of internal control. The Act also requires a company's independent auditor to attest, in certain circumstances, to management's disclosures regarding the effectiveness of internal control. Effective internal control provides reasonable assurance regarding the reliability of financial reporting and the preparation of the financial statements for external purposes.[11] However, a company's internal control cannot be considered effective if one or more material weaknesses in internal controls exist.[12]

20. PCAOB standards provide that, after forming an opinion on the effectiveness of the company's ICFR, the auditor should evaluate the presentation of the elements that management is required, under the SEC's rules, to present in its annual report on ICFR.[13] If the auditor determines that any required elements of management's annual report on ICFR are incomplete or improperly presented, the auditor should modify his or her report to include an explanatory paragraph describing the reasons for this determination.[14]

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[9] See AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion* (applicable to audits for fiscal years ending on or after December 15, 2017); AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending before December 15, 2017); see also AS 2201.85D, *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements* (ICFR report must state that audit was conducted in accordance with PCAOB standards).

[10] See AS 1015.01, *Due Professional Care in the Performance of Work*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*, and AS 1105.04, *Audit Evidence*.

[11] AS 2201.02.

[12] Id. at .03.

[13] Id. at .72.

[14] Id. at .73, .C2.

21. When using information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by both: (a) "[t]est[ing] the accuracy and completeness of the information, or test[ing] the controls over the accuracy and completeness of that information"; and (b) "[e]valuat[ing] whether the information is sufficiently precise and detailed for purposes of the audit."[15]

22. Further, while management representations are part of the evidential matter the auditor obtains, they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit.[16] If management representations are contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made and, based on the circumstances, consider whether his reliance on management's representations relating to other aspects of the financial statements is appropriate and justified.[17]

23. PCAOB standards also provide that, if an auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the financial statements as a whole are free of material misstatement, the auditor should express a qualified opinion or a disclaimer of opinion.[18]

24. PCAOB standards require that in circumstances when an issuer develops inventory controls or methods of determining inventories that make an annual physical count of each item unnecessary, the auditor must satisfy himself that the client's procedures or methods are sufficiently reliable to produce results substantially the same as those which would be obtained by a count of all items each year.[19]

25. As described below, Kidman and Low failed to comply with these PCAOB rules and standards in connection with the integrated audits of Issuer A.

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[15] AS 1105.10.

[16] See AS 2805.02, *Management Representations*.

[17] Id. at .04; see also AS 2201.75-.77 (requirement to obtain written representations in an ICFR audit).

[18] See AS 2810.35; see also AS 3105.05-.09, *Departures from Unqualified Opinions and Other Reporting Circumstances* (containing requirements regarding audit scope limitations).

[19] See AS 2510.11, *Auditing Inventories*.

i. Integrated Audit of Issuer A's 2015 Financial Statements

26. The Firm issued separate audit reports dated March 3, 2016, containing unqualified audit opinions on the 2015 financial statements and ICFR of Issuer A. Low, as the engagement partner, authorized the Firm's issuance of the audit reports, and Kidman, as the EQR partner, provided concurring approval of issuance of the audit reports. The audit reports were included in Issuer A's Form 10-K filed with the Commission on March 10, 2016.

27. As part of the integrated audit, Low identified 36 relevant ITGCs for the ERP system. In testing 33 of these ITGCs for effectiveness, Low failed to perform any procedures other than inquiries of management.[20] Given the critical importance of the ERP system, Low thereby failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for his opinion on the effectiveness of Issuer A's ICFR.[21]

28. Issuer A's 2015 financial statements reported inventories of $4.2 million at year-end, approximately 7% of total assets, and income before taxes of $15.5 million. Low performed procedures regarding these inventories by observing Issuer A perform four inventory cycle counts near year-end. In total, these cycle counts comprised approximately $100,000 of inventory, or 3% of the account balance subject to audit. These procedures were inadequate, however, because Low failed to obtain sufficient appropriate audit evidence to support reliance on controls. [22]

29. First, Low failed to reasonably satisfy himself that Issuer A's cycle counts produced results substantially the same as a full count of all inventory items. Indeed, he relied on the effectiveness of ITGCs within the ERP system to produce accurate and complete cycle count information during the entire year, but failed to sufficiently test these controls by only performing inquiries of management.[23]

30. Second, Low and the engagement team failed to select a sample of inventory items that was representative of the entire inventory population.[24] Their audit sample consisted only of a small subset of items pre-selected by the company for the cycle counts they

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20 See AS 2201.50, note.

21 See AS 1105.04; AS 2201.71.

22 See AS 1105.04; AS 2301.08.

23 See AS 2510.11; AS 1105.10; AS 2301.16.

24 See AS 2315.24.

observed. This approach excluded the majority of Issuer A's inventory from an opportunity to be selected for testing and did not provide a basis for extrapolation of the results to the remaining inventory items. Moreover, Low failed to adequately consider whether the audit sample was appropriate in these circumstances, such as by testing the logic of the queries or the parameters within the ERP system used to make the cycle count selections.[25]

31. Low also failed to adequately evaluate the presentation of management's annual ICFR report filed in Issuer A's Form 10-K, which stated that the company had maintained effective ICFR as of December 31, 2015 under the 1992 COSO framework.[26] Other than obtaining management representations, Low failed to obtain any evidence that management had, in fact, performed an evaluation of the effectiveness of the company's ICFR as of December 31, 2015 under the 1992 COSO framework.[27] Indeed, the audit evidence obtained by Low suggested that management had not evaluated Issuer A's ICFR based on any established control framework.[28]

ii. Integrated Audit of Issuer A's 2016 Financial Statements

32. The Firm issued separate audit reports dated March 6, 2017, containing unqualified audit opinions on the 2016 financial statements and ICFR of Issuer A. Kidman, as the engagement partner, authorized the Firm's issuance of the audit reports. Low, as the EQR partner, provided concurring approval of issuance of the audit reports. The audit reports were included in Issuer A's Form 10-K filed with the Commission on March 8, 2017.

33. Kidman failed to perform the 2016 integrated audit in accordance with PCAOB standards. Indeed, at the time he authorized the issuance of the Firm's audit reports, Kidman knew that he and the Firm had not yet fully remediated the audit violations identified by the PCAOB more than a year earlier. Further, although Kidman had taken steps in response to the

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[25] See AS 2315.17.

[26] See AS 2201.72.

[27] See AS 2805.02.

[28] See AS 2805.04; see also 17 C.F.R. § 240.13a-15(c) ("The framework on which management's evaluation of the issuer's internal control over financial reporting is based must be a suitable, recognized control framework that is established by a body or group that has followed due-process procedures, including the broad distribution of the framework for public comment.").

PCAOB inspection to alter the nature, timing, and extent of the Firm's audit procedures, these procedures still failed to comply with PCAOB auditing standards.

34. Kidman failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for their opinion on the effectiveness of Issuer A's ICFR.[29] Specifically, he failed to adequately evaluate the effectiveness of the ERP system's ITGC over change management.[30] Kidman evaluated a control that the CEO reviewed a log of all changes to the ERP system's source code on a weekly basis. Kidman and the engagement team obtained oral representations from Issuer A's CEO and IT Programmer that (a) the CEO performed his reviews as designed, and (b) no changes were made to the source code in 2016 that affected the general ledger. Although not retained in the audit documentation, Kidman and the engagement team also obtained a handwritten "change log" that purportedly listed all modifications made to the ERP system source code during 2016, but as they were aware, this did not provide reliable audit evidence. Indeed, other than obtaining oral representations from the IT Programmer, Kidman failed to perform any procedures, such as directly inspecting the ERP system's source code, to test the accuracy or completeness of the change log, or the controls over the accuracy and completeness of the change log.[31]

35. Issuer A's financial statements reported inventories of $4.5 million at year-end, approximately 6% of total assets, and income before taxes of $16.4 million. Kidman and the engagement team tested these inventories by observing Issuer A perform four inventory cycle counts around year-end. In total, these cycle counts comprised approximately $150,000 of inventory in total, or 4% of the account balance subject to audit. These procedures were inadequate, however, because Kidman failed to obtain sufficient appropriate audit evidence to support reliance on controls.

36. First, Kidman failed to reasonably satisfy himself that Issuer A's cycle counts produced results substantially the same as a full count of all inventory items. Similar to the Firm's prior audits of Issuer A, he relied on the effectiveness of the ERP system's change management control to produce accurate and complete cycle count information during the

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[29] See AS 1105.04; AS 2201.71.

[30] See AS 2201.50, note.

[31] See AS 1105.10; AS 2805.02.

entire year, but failed to sufficiently test this control by only performing inquiries of management. [32]

37. Second, Kidman failed to select a sample of inventory items that was representative of the entire inventory population.[33] His audit sample once again consisted only of a small subset of items pre-selected by the company for the cycle counts they observed. Moreover, Kidman failed to adequately consider whether this sample was appropriate, such as by testing the logic of the queries or the parameters used within the ERP system to make the cycle count selections.[34]

38. Kidman also failed to adequately evaluate the presentation of management's annual ICFR report filed in Issuer A's Form 10-K, which stated that the company had maintained effective ICFR as of December 31, 2016 under the 1992 COSO framework.[35] Other than obtaining management representations, Kidman failed to obtain any evidence that management had, in fact, performed an evaluation of the effectiveness of the company's ICFR under the 1992 COSO framework.[36] Indeed, the audit evidence obtained by Kidman suggested that management had not evaluated Issuer A's ICFR based on any established control framework.[37]

iii. Prior to the 2017 Audit, Respondents Received a Second Notice from PCAOB Inspection of Potential Issues Specific to the Audit of Issuer A

39. In connection with a July 2017 inspection of the Firm, the PCAOB inspection staff brought to the Firm's attention apparent failures by the engagement team for the 2016 audit of Issuer A. These apparent failures were substantially identical to those identified during the 2015 PCAOB inspection.

40. Kidman represented to the inspection staff that he and the Firm would consider the inspection findings to improve their audit work and related documentation in the Firm's 2017 audit of Issuer A. Further, during the 2017 audit, Kidman represented that the Firm

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32 See AS 2510.11; AS 1105.10; AS 2301.16.

33 See AS 2315.24.

34 See AS 2315.17.

35 See AS 2201.72.

36 See AS 2805.02.

37 See AS 2805.04; see also 17 C.F.R. § 240.13a-15(c).

planned to fully implement the corrective action plan that he and the Firm had formulated in response to the 2015 inspection of the Firm's audit of Issuer A.

41. Notwithstanding these representations, Kidman failed to comply with the auditing standards in connection with the 2017 audit of Issuer A.

iv. Integrated Audit of Issuer A's 2017 Financial Statements

42. The Firm issued separate audit reports dated March 5, 2018, containing unqualified audit opinions on the 2017 financial statements and ICFR of Issuer A. Kidman authorized the Firm's issuance of the audit report, which stated that the Firm's audit was conducted in accordance with PCAOB standards. Low, as the EQR partner, provided concurring approval of issuance of the audit. The audit report was included in Issuer A's Form 10-K filed with the Commission on March 6, 2018.

43. Kidman failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for their opinion on the effectiveness of Issuer A's ICFR.[38] Specifically, he failed to obtain sufficient appropriate audit evidence to evaluate the effectiveness of the ERP system's ITGC over change management.[39] Indeed, he performed substantially the same audit procedures as he did in connection with the 2016 audit, knowing they were deficient. Similar to the 2016 audit, Kidman evaluated the CEO's weekly review of the handwritten change log, which purportedly contained the IT Programmer's notes of all changes made to the ERP system's source code in 2017.[40] Although Kidman again obtained oral representations from management and obtained the change log, he was aware that the change log did not provide reliable audit evidence. Other than obtaining an oral representation from the IT programmer, Kidman once again failed to perform any procedures to test the accuracy or completeness of the change log, or the controls over the accuracy and completeness of the change log.[41]

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[38] See AS 1105.04; AS 2201.71.

[39] AS 2201.50, note.

[40] During the 2017 audit, Kidman evaluated the ERP system's inability to produce a report of application changes as a significant deficiency in Issuer A's ICFR. Notwithstanding his conclusion that this significant deficiency had a pervasive impact on the financial statements and that there were no compensating controls, Kidman concluded that it did not constitute a material weakness.

[41] See AS 1105.10; AS 2805.02.

44. Kidman also failed to obtain sufficient appropriate evidence to support their unqualified audit opinion on the effectiveness of Issuer A's ICFR.[42] Specifically, Kidman authorized the Firm to express an unqualified opinion even though he knew Issuer A did not maintain sufficient ICFR documentation to support an assessment under the 1992 COSO framework.[43] Not only did this appear to contradict management's annual report on ICFR in the 2017 Form 10-K, which stated that Issuer A maintained effective ICFR under the 1992 COSO framework, but Kidman also failed to evaluate whether the Firm should have modified its audit report as a result.

F. Kidman and Low Violated PCAOB Rules and Standards in Connection with Their EQRs for the 2015 Through 2017 Audits of Issuer A

45. AS 1220 requires that an EQR be performed on all audits conducted pursuant to PCAOB standards.[44] AS 1220 also provides that a firm may grant permission to an audit client to use the firm's audit report only after an EQR partner provides concurring approval of issuance of the report.[45]

46. The EQR partner may provide concurring approval of issuance for an audit report only if, after performing with due professional care the review required by AS 1220, he or she is not aware of a significant engagement deficiency.[46] A significant engagement deficiency in an audit exists when: (1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB; (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement; (3) the engagement report is not appropriate in the circumstances; or (4) the firm is not independent of its client.[47]

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[42] See AS 2201.03, .71-.74.

[43] During the 2017 audit, Kidman identified a significant deficiency relating to Issuer A's "lack of COSO documentation," particularly for the risk assessment component under the 1992 COSO framework.

[44] See AS 1220.01.

[45] Id. at .13.

[46] See id. at .12.

[47] Id.

47. As detailed below, Kidman and Low violated AS 1220 by providing their concurring approval of issuance without performing an EQR for Issuer A's 2015 through 2017 audits with due professional care.

i. Kidman's Engagement Quality Review

48. During the 2015 audit, Kidman was aware that management override of controls was assessed as a fraud risk. At the time of performing his 2015 EQR, Kidman was also aware that the PCAOB inspectors had criticized the Firm's 2014 ICFR audit because the Firm had relied solely on management inquiry in performing parts of the ICFR audit, including the testing of certain ITGCs.

49. In addition, while performing the EQR, Kidman reviewed the 2015 ICFR audit work papers and learned that the 2015 engagement team had again relied solely on management inquiry in testing certain ITGCs and performed no other procedures. Kidman also was aware that, in light of the insufficient testing of ITGCs, the engagement team had improperly relied on the effectiveness of ITGCs as audit evidence in its substantive procedures over inventory.

50. As a result, Kidman was aware of significant engagement deficiencies regarding the testing of ITGCs and inventory during the 2015 audit.[48] Nevertheless, Kidman provided his concurring approval of issuance of the audit report without performing his review with due professional care in violation of AS 1220.

ii. Low's Engagement Quality Reviews

51. During the 2016 audit, Low was aware that management override of controls was assessed as a significant risk. While performing the 2016 EQR, Low reviewed audit work papers demonstrating that the engagement team had relied exclusively on management inquiries to evaluate the effectiveness of the ERP system's IT change management control. Low also evaluated the engagement team's judgment that Issuer A's lack of appropriate documentation for this control constituted a control deficiency, but did not rise to the level of a significant deficiency or material weakness. In addition, Low knew that the ERP system affected every account on Issuer A's financial statements, including inventory, and that the engagement

[48] AS 1220.12 Note.

team had not tested any compensating controls to mitigate the financial statement impact of the identified control deficiency.

52. As a result, Low was aware of significant engagement deficiencies regarding the testing of ITGCs and inventory during the 2016 audit.[49] Nevertheless, Low provided his concurring approval of issuance of the audit report without performing his review with due professional care in violation of AS 1220.

53. During the 2017 audit, Low was aware that management override of controls was assessed as a significant risk. At the time of performing his 2017 EQR, Low was aware that the PCAOB inspectors had criticized the Firm's 2016 ICFR audit because, similar to the 2015 inspection comments, the Firm had relied exclusively on management inquiries to evaluate the effectiveness of the ERP system's IT change management control. When Low reviewed the 2017 ICFR audit work papers, he became aware that the 2017 engagement team's procedures for evaluating the IT change management control had consisted exclusively of obtaining the change log and management inquiries.

54. During the 2017 audit, Low also reviewed the engagement team's evaluation of the severity of each identified control deficiency. The engagement team identified a significant deficiency due to the ERP system's inability to generate a report of changes made to the application source code. The engagement team's work papers concluded that the severity of this deficiency was mitigated by Issuer A's maintenance of the handwritten IT change log, but conceded that there was no way to ensure the completeness of that handwritten change log.

55. Thus, Low was aware of significant engagement deficiencies regarding the testing of ITGCs on the 2017 audit. Nevertheless, Low provided his concurring approval of issuance of the audit report without performing his review with due professional care in violation of AS 1220.

G. The Firm Violated PCAOB Quality Control Standards

56. PCAOB rules and standards require that a registered firm establish and maintain a system of quality control for its accounting and auditing practice.[50] "A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and

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[49] Id.

[50] See PCAOB Rule 3400T, *Interim Quality Control Standards*; Quality Control Standard 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20").

procedures established to provide the firm with reasonable assurance of complying with professional standards."[51] A firm's system of quality control should, among other things, include policies and procedures for engagement performance and monitoring.[52] A firm should establish policies and procedures to provide it with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[53] A firm should also establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures are suitably designed and are being effectively applied.[54]

57. The PCAOB inspected the Firm's 2014 audit of Issuer A during its October 2015 inspection of the Firm. The PCAOB also inspected the Firm's 2016 audit of Issuer A during its July 2017 inspection of the Firm. During those inspections, the Board identified deficiencies related to the engagement team's testing of the design and operating effectiveness of controls over revenue, accounts receivable, and inventory, and the testing of the existence of inventory.

58. Despite knowing of significant engagement deficiencies regarding ICFR testing through the PCAOB inspections, the Firm failed to implement timely and necessary corrective action to address these problems in subsequent audits. As a result, from 2015 through 2017, the Firm violated PCAOB quality control rules and standards by failing to: (a) effectively implement policies and procedures to provide it with reasonable assurance that its engagement personnel would meet applicable professional standards; and (b) establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures were suitably designed and were being effectively applied.[55]

IV.

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

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[51] QC § 20.04.

[52] See QC § 20.07.

[53] QC § 20.17.

[54] See QC § 20.20; Quality Control Standard 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice.*

[55] See QC § 20.17; QC § 30.02.

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

B. After two years from the date of this Order, Jones Simkins LLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Michael C. Kidman is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[56]

D. Pursuant to PCAOB Rule 5302(b), Kidman may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order;

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Mark E. Low is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[57]

F. Pursuant to PCAOB Rule 5302(b), Low may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order;

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

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[56] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Kidman. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[57] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act, discussed supra, at n. 56, will apply with respect to Low.

1. Jones Simkins LLC, $10,000;

2. Michael C. Kidman, $10,000; and

3. Mark E. Low, $10,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay these civil money penalties within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. By consenting to this Order, Respondents acknowledge that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm, or any reapplication for registration pursuant to PCAOB Rule 2101.

H. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Kidman and Low are required to complete CPE in subjects that are related to the audits of issuer financial statements under PCAOB standards (such hours shall be in addition to, and shall not be counted in, the CPE they are required to obtain in connection with any professional license) as follows:

1. Kidman shall complete forty additional hours of CPE before filing any petition for Board consent to associate with a registered public accounting firm, including CPE related to audits of ICFR and the performance of EQRs under PCAOB standards; and

2. Low shall complete forty additional hours of CPE before filing any petition for Board consent to associate with a registered public accounting firm, including CPE related to audits of ICFR and the performance of EQRs under PCAOB standards.

I. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm, should the Board grant any future application of the Firm for registration, shall carry out the following Undertakings:

1. within ninety days from the date the Board grants any future application of the Firm for registration ("Future Registration Date"), JS shall establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable PCAOB rules and standards;

2. within ninety days from the Future Registration Date, JS shall establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable PCAOB rules and standards, of any Firm audit personnel who participate in any way in the planning or performing of any audit or interim review of an issuer or any SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Exchange Act Rule 17a-5, 17 C.F.R. § 240.17a-5, as amended);

3. within ninety days from the Future Registration Date and before the Firm's commencement of any audit or interim review of an issuer or commencement of any SEC Registered Broker-Dealer Engagement, JS shall ensure training pursuant to the policy described in paragraph IV.I.2. above on at least one occasion; and

4. JS shall certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs IV.I.1 through I.3 above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. JS shall submit such certification within one hundred twenty days from the Future Registration Date. JS shall also submit such additional evidence of and information concerning

compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 15, 2020

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of Marcum LLP,

Respondent.

PCAOB Release No. 105-2020-012

September 24, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring Marcum LLP ("Marcum," "Firm," or "Respondent"); (2) imposing a civil money penalty of $250,000 on Marcum; (3) prohibiting Marcum, for a period of three years from the date of this Order, from issuing an audit report for an issuer client with substantially all of its operations in the People's Republic of China; and (4) requiring Marcum to undertake a review of its quality control policies and procedures regarding initial acceptance of, and audits performed for, certain issuer clients.

The Board is imposing these sanctions on the basis of its findings that Marcum violated PCAOB rules and auditing standards in connection with the audits of the financial statements of an issuer ("Issuer") for the years ended December 31, 2013 and 2014 ("Audits").

I.

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

II.

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

of these proceedings, which are admitted, Marcum consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Marcum LLP** is a New York limited liability partnership headquartered in Melville, New York. Marcum is licensed by the New York State Education Department (License No. 067839) and several other states. Marcum is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Marcum served as the Issuer's independent auditor from April 2015 to November 2016.[3]

B. Other Relevant Entity

2. **Marcum Bernstein & Pinchuk LLP** ("MarcumBP") is a New York limited liability partnership headquartered in New York, New York. It was formed as a joint venture between Marcum and another registered firm. MarcumBP is licensed by the New York State Education Department (License No. 093038), the Texas State Board of Accountancy (License No. P05632), and the Nevada State Board of Accountancy (License No. PART-0888). MarcumBP is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the Audits, Marcum supervised MarcumBP personnel, who performed auditing procedures regarding the Issuer's China-based operations and transactions.

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] Marcum concurrently audited the Issuer's 2013 and 2014 financial statements, and later audited the 2015 financial statements. Marcum issued a single audit report addressing all three years, which was included in the Issuer's Form 10-K for the year ended December 31, 2015, filed with the Securities and Exchange Commission in November 2016.

C. Issuer

3. The Issuer was, at all relevant times, a Delaware corporation whose public filings disclosed that it developed and manufactured energy storage systems and related products. At all times relevant to this Order, (1) the Issuer's common stock was registered under Section 12(g) of the Securities Exchange Act of 1934, and (2) the Issuer was an "issuer" within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. In 2011, the Issuer became majority owned by a company organized under the laws of Hong Kong ("Controlling Shareholder"). The Issuer later announced plans to manufacture its products in mainland China, and began moving its manufacturing operations from the United States to China in 2012. By the end of 2013, the Issuer was operating primarily from China.

D. Summary

5. Marcum violated PCAOB rules and standards[4] during the Audits when it failed to perform appropriate procedures regarding significant unusual transactions engaged in by the Issuer. The transactions—between one of the Issuer's wholly-owned Chinese subsidiaries ("Subsidiary") and a Chinese purchasing agent ("Agent")—involved the Subsidiary's transfers of loan proceeds to the Agent as prepayments to buy equipment and materials that the Agent never delivered. The loans were obtained from Chinese lenders for the purpose of making these purchases. While the Agent returned a portion of the prepayments—some in unusual same-day, round-trip transfers—it did not return most of them.

6. There were fraud risks associated with these significant unusual transactions, particularly the risks that the Subsidiary may have defrauded its lenders by transferring loan proceeds to the Agent and that the Agent may have been an undisclosed related party. But Marcum's engagement team failed to respond appropriately to these fraud risks. First, the team improperly acquiesced to management's deletion of important language from confirmation requests designed to test the Subsidiary's compliance with loan agreements. Second, Issuer management further interfered in the confirmation process by directing a junior member of the engagement team to particular persons at each lender from whom he obtained the lenders' confirmation responses. Finally, the team failed to perform the audit procedures

[4] There have been changes to the numbering, organization, and, in some cases, content of PCAOB rules and standards since the 2013 and 2014 Issuer audits and the events described in this Order. This Order cites only those rules and standards that were in effect for the 2013 and 2014 audits. Current and archived versions of PCAOB standards are available at www.pcaobus.org/standards.

necessary to resolve inconsistent audit evidence concerning whether the Agent was a related party.

7. By failing to adequately respond to the known fraud risks, Marcum's engagement team breached its duty to perform the Audits with the due professional care and professional skepticism required by PCAOB standards. The team also failed to adequately understand the business rationale (or the lack thereof) for the significant unusual transactions and failed to obtain sufficient appropriate audit evidence to support Marcum's opinion on the Issuer's financial statements.

8. The Firm shares responsibility for the violations of PCAOB standards that occurred during the Audits.[5] As described below, during the client acceptance process, Marcum became aware of serious risks associated with this audit engagement, particularly relating to the Issuer's operations in China. The Firm assigned a new partner with no experience auditing companies with substantial operations in China, but failed to adequately oversee the performance of the Audits to obtain reasonable assurance that engagement personnel had appropriately responded to the fraud risks and complied with PCAOB standards.

E. The Predecessor Auditor Resigned

9. Marcum accepted the Issuer as a new audit client in April 2015. At that time, the Issuer was seriously delinquent in making its required filings with the Securities and Exchange Commission; its last periodic filing was a Form 10-Q for the 2013 third quarter.

10. When it approved client acceptance, Marcum knew that the Issuer's predecessor auditor had resigned in August 2014. In its resignation letter, the predecessor auditor advised the Issuer that it could not complete the 2013 audit, in part because it had been unable to perform sufficient procedures to determine the completeness of subsequent event transactions that may have occurred in China.

11. As disclosed in a September 2014 Form 8-K filing, the predecessor auditor also advised the Issuer that it had identified several material weaknesses in the Issuer's internal controls over financial reporting, including:

- A failure to implement adequate procedures and controls to ensure accurate and timely communication between the Issuer's subsidiaries in China and its

[5] *See also John E. Klenner*, PCAOB Release No. 105-2020-013 (Sept. 24, 2020); *Helen R. Liao*, PCAOB Release No. 105-2020-014 (Sept. 24, 2020).

U.S.-based accounting team, which had led to material misstatements identified by the predecessor auditor during the audit process;

- A significant turnover in executive management (four CEOs and three CFOs since 2012) and accounting personnel, which had led to a lack of segregation of duties throughout the company and resulted in a lack of controls to perform a timely review of transactions at an appropriate level of precision; and

- A failure to implement adequate procedures and controls to appropriately evaluate routine and non-routine transactions, which had led to a failure to detect material misstatements identified by the predecessor auditor during the audit process.

12. In March 2015, the Issuer filed a Form 8-K reporting that management had analyzed the internal control issues and material weaknesses identified by its predecessor auditor, and concluded that there was "factual support that such issues and weaknesses existed in 2013." As a result, the Issuer disclosed that investors should no longer rely on the financial statements in its Form 10-Q for the period ended September 30, 2013.

F. Background of the Significant Unusual Transactions in China

13. As Marcum knew, the Issuer's predecessor auditor had resigned due, in part, to its concerns about certain transactions that had occurred between the Subsidiary and its Agent in 2013 and 2014. During the Audits, Marcum's engagement team identified these and certain other transactions—described in the work papers as "significant cash disbursements to [the Agent]"—as significant unusual transactions.[6]

14. These transactions stemmed from an August 2013 cooperation agreement in which the Agent agreed to act as the Subsidiary's agent for purchasing equipment and raw materials.[7] The equipment and raw materials were needed to fulfill commitments made by another Chinese subsidiary of the Issuer in a 2012 agreement with two Chinese municipal

[6] PCAOB standards describe significant unusual transactions as "significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment." AU § 316.66.

[7] According to a client-prepared memo in Marcum's audit documentation, "[The Agent]'s business is that of being a purchasing agent for inventory, equipment, or anything else a company needs to purchase . . . . [The Agent] requires an upfront prepayment from clients to place orders for them . . . . [The Agent] then makes an arbitrage profit on the timing difference between when prepayment is received and when the money is actually paid out to vendors."

governments. Under that agreement, the other subsidiary agreed to construct a production plant on land to which it had been granted use rights by one municipal government. Both municipal governments agreed to purchase electric-powered buses from that subsidiary, which was not in the business of manufacturing or selling electric buses.

15. The significant unusual transactions involved the Subsidiary's transfers to the Agent of the proceeds of loans obtained purportedly to help finance the equipment and raw material purchases. The transactions took two forms: (a) prepayments to the Agent for goods that were never delivered; and (b) round-trip cash transfers. Details of these transactions were set forth in a client-prepared memo included in the audit documentation. Those details—which were known to the engagement team during the Audits—are summarized below.

i. Prepayments to the Agent for Goods Never Delivered

16. In 2013 and 2014, the Subsidiary issued purchase orders ("POs") to the Agent to procure production-line equipment and raw materials for the total purchase price of approximately $63 million.[8] To help finance those purchases, the Subsidiary borrowed $17.2 million from a Chinese rural credit cooperative ("Credit Co-op") in 2013 and $20.9 million from a local Chinese bank ("Bank") in 2014. The loan agreements with the Credit Co-op and the Bank (collectively, "Lenders") restricted the Subsidiary's use of the proceeds to equipment and raw material purchases, as well as construction costs. The Subsidiary submitted the POs to the Lenders to show that the proceeds were being used in accordance with the loan agreements.

17. When the Lenders released the borrowed funds, the Subsidiary transferred all of the loan proceeds to the Agent, purportedly as prepayments for the equipment and raw material purchases. In one instance, the prepayment was almost double what the Subsidiary then owed the Agent under the PO terms. The Agent, which never delivered any goods, eventually returned portions of the prepayments to the Subsidiary.

18. In the fall of 2014, the Subsidiary and the Agent cancelled their cooperation agreement and the POs. Although the Agent agreed to refund $27.5 million of prepayments (representing the balance of the loan proceeds purportedly still held by the Agent),[9] the Agent

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[8] For purposes of this Order, all transactions originally denominated in Chinese Yuan have been converted into U.S. Dollars, which have been approximated using the then-current Chinese Yuan to U.S. Dollar exchange rate.

[9] The Subsidiary had prepaid the Agent a total of $38.1 million from funds it borrowed from the Lenders. By the time the POs were cancelled, the Agent had returned a net amount of $10.6 million to the Subsidiary.

did not return any of that money. Instead, a Chinese company affiliated with the Issuer ("Affiliate")[10] agreed to settle the Agent's obligation to return the $27.5 million by delivering electric buses of equivalent value to the Subsidiary. Later, the Affiliate (an electric bus manufacturer) and the Controlling Shareholder delivered buses to the Subsidiary. The buses were then purchased by the two Chinese municipal governments under their agreement with the Issuer's other Chinese subsidiary.

ii. Same-Day, Round-Trip Cash Transfers

19. As described in Marcum's audit documentation, even after the cooperation agreement and the POs were cancelled, the Subsidiary continued to send loan proceeds to the Agent. In these transactions, however, the Agent did not retain the proceeds. Instead, it immediately returned them to the Subsidiary.

20. In September 2014, the Subsidiary secured a $7.3 million draw from its then existing line of credit with the Credit Co-op. The Subsidiary sent the borrowed funds from its Credit Co-op account to the Agent in two transfers ($6.6 million and $0.7 million). In each transaction, the Agent returned all of the money the same day, but not to the Subsidiary's account at the Credit Co-op. The Agent instead sent the money to the Subsidiary's account at a different financial institution.

21. Later that fall, the Subsidiary executed a new loan agreement with the Credit Co-op in the principal amount of $17.1 million. After the money was released and deposited into its Credit Co-op account, the Subsidiary sent the entire amount to the Agent, and the Agent returned the funds the same day to a Subsidiary account elsewhere.

iii. Management Representations about the Significant Unusual Transactions

22. During the Audits, management of the Issuer and the Controlling Shareholder made certain representations to Marcum's engagement team about the purported business rationale for the significant unusual transactions. Management represented that the POs had been submitted to the Lenders in order to secure release of the borrowed funds, and that the funds (including those round-tripped back to the Subsidiary) were transferred to the Agent to show the Lenders that the proceeds were being used in accordance with the loan agreements.

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[10] The Issuer and the Affiliate were under common control of the Controlling Shareholder, which held a majority of the Issuer's shares and wholly owned the Affiliate. The Issuer disclosed the Affiliate and the Controlling Shareholder as related parties in its Form 10-K. *See* FASB Accounting Standards Codification ("ASC") 850-10-20, *Related Party Disclosures* (glossary definitions of "affiliate," "control," and "related parties").

23. However, management also represented that the transfers of borrowed funds to the Agent were mere formalities. According to management, the Lenders did not care whether the Subsidiary procured from the Agent or some other party, as long as the loan proceeds were used to purchase the equipment and raw materials specified in the POs and the loan agreements (management represented that the goods were eventually purchased from other sources for a better price). In addition, management represented that the Agent was not a related party and that the transactions with the Agent did not have to be disclosed as related party transactions in the Issuer's financial statements.

G. Marcum Violated PCAOB Standards in Connection with the Audits

i. Relevant Provisions of PCAOB Standards

24. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[11] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[12] Among other things, PCAOB standards require the auditor to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion on the financial statements.[13]

25. PCAOB standards also require the auditor to exercise due professional care, including professional skepticism, in planning and performing the audit.[14] Because of the characteristics of fraud, the auditor's exercise of professional skepticism is important when considering fraud risks,[15] including fraud risks associated with significant unusual transactions.

26. Under PCAOB standards, Marcum was required to gain an understanding of the business rationale for the significant unusual transactions between the Subsidiary and the

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[11] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards;* PCAOB Rule 3200T, *Interim Auditing Standards*.

[12] *See* AU § 508.07, *Reports on Financial Statements*.

[13] *See* Auditing Standard ("AS") No. 15, *Audit Evidence*, ¶ 4.

[14] *See* AU § 230.07, *Due Professional Care in the Performance of Work* ("Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence.").

[15] *See* AU § 316.13, *Consideration of Fraud in a Financial Statement Audit*.

Agent.[16] In gaining that understanding, the standards set forth several factors requiring consideration, including whether the form of the transactions was overly complex and whether the transactions involved previously unidentified related parties.[17]

27. PCAOB standards also required Marcum to evaluate whether the business rationale (or the lack thereof) for the significant unusual transactions suggested that they may have been entered into to engage in, among other things, fraudulent financial reporting.[18] Misstatements arising from fraudulent financial reporting involve intentional misstatements or omissions of amounts or disclosures in financial statements.[19] The engagement partner knew that material misstatements due to fraud could have arisen from the significant unusual transactions if, among other things, (1) the Subsidiary had defrauded its Lenders through those transactions, or (2) the Agent was a previously unidentified related party.

28. As described below, Marcum violated these and other PCAOB standards in performing the Audits.

ii. Marcum Knew that Management had Interfered in Audit Procedures Designed to Test Compliance with Loan Agreements

29. To assess whether the Subsidiary's transfers of loan proceeds to the Agent violated the agreements with its Lenders, Marcum's engagement team decided to send customized confirmation requests to the Lenders.[20] The customized requests included specific factual details of the Subsidiary's dealings with the Agent. Among other things, the requests detailed that: (a) the Subsidiary used POs issued to the Agent to secure release of borrowed funds; (b) the Subsidiary disbursed the loan proceeds to the Agent; (c) the Agent returned certain of the funds to the Subsidiary; (d) the POs were cancelled; and (e) the Subsidiary never purchased any goods from the Agent. The requests asked the Lenders to confirm in writing that they were aware of these facts and that the Subsidiary had nonetheless complied with the loan agreements.

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16 *See* AU § 316.66.

17 *See* AU § 316.67.

18 AU § 316.66.

19 AU § 316.06.

20 *See* AU § 330.08, *The Confirmation Process*, which addresses confirming the terms of unusual or complex transactions that are associated with high levels of inherent and control risk; *see also* AU § 330.25 ("auditor should consider requesting confirmation of the terms of unusual agreements or transactions").

30. An audit director at MarcumBP in China was instructed to obtain in-person, written responses to the customized confirmation requests from the Lenders. But before he had an opportunity to obtain the Lenders' confirmation responses, the MarcumBP director informed the engagement partner and the engagement quality review ("EQR") partner that Issuer management had unilaterally approached the Lenders about the requests, and that, according to management, the Lenders would not confirm the requests as written. Management then revised the confirmation requests by deleting all details about the Agent transactions. The MarcumBP director forwarded the client-revised requests to the engagement partner and the EQR partner, telling them that management believed the Lenders were willing to confirm the requests as revised. In an emailed response to the director, the engagement partner wrote that "[i]t appears that we are removing all of the information that is critical to the confirmation process . . . ."

31. Despite the engagement partner's objections to the client-revised confirmation requests and without his authorization, the MarcumBP director dispatched a junior staff member to the Lenders with the revised requests. An Issuer employee accompanied the junior staff member and directed him to a particular respondent at each Lender from whom he obtained written confirmations on the client-revised requests.[21] When meeting with the Lender respondents, the junior staff member also orally reviewed with them the specific details about the Agent transactions that had been deleted from the original confirmation requests. Although the Lenders purportedly were unwilling to confirm knowledge of those specific details in writing, the Lenders' respondents orally acknowledged the details and stated that they did not present a loan compliance issue. The MarcumBP junior staff member contemporaneously documented the oral acknowledgements, which were then summarized in the work papers.

32. After he received the responses to the client-revised confirmations, the engagement partner again objected, informing the MarcumBP director that those "confirmations were not approved by Marcum." Because "all of the [Agent] transaction information was removed from the confirmations," the engagement partner said the revised requests did not "satisfy the requirement for which we were requesting the original

[21] Under PCAOB standards governing the confirmation process, the auditor should direct a confirmation request to "a third party who the auditor believes is knowledgeable about the information to be confirmed." AU § 330.26. The standards use the term "respondent" to refer to the third-party recipient of a confirmation request. *See* AU § 330.27.

confirmations."[22] Nevertheless, after conferring with Issuer's management, the engagement partner ultimately accepted the Lender respondents' confirmations on the client-revised requests, together with the oral acknowledgments documented by the junior staff member. The engagement partner failed to exercise due professional care and professional skepticism when he relied on the Lender respondents' written confirmation responses and oral acknowledgments as evidence of the Subsidiary's compliance with its loan agreements.[23]

33. Management's interference raised serious questions about whether the confirmation responses obtained by the junior staff member were reliable evidence of the Subsidiary's compliance with its lending agreements. Management's deletion of information about the Agent transactions from the written requests was particularly suspect in light of the round-trip cash transfers, whose structure suggested a possible motive to conceal from the Credit Co-op the Agent's returns of loan proceeds. In each round-trip transfer, the Subsidiary sent the loan proceeds from its account at the Credit Co-op to the Agent, who returned them the same day to a Subsidiary account at a different financial institution. The engagement team never obtained audit evidence to support a legitimate business rationale for the round-trip transfers.

34. In addition, management's direction of the MarcumBP junior staff member to particular individuals at each Lender raised serious questions about whether the confirmation requests had been directed to respondents with the appropriate competence, knowledge, motivation, objectivity, and freedom from bias as to the Issuer.[24] In such cases, "the auditor should consider whether there is sufficient basis for concluding that the confirmation request is being sent to a respondent from whom the auditor can expect the response will provide meaningful and appropriate evidence."[25] But Marcum's engagement team failed to adequately evaluate whether the respondents were capable of providing meaningful and appropriate evidence of the Subsidiary's compliance with its loan agreements.

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[22] As a result of management unilaterally approaching the Lenders and changing the confirmation requests, the engagement team had failed to maintain control over the confirmation requests and responses as required by PCAOB standards. *See* AU § 330.28.

[23] *See* AU § 330.15 ("Professional skepticism is important in designing the confirmation request, performing the confirmation procedures, and evaluating the results of the confirmation procedures."); *see also* AU § 230.07 and .09; AU § 316.13.

[24] *See* AU § 330.27.

[25] *Id.*

35. By relying on the Lender respondents' confirmation responses and oral acknowledgments as evidence of the Subsidiary's compliance with the loan agreements, Marcum failed to obtain sufficient appropriate audit evidence of the Subsidiary's compliance with the loan agreements and failed to adequately evaluate the business rationale (or the lack thereof) for the significant unusual transactions with the Agent.[26]

iii. Marcum Failed to Obtain Sufficient Appropriate Evidence to Determine Whether the Transactions with the Agent Involved a Previously Unidentified Related Party

36. During the Audits, Marcum identified and assessed related party transactions as a risk of material misstatement due to fraud. In identifying the risk, the team noted that "management might have [the] intention to omit or conceal significant and unusual related party transactions." They also assessed the risk of material misstatement as high for "related party transactions without proper approval or business rationale[,] and not properly or adequately disclosed."

37. Although management represented that the Agent was not a related party, the engagement partner was aware of contradictory audit evidence. For example, he reviewed audit evidence that caused him to question whether the Issuer's Controlling Shareholder had the ability to control or significantly influence the Agent's management or operating policies, which, if true, would render the Agent a related party of the Issuer.[27] He also knew that the Agent and the Controlling Shareholder had engaged in transactions as "longtime business partners."

38. To evaluate whether the Agent and the Controlling Shareholder were related parties, Marcum's engagement team requested, among other things, details of the transactions between the two parties. In lieu of the transaction details, management provided excerpts of the Controlling Shareholder's audited financial statements, which did not disclose the Agent as a related party.[28] But reading excerpts of the Controlling Shareholder's audited financial

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[26] *See* AS No. 15; AU § 316.66 and .67.

[27] If the Controlling Shareholder also controlled the Agent, the Agent would be an affiliate, and therefore a related party, of the Issuer. *See* ASC 850-10-20 (glossary definitions of "affiliate," "control," and "related parties"). In that case, U.S. GAAP would have required the Issuer to disclose the Subsidiary's transactions with the Agent, which were material to the Issuer's financial statements. *See* ASC 850-10-50.

[28] The Controlling Shareholder's financial statements were audited by a firm unaffiliated with Marcum or MarcumBP.

statements was not an adequate response to this fraud risk,[29] particularly in light of inconsistent evidence suggesting that the Agent was a possible related party. By failing to perform the audit procedures necessary to resolve the inconsistent audit evidence,[30] the engagement partner again failed to exercise due professional care, including professional skepticism, in performing the Audits. Consequently, Marcum failed to obtain sufficient appropriate evidence to determine whether the significant unusual transactions with the Agent were related party transactions and, if so, to satisfy itself concerning the adequacy of the Issuer's disclosures in its financial statements.[31]

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $250,000 is imposed upon Marcum LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Marcum LLP shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Marcum LLP as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the

[29] Among other things, the engagement team had no basis for knowing what procedures may have been performed by the Controlling Shareholder's auditor to identify related parties and related party transactions.

[30] *See* AS No. 15 ¶ 29.

[31] *See* AS No. 15; AU § 334.01 and .11, *Related Parties*.

Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

C. Pursuant to Sections 105(c)(4)(C), (F), and (G) of the Act and PCAOB Rules 5300(a)(3), (6), and (9), the Board orders that:

1. Issuance of Audit Reports for SEC Issuers in China: For a period of three years from the date of this Order, Marcum LLP shall not issue an audit report for an issuer client with substantially all of its operations in the People's Republic of China.

2. Review by Marcum LLP: Within the period specified in paragraph C.3 below, Marcum LLP shall review and evaluate the following:

   a. Marcum LLP's quality control policies and procedures related to initial acceptance of issuer clients and engagements to ensure that the Firm appropriately considers the risks associated with performing audit services for certain "higher-than-normal-risk" issuer clients. Solely for purposes of the undertakings in this Order, a "higher-than-normal risk" issuer client refers to a newly-accepted issuer client (i) whose former auditor issued an adverse, qualified, or other opinion or disclaimer described in 17 CFR § 229.304(a)(1)(ii); (ii) that had a disagreement with its former auditor as described in 17 CFR § 229.304(a)(1)(iv); or (iii) whose former auditor advised it of any of the matters described in 17 CFR § 229.304(a)(1)(v); and

   b. Marcum LLP's quality control or other policies and procedures to provide the Firm with reasonable assurance that its engagement personnel comply with PCAOB standards in performing audit services for "higher-than-normal risk" issuer clients, including policies and procedures regarding: (i) the assignment of appropriately qualified engagement partners and engagement quality review partners to such audits; (ii) the circumstances in which engagement personnel are required to seek consultation on accounting and auditing matters arising from such audits; and (iii) the mechanisms by which the Firm oversees such audits to ensure compliance with PCAOB standards.

3. Reporting: Within one year of the date of this Order, Marcum LLP shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the areas specified in paragraph C.2 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by Marcum LLP or, if Marcum LLP concludes no such modifications or additions should be adopted, a detailed explanation of why the Firm believes changes are not warranted. In addition, Marcum LLP shall submit any additional information and evidence concerning the Report, the information in the Report, and Marcum LLP's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Certificate of Implementation: Within eighteen months of the date of this Order, Marcum LLP's head of quality assurance shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that Marcum LLP has implemented all of the modifications and additions to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of the Firm's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. The Firm shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 24, 2020

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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of John E. Klenner, CPA,

Respondent.

PCAOB Release No. 105-2020-013

September 24, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring John E. Klenner, CPA ("Klenner" or "Respondent"); (2) barring Klenner from being an associated person of a registered public accounting firm, but allowing Klenner, after two years, to petition the Board for consent to associate with a registered firm; (3) in the event Klenner seeks and the Board grants consent for him to associate with a registered firm, prohibits him from serving as an engagement partner or engagement quality reviewer on issuer audits for a one year period after the Board grants consent for him to associate with a registered firm; (4) imposing a civil money penalty of $25,000; and (5) requiring Klenner to complete forty hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license, before filing a petition for Board consent to associate with a registered firm.

The Board is imposing these sanctions on the basis of its findings that Klenner violated PCAOB rules and auditing standards as the engagement partner on the audits of the financial statements of an issuer ("Issuer") for the years ended December 31, 2013 and 2014 ("Audits").

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Klenner has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which are admitted, Klenner consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **John E. Klenner, CPA** is a certified public accountant licensed by the New York State Education Department (License No. 088642). He is a partner of Marcum LLP ("Marcum") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Klenner served as the engagement partner for Marcum's audits of the Issuer's 2013, 2014, and 2015 financial statements. He authorized Marcum to issue an audit report containing an unqualified opinion on all three years' financial statements in November 2016.[3]

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] Marcum concurrently audited the Issuer's 2013 and 2014 financial statements, and later audited the 2015 financial statements. Marcum issued a single audit report addressing all three years, which was included in the Issuer's Form 10-K for the year ended December 31, 2015, filed with the Securities and Exchange Commission in November 2016.

B. Relevant Entities

2. **Marcum LLP** is a New York limited liability partnership headquartered in Melville, New York. Marcum is licensed by the New York State Education Department (License No. 067839) and several other states. Marcum is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Marcum served as the Issuer's independent auditor from April 2015 to November 2016.

3. **Marcum Bernstein & Pinchuk LLP** ("MarcumBP") is a New York limited liability partnership headquartered in New York, New York. It was formed as a joint venture between Marcum and another registered firm. MarcumBP is licensed by the New York State Education Department (License No. 093038), the Texas State Board of Accountancy (License No. P05632), and the Nevada State Board of Accountancy (License No. PART-0888). MarcumBP is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the Audits, Marcum supervised MarcumBP personnel, who performed auditing procedures regarding the Issuer's China-based operations and transactions.

C. Issuer

4. The Issuer was, at all relevant times, a Delaware corporation whose public filings disclosed that it developed and manufactured energy storage systems and related products. At all times relevant to this Order, (1) the Issuer's common stock was registered under Section 12(g) of the Securities Exchange Act of 1934, and (2) the Issuer was an "issuer" within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. In 2011, the Issuer became majority owned by a company organized under the laws of Hong Kong ("Controlling Shareholder"). The Issuer later announced plans to manufacture its products in mainland China, and began moving its manufacturing operations from the United States to China in 2012. By the end of 2013, the Issuer was operating primarily from China.

6. The Issuer's predecessor auditor, which resigned in August 2014, advised the Issuer that it could not complete the 2013 audit, in part because it had been unable to perform sufficient procedures to determine the completeness of subsequent events that may have occurred in China. The predecessor auditor also advised that it had identified material weaknesses in the Issuer's internal controls and procedures, including a failure to implement adequate procedures and controls to ensure accurate and timely communication with its Chinese subsidiaries.

7. In March 2015, the Issuer filed a Form 8-K reporting that management had analyzed the internal control issues and material weaknesses identified by its predecessor

auditor, and concluded that there was "factual support that such issues and weaknesses existed in 2013." As a result, the Issuer disclosed that investors should no longer rely on the financial statements in its Form 10-Q for the period ended September 30, 2013.

D. Summary

8. This matter involves Klenner's violations of PCAOB rules and standards[4] in performing the Audits.[5] In auditing the Issuer's financial statements, Klenner encountered what he identified as significant unusual transactions between one of the Issuer's wholly-owned Chinese subsidiaries ("Subsidiary") and a Chinese purchasing agent ("Agent"). The transactions, which occurred in 2013 and 2014, involved the Subsidiary's transfers of loan proceeds to the Agent as prepayments to purchase specified materials that the Agent never delivered. The loans were obtained from Chinese lenders for the purpose of making these purchases. While the Agent returned a portion of the prepayments—some in unusual same-day, round-trip transfers—it did not return most of them.

9. Klenner failed to perform appropriate procedures regarding these transactions. First, he improperly acquiesced to management's deletion of important language from confirmation requests designed to test the Subsidiary's compliance with loan agreements. Second, he knew that management directed a junior member of the audit team to particular persons at each lender from whom he obtained the lenders' confirmation responses. Finally, Klenner failed to perform the audit procedures necessary to resolve inconsistent audit evidence concerning whether the Agent was a related party.

10. Klenner knew that the significant unusual transactions with the Agent presented a risk of material misstatement due to fraud. And he had identified intentional omission or concealment of significant unusual related-party transactions as a specific fraud risk. By failing to adequately respond to these known fraud risks, Klenner breached his duty to perform the Audits with the due professional care and professional skepticism required by PCAOB standards. He also failed to adequately understand the business rationale (or the lack thereof) for the significant unusual transactions and failed to obtain sufficient appropriate audit evidence to support his opinion on the Issuer's financial statements. In addition, Klenner

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[4] There have been changes to the numbering, organization, and, in some cases, content of PCAOB rules and standards since the 2013 and 2014 Issuer audits and the events described in this Order. This Order cites only those rules and standards that were in effect for the 2013 and 2014 audits. Current and archived versions of PCAOB standards are available at www.pcaobus.org/standards.

[5] *See also Marcum LLP*, PCAOB Release No. 105-2020-012 (Sept. 24, 2020); *Helen R. Liao*, PCAOB Release No. 105-2020-014 (Sept. 24, 2020).

violated audit documentation requirements in connection with audit committee communications.

E. Background of the Significant Unusual Transactions in China

11. From the outset of the engagement, Klenner knew that the Issuer's predecessor auditor had resigned due, in part, to its concerns about certain transactions that had occurred between the Subsidiary and its Agent in 2013 and 2014. During the Audits, Klenner and his engagement team identified these and certain other transactions—described in the work papers as "significant cash disbursements to [the Agent]"—as significant unusual transactions.[6]

12. These transactions stemmed from an August 2013 cooperation agreement in which the Agent agreed to act as the Subsidiary's agent for purchasing equipment and raw materials.[7] The equipment and raw materials were needed to fulfill commitments made by another Chinese subsidiary of the Issuer in a 2012 agreement with two Chinese municipal governments. Under that agreement, the other subsidiary agreed to construct a production plant on land to which it had been granted use rights by one municipal government. Both municipal governments agreed to purchase electric-powered buses from that subsidiary, which was not in the business of manufacturing or selling electric buses.

13. The significant unusual transactions involved the Subsidiary's transfers to the Agent of the proceeds of loans obtained purportedly to help finance the equipment and raw material purchases. The transactions took two forms: (a) prepayments to the Agent for goods that were never delivered; and (b) round-trip cash transfers. Details of these transactions were set forth in a client-prepared memo included in the audit documentation. Those details—which were known to Klenner during the Audits—are summarized below.

i. Prepayments to the Agent for Goods Never Delivered

14. In 2013 and 2014, the Subsidiary issued purchase orders ("POs") to the Agent to procure production-line equipment and raw materials for the total purchase price of

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[6] PCAOB standards describe significant unusual transactions as "significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment." AU § 316.66.

[7] According to a client-prepared memo in Marcum's audit documentation, "[The Agent]'s business is that of being a purchasing agent for inventory, equipment, or anything else a company needs to purchase . . . . [The Agent] requires an upfront prepayment from clients to place orders for them . . . . [The Agent] then makes an arbitrage profit on the timing difference between when prepayment is received and when the money is actually paid out to vendors."

approximately $63 million.[8] To help finance those purchases, the Subsidiary borrowed $17.2 million from a Chinese rural credit cooperative ("Credit Co-op") in 2013 and $20.9 million from a local Chinese bank ("Bank") in 2014. The loan agreements with the Credit Co-op and the Bank (collectively, "Lenders") restricted the Subsidiary's use of the proceeds to equipment and raw material purchases, as well as construction costs. The Subsidiary submitted the POs to the Lenders to show that the proceeds were being used in accordance with the loan agreements.

15. When the Lenders released the borrowed funds, the Subsidiary transferred all of the loan proceeds to the Agent, purportedly as prepayments for the equipment and raw material purchases. In one instance, the prepayment was almost double what the Subsidiary then owed the Agent under the PO terms. The Agent, which never delivered any goods, eventually returned portions of the prepayments to the Subsidiary.

16. In the fall of 2014, the Subsidiary and the Agent cancelled their cooperation agreement and the POs. Although the Agent agreed to refund $27.5 million of prepayments (representing the balance of the loan proceeds purportedly still held by the Agent),[9] the Agent did not return any of that money. Instead, a Chinese company affiliated with the Issuer ("Affiliate")[10] agreed to settle the Agent's obligation to return the $27.5 million by delivering electric buses of equivalent value to the Subsidiary. Later, the Affiliate (an electric bus manufacturer) and the Controlling Shareholder delivered buses to the Subsidiary. The buses were then purchased by the two Chinese municipal governments under their agreement with the Issuer's other Chinese subsidiary.

ii. Same-Day, Round-Trip Cash Transfers

17. As described in Marcum's audit documentation, even after the cooperation agreement and the POs were cancelled, the Subsidiary continued to send loan proceeds to the

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[8] For purposes of this Order, all transactions originally denominated in Chinese Yuan have been converted into U.S. Dollars, which have been approximated using the then-current Chinese Yuan to U.S. Dollar exchange rate.

[9] The Subsidiary had prepaid the Agent a total of $38.1 million from funds it borrowed from the Lenders. By the time the POs were cancelled, the Agent had returned a net amount of $10.6 million to the Subsidiary.

[10] The Issuer and the Affiliate were under common control of the Controlling Shareholder, which held a majority of the Issuer's shares and wholly owned the Affiliate. The Issuer disclosed the Affiliate and the Controlling Shareholder as related parties in its Form 10-K. *See* FASB Accounting Standards Codification ("ASC") 850-10-20, *Related Party Disclosures* (glossary definitions of "affiliate," "control," and "related parties").

Agent. In these transactions, however, the Agent did not retain the proceeds. Instead, it immediately returned them to the Subsidiary.

18. In September 2014, the Subsidiary secured a $7.3 million draw from its then existing line of credit with the Credit Co-op. The Subsidiary sent the borrowed funds from its Credit Co-op account to the Agent in two transfers ($6.6 million and $0.7 million). In each transaction, the Agent returned all of the money the same day, but not to the Subsidiary's account at the Credit Co-op. The Agent instead sent the money to the Subsidiary's account at a different financial institution.

19. Later that fall, the Subsidiary executed a new loan agreement with the Credit Co-op in the principal amount of $17.1 million. After the money was released and deposited into its Credit Co-op account, the Subsidiary sent the entire amount to the Agent, and the Agent returned the funds the same day to a Subsidiary account elsewhere.

iii. Management Representations about the Significant Unusual Transactions

20. During the Audits, management of the Issuer and the Controlling Shareholder made certain representations to Klenner and the engagement team about the purported business rationale for the significant unusual transactions. Management represented that the POs had been submitted to the Lenders in order to secure release of the borrowed funds, and that the funds (including those round-tripped back to the Subsidiary) were transferred to the Agent to show the Lenders that the proceeds were being used in accordance with the loan agreements.

21. However, management also represented that the transfers of borrowed funds to the Agent were mere formalities. According to management, the Lenders did not care whether the Subsidiary procured from the Agent or some other party, as long as the loan proceeds were used to purchase the equipment and raw materials specified in the POs and the loan agreements (management represented that the goods were eventually purchased from other sources for a better price). In addition, management represented that the Agent was not a related party and that the transactions with the Agent did not have to be disclosed as related party transactions in the Issuer's financial statements.

F. Klenner Violated PCAOB Standards in Connection with the Audits

i. Relevant Provisions of PCAOB Standards

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

Board's auditing and related professional practice standards.[11] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[12] Among other things, PCAOB standards require the auditor to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion on the financial statements.[13]

23. PCAOB standards also require the auditor to exercise due professional care, including professional skepticism, in planning and performing the audit.[14] Because of the characteristics of fraud, the auditor's exercise of professional skepticism is important when considering fraud risks,[15] including fraud risks associated with significant unusual transactions.

24. Under PCAOB standards, Klenner and the engagement team were required to gain an understanding of the business rationale for the significant unusual transactions between the Subsidiary and the Agent.[16] In gaining that understanding, the standards set forth several factors requiring consideration, including whether the form of the transactions was overly complex and whether the transactions involved previously unidentified related parties.[17]

25. PCAOB standards also required Klenner and the engagement team to evaluate whether the business rationale (or the lack thereof) for the significant unusual transactions suggested that they may have been entered into to engage in, among other things, fraudulent financial reporting.[18] Misstatements arising from fraudulent financial reporting involve intentional misstatements or omissions of amounts or disclosures in financial statements.[19] Klenner knew that material misstatements due to fraud could have arisen from the significant

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[11] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards;* PCAOB Rule 3200T, *Interim Auditing Standards*.

[12] *See* AU § 508.07, *Reports on Financial Statements*.

[13] *See* Auditing Standard ("AS") No. 15, *Audit Evidence*, ¶ 4.

[14] *See* AU § 230.07, *Due Professional Care in the Performance of Work* ("Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence.").

[15] *See* AU § 316.13, *Consideration of Fraud in a Financial Statement Audit*.

[16] *See* AU § 316.66.

[17] *See* AU § 316.67.

[18] *See* AU § 316.66.

[19] AU § 316.06.

unusual transactions if, among other things, (1) the Subsidiary had defrauded its Lenders through those transactions, or (2) the Agent was a previously unidentified related party.

26. As described below, Klenner violated these and other PCAOB standards in performing the Audits.

ii. Klenner Knew that Management had Interfered in Audit Procedures Designed to Test Compliance with Loan Agreements

27. To assess whether the Subsidiary's transfers of loan proceeds to the Agent violated the agreements with its Lenders, Klenner and the engagement team decided to send customized confirmation requests to the Lenders.[20] The customized requests included specific factual details of the Subsidiary's dealings with the Agent. Among other things, the requests detailed that: (a) the Subsidiary used POs issued to the Agent to secure release of borrowed funds; (b) the Subsidiary disbursed the loan proceeds to the Agent; (c) the Agent returned certain of the funds to the Subsidiary; (d) the POs were cancelled; and (e) the Subsidiary never purchased any goods from the Agent. The requests asked the Lenders to confirm in writing that they were aware of these facts and that the Subsidiary had nonetheless complied with the loan agreements.

28. With Klenner's knowledge, an audit director at MarcumBP in China was instructed to obtain in-person, written responses to the customized confirmation requests from the Lenders. But before he had an opportunity to obtain the Lenders' confirmation responses, the MarcumBP director informed Klenner and the engagement quality review ("EQR") partner that Issuer management had unilaterally approached the Lenders about the requests, and that, according to management, the Lenders would not confirm the requests as written. Management then revised the confirmation requests by deleting all details about the Agent transactions. The MarcumBP director forwarded the client-revised requests to Klenner and the EQR partner, telling them that management believed the Lenders were willing to confirm the requests as revised. In an emailed response to the director, Klenner wrote that "[i]t appears that we are removing all of the information that is critical to the confirmation process . . . ."

29. Despite Klenner's objections to the client-revised confirmation requests and without his authorization, the MarcumBP director dispatched a junior staff member to the

[20] *See* AU § 330.08, *The Confirmation Process*, which addresses confirming the terms of unusual or complex transactions that are associated with high levels of inherent and control risk; *see also* AU § 330.25 ("auditor should consider requesting confirmation of the terms of unusual agreements or transactions").

Lenders with the revised requests. An Issuer employee accompanied the junior staff member and directed him to a particular respondent at each Lender from whom he obtained written confirmations on the client-revised requests.[21] When meeting with the Lender respondents, the junior staff member also orally reviewed with them the specific details about the Agent transactions that had been deleted from the original confirmation requests. Although the Lenders purportedly were unwilling to confirm knowledge of those specific details in writing, the Lenders' respondents orally acknowledged the details and stated that they did not present a loan compliance issue. The MarcumBP junior staff member contemporaneously documented the oral acknowledgements, which were then summarized in the work papers.

30. After he received the responses to the client-revised confirmations, Klenner again objected, informing the MarcumBP director that those "confirmations were not approved by Marcum." Because "all of the [Agent] transaction information was removed from the confirmations," Klenner said the revised requests did not "satisfy the requirement for which we were requesting the original confirmations."[22] Nevertheless, after conferring with Issuer's management, Klenner ultimately accepted the Lender respondents' confirmations on the client-revised requests, together with the oral acknowledgments documented by the junior staff member. Klenner failed to exercise due professional care and professional skepticism when he relied on the Lender respondents' written confirmation responses and oral acknowledgments as evidence of the Subsidiary's compliance with its loan agreements.[23]

31. Management's interference raised serious questions about whether the confirmation responses obtained by the junior staff member were reliable evidence of the Subsidiary's compliance with its lending agreements. Management's deletion of information about the Agent transactions from the written requests was particularly suspect in light of the round-trip cash transfers, whose structure suggested a possible motive to conceal from the Credit Co-op the Agent's returns of loan proceeds. In each round-trip transfer, the Subsidiary

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[21] Under PCAOB standards governing the confirmation process, the auditor should direct a confirmation request to "a third party who the auditor believes is knowledgeable about the information to be confirmed." AU § 330.26. The standards use the term "respondent" to refer to the third-party recipient of a confirmation request. *See* AU § 330.27.

[22] As a result of management unilaterally approaching the Lenders and changing the confirmation requests, Klenner understood that, contrary to PCAOB standards, the engagement team had failed to maintain control over the confirmation requests and responses. *See* AU § 330.28.

[23] *See* AU § 330.15 ("Professional skepticism is important in designing the confirmation request, performing the confirmation procedures, and evaluating the results of the confirmation procedures."); *see also* AU § 230.07 and .09; AU § 316.13.

sent the loan proceeds from its account at the Credit Co-op to the Agent, who returned them the same day to a Subsidiary account at a different financial institution. The engagement team never obtained audit evidence to support a legitimate business rationale for the round-trip transfers.

32. In addition, management's direction of the MarcumBP junior staff member to particular individuals at each Lender raised serious questions about whether the confirmation requests had been directed to respondents with the appropriate competence, knowledge, motivation, objectivity, and freedom from bias as to the Issuer.[24] In such cases, "the auditor should consider whether there is sufficient basis for concluding that the confirmation request is being sent to a respondent from whom the auditor can expect the response will provide meaningful and appropriate evidence."[25] But Klenner and the engagement team failed to adequately evaluate whether the respondents were capable of providing meaningful and appropriate evidence of the Subsidiary's compliance with its loan agreements.

33. By relying on the Lender respondents' confirmation responses and oral acknowledgments as evidence of the Subsidiary's compliance with the loan agreements, Klenner failed to obtain sufficient appropriate audit evidence of the Subsidiary's compliance with the loan agreements and failed to adequately evaluate the business rationale (or the lack thereof) for the significant unusual transactions with the Agent.[26]

iii. Klenner Failed to Obtain Sufficient Appropriate Evidence to Determine Whether the Transactions with the Agent Involved a Previously Unidentified Related Party

34. During the Audits, Klenner and the engagement team identified and assessed related party transactions as a risk of material misstatement due to fraud. In identifying the risk, Klenner and the team noted that "management might have [the] intention to omit or conceal significant and unusual related party transactions." They also assessed the risk of material misstatement as high for "related party transactions without proper approval or business rationale[,] and not properly or adequately disclosed."

35. Although management represented that the Agent was not a related party, Klenner was aware of contradictory audit evidence. For example, he reviewed audit evidence

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[24] *See* AU § 330.27.

[25] *Id.*

[26] *See* AS No. 15; AU § 316.66 and .67.

that caused him to question whether the Issuer's Controlling Shareholder had the ability to control or significantly influence the Agent's management or operating policies, which, if true, would render the Agent a related party of the Issuer.[27] He also knew that the Agent and the Controlling Shareholder had engaged in transactions as "longtime business partners."

36. To evaluate whether the Agent and the Controlling Shareholder were related parties, Klenner and his engagement team requested, among other things, details of the transactions between the two parties. In lieu of the transaction details, management provided excerpts of the Controlling Shareholder's audited financial statements, which did not disclose the Agent as a related party.[28] But reading excerpts of the Controlling Shareholder's audited financial statements was not an adequate response to this fraud risk,[29] particularly in light of inconsistent evidence suggesting that the Agent was a possible related party. By failing to perform the audit procedures necessary to resolve the inconsistent audit evidence,[30] Klenner again failed to exercise due professional care, including professional skepticism, in performing the Audits. Consequently, Klenner failed to obtain sufficient appropriate evidence to determine whether the significant unusual transactions with the Agent were related party transactions and, if so, to satisfy himself concerning the adequacy of the Issuer's disclosures in its financial statements.[31]

iv. Klenner Violated Audit Documentation Requirements

37. PCAOB standards require the auditor to timely communicate with the company's audit committee about certain audit-related matters before the audit report is issued.[32] The auditor must document the audit committee communications in the work papers, even if they

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[27] If the Controlling Shareholder also controlled the Agent, the Agent would be an affiliate, and therefore a related party, of the Issuer. *See* ASC 850-10-20 (glossary definitions of "affiliate," "control," and "related parties"). In that case, U.S. GAAP would have required the Issuer to disclose the Subsidiary's transactions with the Agent, which were material to the Issuer's financial statements. *See* ASC 850-10-50.

[28] The Controlling Shareholder's financial statements were audited by a firm unaffiliated with Marcum or MarcumBP.

[29] Among other things, the engagement team had no basis for knowing what procedures may have been performed by the Controlling Shareholder's auditor to identify related parties and related party transactions.

[30] *See* AS No. 15 ¶ 29.

[31] *See* AS No. 15; AU § 334.01 and .11, *Related Parties*.

[32] *See* AS No. 16, *Communications with Audit Committees,* ¶¶ 1 and 26.

take place orally.[33] The audit documentation should be in sufficient detail to enable an experienced auditor, having no previous connection with the engagement, to understand the audit committee communications made to comply with the provisions of AS No. 16.[34] The audit documentation should also demonstrate that the engagement complied with PCAOB standards, and must clearly demonstrate that the work was in fact performed and when the work was performed.[35]

38. After the audit report was issued, but before the documentation completion date,[36] Klenner instructed a staff member to complete three letters on Marcum letterhead addressed to the Issuer's audit committee chair. The letters documented required communications to the audit committee, certain of which Klenner had orally communicated shortly before the audit report was issued. All of the letters were dated prior to the audit report, in one case by more than a year. Klenner signed the letters and they were added to the audit documentation with no explanation. Klenner violated AS No. 3 because the backdated letters suggested that they had been sent to the audit committee on the dates indicated on the letters, when, in fact, they had not.

IV.

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

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), John E. Klenner is barred from being "an associated person of a registered public

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33 *See id.* ¶ 25.

34 *See id.* ¶ 25 n.42.

35 *See* AS No. 3, *Audit Documentation*, ¶¶ 5 and 6.

36 *Id.* ¶ 15.

accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[37]

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

D. If John E. Klenner is permitted to associate once again with a registered public accounting firm, pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date his bar is terminated, his role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Klenner shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to, but differently denominated from, engagement partner (such as "lead partner" or "practitioner-in-charge") or engagement quality reviewer (such as "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, to either sign a registered public accounting firm's name to an audit report or to consent to the use of a previously issued audit report for any issuer, broker, or dealer; (5) assist the engagement partner in fulfilling his or her responsibilities under paragraph 4 of AS 1201, *Supervision of the Audit Engagement*; (6) serve, or supervise the work of another person serving, as the "other auditor" or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*; or (7) serve, or supervise the work of another individual serving, as a professional practice director;

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon John E. Klenner. All

[37] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Klenner. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Klenner shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Klenner as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. *Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm*; and

F. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), John E. Klenner is required to complete, before filing a petition for Board consent to associate with a registered firm, forty hours of professional education and training relating to PCAOB auditing standards (such hours shall be in addition to, and shall not be counted in, the continuing professional education he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 24, 2020

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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of Helen R. Liao, CPA,

Respondent.

PCAOB Release No. 105-2020-014

September 24, 2020

By this Order, the Public Company Accounting Oversight Board ("PCAOB" or "Board") is: (1) censuring Helen R. Liao, CPA ("Liao" or "Respondent"); (2) barring Liao from being an associated person of a registered public accounting firm, but allowing Liao, after one year, to petition the Board for consent to associate with a registered firm; (3) imposing a civil money penalty of $15,000; and (4) requiring Liao to complete twenty hours of continuing professional education ("CPE") (in addition to any CPE required for any professional license) concerning PCAOB auditing standards, including standards relating to performing engagement quality reviews.

The Board is imposing these sanctions on the basis of its findings that Liao violated PCAOB rules and auditing standards as the engagement quality reviewer on the audits of the financial statements of an issuer ("Issuer") for the years ended December 31, 2013 and 2014 ("Audits").

I.

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

II.

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

behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over her and the subject matter of these proceedings, which are admitted, Liao consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Helen R. Liao, CPA** is a certified public accountant licensed by the New York State Education Department (License No. 074974), the New Jersey Division of Consumer Affairs (License No. 20CC03171100), and the District of Columbia Board of Accountancy (License No. CPA900205). She is a partner of Marcum LLP ("Marcum") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Liao served as the engagement quality review ("EQR") reviewer for Marcum's audits of the Issuer's 2013, 2014, and 2015 financial statements. Liao provided her concurring approval of Marcum's issuance of an audit report containing an unqualified opinion on all three years' financial statements in November 2016.[3]

B. Relevant Entities

2. **Marcum LLP** is a New York limited liability partnership headquartered in Melville, New York. Marcum is licensed by the New York State Education Department (License No. 067839) and several other states. Marcum is, and at all relevant times was, registered with

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] Marcum concurrently audited the Issuer's 2013 and 2014 financial statements, and later audited the 2015 financial statements. Marcum issued a single audit report addressing all three years, which was included in the Issuer's Form 10-K for the year ended December 31, 2015, filed with the Securities and Exchange Commission in November 2016.

the Board pursuant to Section 102 of the Act and PCAOB rules. Marcum served as the Issuer's independent auditor from April 2015 to November 2016.

3. **Marcum Bernstein & Pinchuk LLP** ("MarcumBP") is a New York limited liability partnership headquartered in New York, New York. It was formed as a joint venture between Marcum and another registered firm. MarcumBP is licensed by the New York State Education Department (License No. 093038), the Texas State Board of Accountancy (License No. P05632), and the Nevada State Board of Accountancy (License No. PART-0888). MarcumBP is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the Audits, Marcum supervised MarcumBP personnel, who performed auditing procedures regarding the Issuer's China-based operations and transactions.

C. Issuer

4. The Issuer was, at all relevant times, a Delaware corporation whose public filings disclosed that it developed and manufactured energy storage systems and related products. At all times relevant to this Order, (1) the Issuer's common stock was registered under Section 12(g) of the Securities Exchange Act of 1934, and (2) the Issuer was an "issuer" within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. In 2011, the Issuer became majority owned by a company organized under the laws of Hong Kong ("Controlling Shareholder"). The Issuer later announced plans to manufacture its products in mainland China, and began moving its manufacturing operations from the United States to China in 2012. By the end of 2013, the Issuer was operating primarily from China.

6. The Issuer's predecessor auditor, which resigned in August 2014, advised the Issuer that it could not complete the 2013 audit, in part because it had been unable to perform sufficient procedures to determine the completeness of subsequent events that may have occurred in China. The predecessor auditor also advised that it had identified material weaknesses in the Issuer's internal controls and procedures, including a failure to implement adequate procedures and controls to ensure accurate and timely communication with its Chinese subsidiaries.

7. In March 2015, the Issuer filed a Form 8-K reporting that management had analyzed the internal control issues and material weaknesses identified by its predecessor auditor, and concluded that there was "factual support that such issues and weaknesses existed in 2013." As a result, the Issuer disclosed that investors should no longer rely on the financial statements in its Form 10-Q for the period ended September 30, 2013.

D. Summary

8. This matter concerns Liao's failure to perform an EQR of the Audits in compliance with PCAOB standards.[4] As detailed below, Liao violated Auditing Standard ("AS") No. 7, *Engagement Quality Reviews*,[5] by providing her concurring approval to issue Marcum's audit report when she was aware of significant engagement deficiencies in the Audits. She also failed to maintain objectivity in performing her EQR and failed to perform the review with due professional care.

9. Liao's violations arose from her participation in, and review of, audit procedures concerning significant unusual transactions between one of the Issuer's wholly-owned Chinese subsidiaries ("Subsidiary") and a Chinese entity that purportedly acted as the Subsidiary's purchasing agent ("Agent"). The transactions involved the Subsidiary's transfers of loan proceeds to the Agent as prepayments to purchase specified equipment and materials that the Agent never delivered. The loans were obtained from Chinese lenders for the purpose of making these purchases. While the Agent returned a portion of the prepayments—some in unusual same-day, round-trip transfers—it did not return most of them.

10. While performing the EQR, Liao was aware of the fraud risks associated with the significant unusual transactions, particularly the risks that the Subsidiary may have defrauded its lenders by transferring loan proceeds to the Agent and that the Agent may have been an undisclosed related party. Liao was involved in designing audit procedures to address one of the fraud risks. Specifically, to get evidence of whether the Subsidiary had complied with its lending agreements when it transferred loan proceeds to the Agent, she provided detailed comments on the content of confirmation requests to be directed to the Subsidiary's lenders and how the confirmations should be obtained. By assuming these engagement team responsibilities, Liao failed to maintain objectivity in performing her EQR, thus violating AS No. 7.

11. Before the Audits were concluded, Liao learned, among other things, that management had deleted important language from the confirmation requests that she had helped the engagement team design. She also learned that, at management's suggestion, the engagement team had performed related party procedures that were significantly more limited

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[4] *See also Marcum LLP*, PCAOB Release No. 105-2020-012 (Sept. 24, 2020); *John E. Klenner*, PCAOB Release No. 105-2020-013 (Sept. 24, 2020).

[5] There have been changes to the numbering, organization, and, in some cases, content of PCAOB rules and standards since the 2013 and 2014 Issuer audits and the events described in this Order. This Order cites only those rules and standards that were in effect for the 2013 and 2014 audits. Current and archived versions of PCAOB standards are available at www.pcaobus.org/standards.

than had been planned. As a result, Liao was aware that the engagement team had failed to adequately respond to the fraud risks associated with the significant unusual transactions, which resulted in significant engagement deficiencies. Liao provided concurring approval to issue the audit report despite these significant deficiencies. As a result, she violated AS No. 7.

E. Background of the Significant Unusual Transactions in China

i. Liao Understood the Details and Fraud Risks of the Significant Unusual Transactions

12. Liao knew the engagement team had identified significant unusual transactions between the Subsidiary and the Agent in 2013 and 2014.[6] Details of those transactions were set forth in a client-prepared memo included in the audit documentation. Those details—which were known to Liao during the Audits—are summarized below.

13. The transactions involved the Subsidiary's transfers of loan proceeds to the Agent. The Subsidiary had obtained loans (totaling $38.1 million)[7] from two Chinese lending institutions (collectively, "Lenders"), to help finance the purchases of equipment and raw materials specified in purchase orders ("POs") issued to the Agent. The Subsidiary submitted the POs to the Lenders as evidence that the borrowed funds were being used in accordance with the loan agreements.

14. When the Lenders' released the borrowed funds, the Subsidiary transferred all of the loan proceeds to the Agent purportedly as prepayments for the specified equipment and raw materials. But the Agent returned portions of the prepayments to the Subsidiary and never delivered any of the goods.

15. In the fall of 2014, the Subsidiary and the Agent cancelled the POs and the Agent agreed to refund $27.5 million of prepayments, representing the balance of the loan proceeds

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[6] PCAOB standards describe significant unusual transactions as "significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment." AU § 316.66.

[7] For purposes of this Order, all transactions originally denominated in Chinese Yuan have been converted into U.S. Dollars, which have been approximated using the then-current Chinese Yuan to U.S. Dollar exchange rate.

purportedly still held by the Agent.[8] The Agent, however, did not return the money. Instead, a Chinese company affiliated with the Issuer ("Affiliate")[9] agreed to settle the Agent's obligation to return the $27.5 million by delivering electric buses of equivalent value to the Subsidiary.[10]

16. The Subsidiary and the Agent later engaged in three unusual, round-trip cash transfers, also involving loan proceeds. After the POs were cancelled, the Subsidiary received an additional $24.4 million from one of the Lenders in two loan transactions. Soon after receiving the proceeds, the Subsidiary sent them all to the Agent in three cash transfers from its account at the Lender. In each instance, the Agent returned the money to the Subsidiary the same day, but not to the Subsidiary's account at the Lender. Instead, the Agent directed the money to the Subsidiary's account at a different financial institution.

17. Both the engagement team and Liao understood that there was a risk that management may have entered into these significant unusual transactions to engage in fraudulent financial reporting.[11] In particular, Liao understood that material misstatements due to fraud could have arisen from these transactions if, among other things, (1) the Subsidiary had defrauded its Lenders through its transactions with the Agent, or (2) the Agent were an undisclosed related party.

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[8] The Subsidiary had prepaid the Agent a total of $38.1 million from funds it borrowed from the Lenders. But by the time the POs were cancelled, the Agent had returned a net amount of $10.6 million to the Subsidiary.

[9] The Issuer and the Affiliate were under common control of the Controlling Shareholder, which held a majority of the Issuer's shares and wholly owned the Affiliate. The Issuer disclosed the Affiliate and the Controlling Shareholder as related parties in its Form 10-K. *See* FASB Accounting Standards Codification ("ASC") 850-10-20, *Related Party Disclosures* (glossary definitions of "affiliate," "control," and "related parties").

[10] Thereafter, the Affiliate and the Controlling Shareholder delivered buses to the Subsidiary in satisfaction of the Affiliate's obligation.

[11] To address fraud risks related to significant unusual transactions, PCAOB standards provided that the auditor "should gain an understanding of the business rationale for such transactions and whether that rationale (or the lack thereof) suggests that the transactions may have been entered into to engage in fraudulent financial reporting or conceal misappropriation of assets." AU § 316.66. In understanding the business rationale for the transactions, the auditor should consider a number of factors, including whether the form of the transactions is overly complex and whether the transactions involve previously unidentified related parties. AU § 316.67.

ii. Liao Was Aware of Management's Representations about the Significant Unusual Transactions

18. During the Audits, Liao was aware of management's representations to the engagement team about the purported business rationale for the significant unusual transactions between the Subsidiary and the Agent. Management of the Issuer and the Controlling Shareholder told the engagement team that the POs had been submitted to the Lenders in order to secure release of the borrowed funds, and that the funds (including those round-tripped back to the Subsidiary) were transferred to the Agent to show the Lenders that the proceeds were being used in accordance with the loan agreements.

19. However, management also represented that the transfers of borrowed funds to the Agent were mere formalities. According to management, the Lenders did not care whether the Subsidiary procured from the Agent or some other party, as long as the loan proceeds were used to purchase the equipment and raw materials specified in the POs and the loan agreements (management represented that the goods were eventually purchased from other sources for a better price). In addition, management represented that the Agent was not a related party and that the transactions with the Agent did not have to be disclosed as related party transactions in the Issuer's financial statements.

F. Liao Violated the Board's Engagement Quality Review Standard in Connection with the Audits

i. Relevant Provisions of PCAOB Standards

20. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[12] An EQR is required for all audits and reviews under PCAOB standards.[13] The EQR is intended to "serve as a meaningful check on the work performed by the engagement team."[14] To achieve that objective, AS No. 7 imposes a number of requirements on the EQR reviewer, including that the reviewer maintain objectivity in performing the review.[15] To maintain objectivity, the reviewer

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12 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards;* PCAOB Rule 3200T, *Interim Auditing Standards*.

13 AS No. 7 ¶ 1.

14 PCAOB Rel. No. 2009-004 (July 28, 2009) at 2.

15 AS No. 7 ¶¶ 4, 6.

should not make decisions on behalf of the engagement team or assume any of the team's responsibilities.[16]

21. In an audit engagement, the EQR reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the audit report. To evaluate those judgments and conclusions, the EQR reviewer should, to the extent necessary, hold discussions with the engagement partner and other members of the engagement team and review audit documentation. The EQR reviewer should also evaluate the team's assessment of, and audit responses to, significant risks (including fraud risks) of material misstatement.[17]

22. The EQR reviewer, after performing a review with due professional care,[18] may provide concurring approval of issuance of an audit report only if the reviewer is not aware of any significant engagement deficiencies.[19] Significant engagement deficiencies include the engagement team's failure to obtain sufficient appropriate evidence in accordance with PCAOB standards.[20]

23. As described below, Liao violated AS No. 7 in performing an EQR of the Audits.

ii. Liao Improperly Assumed Engagement Team Responsibilities for, and Was Aware of a Significant Engagement Deficiency Resulting From, the Design and Execution of Audit Procedures to Test Compliance with Loan Agreements

24. To assess whether the Subsidiary's transfers of loan proceeds to the Agent violated the agreements with its Lenders, the engagement team decided to send customized confirmation requests to the Lenders.[21] Liao actively participated in this process, providing

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16 *Id.* ¶ 7.

17 *Id.* ¶¶ 9, 10b, 14.

18 *Id.* ¶ 12. To perform an EQR with due professional care, the reviewer must exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence. *See* AU § 230.07, *Due Professional Care in the Performance of Work*.

19 AS No. 7 ¶ 12.

20 *Id.* Note to ¶ 12.

21 *See* AU § 330.08, *The Confirmation Process*, which addresses confirming the terms of unusual or complex transactions that are associated with high levels of inherent and control risk; *see also* AU § 330.25 ("auditor should consider requesting confirmation of the terms of unusual agreements or transactions . . . .").

detailed input on the design of the confirmation requests and how the responses should be obtained. Liao thus assumed engagement team responsibilities and violated AS No. 7 by failing to maintain objectivity in performing the EQR.[22]

25. The written confirmation requests, prepared by the team with the engagement partner and Liao's guidance, included specific factual details of the Subsidiary's dealings with the Agent. Among other things, the customized requests detailed that: (a) the Subsidiary used POs issued to the Agent to secure release of borrowed funds; (b) the Subsidiary disbursed the loan proceeds to the Agent; (c) the Agent returned certain of the funds to the Subsidiary; (d) the POs were cancelled; and (e) the Subsidiary never purchased any goods from the Agent. The requests asked the Lenders to confirm in writing that they were aware of these facts and that the Subsidiary had nonetheless complied with the loan agreements.

26. Liao then told an audit director at MarcumBP in China to obtain in-person, written responses to the customized confirmation requests from the Lenders. But before he had an opportunity to obtain the Lenders' confirmation responses, the MarcumBP director informed Liao and the engagement partner that Issuer management had unilaterally approached the Lenders about the requests, and that, according to management, the Lenders would not confirm the requests as written. Management revised the confirmation requests to delete all details about the Agent transactions. The MarcumBP director then forwarded the client-revised requests to Liao and the engagement partner, telling them that management believed the Lenders were willing to confirm the revised requests in writing.

27. Although Liao and the engagement partner objected to the client-revised confirmation requests, the MarcumBP director dispatched a junior staff member to the Lenders with the revised requests. An Issuer employee accompanied the junior staff member and directed him to a particular respondent at each Lender from whom he obtained written confirmations on the client-revised requests.[23] When meeting with the Lender respondents, the junior staff member also orally reviewed with them the specific details about the Agent transactions that had been deleted from the original confirmation requests. Although the Lenders purportedly were unwilling to confirm their knowledge of those specific details in writing, the Lenders' respondents orally acknowledged the details and stated that they did not

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[22] AS No. 7 ¶¶ 6-7.

[23] Under PCAOB standards governing the confirmation process, the auditor should direct a confirmation request to "a third party who the auditor believes is knowledgeable about the information to be confirmed." AU § 330.26. The standards use the term "respondent" to refer to the third-party recipient of a confirmation request. *See* AU § 330.27.

present a loan compliance issue. The MarcumBP junior staff member contemporaneously documented the oral acknowledgements, which were then summarized in the work papers.

28. Management's interference, which Liao knew about, raised serious questions about whether the confirmation responses obtained by the junior staff member were reliable evidence of the Subsidiary's compliance with its lending agreements. Management's deletion of information about the Agent transactions from the written requests was particularly suspect in light of the round-trip cash transfers, whose structure suggested a possible motive to conceal from the Lender the Agent's returns of loan proceeds.[24] In each round-trip transfer, the Subsidiary sent loan proceeds to the Agent from its account at the Lender, and the Agent returned them the same day to a Subsidiary account at a different financial institution. The engagement team never obtained, and did not provide Liao with, audit evidence to support a legitimate business rationale for the round-trip transfers.

29. In addition, management's direction of the MarcumBP junior staff member to particular individuals at each Lender raised serious questions about whether the confirmation requests had been directed to respondents with the appropriate competence, knowledge, motivation, objectivity, and freedom from bias as to the Issuer.[25] In such cases, "the auditor should consider whether there is sufficient basis for concluding that the confirmation request is being sent to a respondent from whom the auditor can expect the response will provide meaningful and appropriate evidence."[26] But as Liao knew, the engagement team failed to adequately evaluate whether the respondents were capable of providing meaningful and appropriate evidence of the Subsidiary's compliance with its loan agreements.

30. Liao also was aware that the engagement partner, after conferring with the Issuer's management, accepted and relied on the Lender respondents' confirmations on the client-revised requests, together with their oral acknowledgments documented by the junior staff member, as evidence of the Subsidiary's compliance with its loan agreements. As a result, she was aware of a significant engagement deficiency because the engagement team had failed to obtain appropriate evidence of the Subsidiary's compliance with the loan agreements and failed to adequately evaluate the business rationale (or the lack thereof) for the significant

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[24] As a result of management unilaterally approaching the Lenders and changing the confirmation requests, Liao understood that, contrary to PCAOB standards, the engagement team had failed to maintain control over the confirmation requests and responses. *See* AU § 330.28.

[25] *See* AU § 330.27.

[26] *Id.*

unusual transactions with the Agent.[27] Failing to perform her EQR with due professional care, Liao violated AS No.7 when she provided concurring approval to issue Marcum's audit report despite this significant engagement deficiency.[28]

iii. Liao Was Aware of a Significant Engagement Deficiency Resulting From the Related Party Audit Procedures

31. Liao knew that the engagement team had identified and assessed related party transactions as a risk of material misstatement due to fraud. In identifying the risk, the team noted that "management might have [the] intention to omit or conceal significant and unusual related party transactions." The team also assessed the risk of material misstatement as high for "related party transactions without proper approval or business rationale[,] and not properly or adequately disclosed."

32. Although management represented that the Agent was not a related party, Liao and the engagement team were aware of contradictory audit evidence. For example, Liao reviewed audit evidence that caused her to question whether the Issuer's Controlling Shareholder had the ability to control or significantly influence the Agent's management or operating policies, which, if true, would render the Agent a related party of the Issuer.[29] She also was aware that the Agent and the Controlling Shareholder had engaged in transactions as "longtime business partners."

33. During the Audits, Liao knew that the engagement team had requested evidence of the details of the transactions between the Controlling Shareholder and the Agent in order to evaluate whether those transactions were indicative of a related party relationship. Liao also knew that, in response, management had provided the engagement team with excerpts of the Controlling Shareholder's audited financial statements, which did not disclose the Agent as a

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[27] *See* AS No. 15, *Audit Evidence*; AU § 316.66 and .67.

[28] AS No. 7 ¶ 12.

[29] If the Controlling Shareholder also controlled the Agent, the Agent would be an affiliate, and therefore a related party, of the Issuer. *See* ASC 850-10-20 (glossary definitions of "affiliate," "control," and "related parties"). In that case, U.S. GAAP would have required the Issuer to disclose the Subsidiary's transactions with the Agent, which were material to the Issuer's financial statements. *See* ASC 850-10-50.

related party.[30] And she knew that the engagement partner had accepted the audited financial statements of the Controlling Shareholder as evidence that the Agent was not a related party.

34. But reading excerpts of the Controlling Shareholder's audited financial statements was not an adequate response to this fraud risk,[31] particularly in light of inconsistent evidence suggesting that the Agent was a possible related party. As Liao understood, the engagement team failed to perform the audit procedures necessary to resolve the inconsistent audit evidence.[32] As a result, Liao was aware of another significant engagement deficiency because the engagement team had failed to obtain sufficient appropriate evidence to determine whether the significant unusual transactions with the Agent were related party transactions and, if so, to satisfy themselves concerning the adequacy of the Issuer's disclosures in its financial statements.[33] Liao thus violated AS No. 7 by providing concurring approval for issuance of Marcum's audit report while being aware of this significant engagement deficiency, and by failing to perform her EQR with due professional care.[34]

IV.

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

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

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[30] The Controlling Shareholder's financial statements were audited by a firm unaffiliated with Marcum or MarcumBP.

[31] Among other things, the engagement team had no basis for knowing what procedures may have been performed by the Controlling Shareholder's auditor to identify related parties and related party transactions.

[32] *See* AS No. 15 ¶ 29.

[33] *See* AS No. 15; AU § 334.01 and .11, *Related Parties*.

[34] AS No. 7 ¶ 12.

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Helen R. Liao is barred from being "an associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act;[35]

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

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon Helen R. Liao. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Liao shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Liao as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. *Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm*; and

E. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Helen R. Liao is required to complete, before filing a petition for Board consent to associate with a registered firm, twenty hours of professional education and training directly related to the audits of issuer financial statements under PCAOB

[35] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Liao. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

standards, covering, among other topics, the performance of engagement quality reviews in accordance with AS 1220, *Engagement Quality Review* (such hours shall be in addition to, and shall not be counted in, the continuing professional education Liao is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 24, 2020

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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of Da Hua CPAs (Special General Partnership),

Respondent.

PCAOB Release No. 105-2020-015

September 29, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Da Hua CPAs (Special General Partnership) (the "Firm" or "Respondent"), a registered public accounting firm, imposing a civil money penalty in the amount of $10,000 upon the Firm, and requiring the Firm to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements. The Board is imposing these sanctions on the basis of its findings that the Firm failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

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

II.

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

Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Da Hua CPAs (Special General Partnership)** is, and at all relevant times was, a partnership organized under Chinese law, and headquartered in Beijing, China. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed in China by the Chinese Ministry of Finance.

B. Summary

2. This matter concerns the Firm's failures to disclose two reportable events, concerning one disciplinary proceeding, to the Board on Form 3 as required by PCAOB rules. PCAOB rules require the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm is required to report on Form 3 are its becoming a respondent in certain disciplinary proceedings and the conclusion of such proceedings.

3. No later than July 31, 2018, the Firm and three of its associated persons became respondents in a disciplinary proceeding initiated by the China Securities Regulatory Commission ("CSRC"). The initiation of this proceeding against the Firm was a reportable event under Form 3. With respect to the proceeding, the Firm failed to file a Form 3 reporting that it had become a respondent in the proceeding.

4. In addition, the conclusion of the proceeding was a reportable event under Form 3. The Firm also failed to file a report of the conclusion of the matter on Form 3.

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

C. Respondent Failed to Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3] Another such specified event occurs when a firm has become aware that a reportable proceeding (i.e., a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[4]

6. With respect to two such reportable events occurring in 2018, the Firm failed to file a Form 3 with the Board.

7. No later than July 31, 2018, the Firm became aware that the CSRC had initiated a disciplinary proceeding against it and three of its associated persons. The proceeding related to the provision of professional services by the Firm to a company that was not an issuer.[5] The Firm first learned of the conclusion of the proceeding on or around July 31, 2018.

8. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the initiation and conclusion of this proceeding.

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[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

[4] PCAOB Form 3, at Item 2.10.

[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

9. The Firm's internal compliance and reporting systems failed to identify the initiation of the proceeding described above, and its conclusion, as being reportable to the PCAOB. As a result, the Firm inappropriately failed to notify the PCAOB of the initiation and conclusion of the disciplinary proceeding.

IV.

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

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

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

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable

events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process;

3. within ninety (90) days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm; and

4. within one hundred twenty (120) days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C.1 through C.3 above.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 29, 2020

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of East Asia Sentinel Limited,

Respondent.

PCAOB Release No. 105-2020-016

September 29, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring East Asia Sentinel Limited (the "Firm" or "Respondent"), a registered public accounting firm, imposing a civil money penalty in the amount of $10,000 upon the Firm, and requiring the Firm to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements. The Board is imposing these sanctions on the basis of its findings that the Firm failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

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

II.

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

Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **East Asia Sentinel Limited** is, and at all relevant times was, a limited liability corporation organized under Hong Kong law, and headquartered in Hong Kong. It is part of the East Asia Sentinel Group and is associated with the BKR International network. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed in Hong Kong by the Hong Kong Institute of Certified Public Accountants ("HKICPA").

B. Summary

2. This matter concerns the Firm's failures to disclose two reportable events, concerning one disciplinary proceeding, to the Board on Form 3 as required by PCAOB rules. PCAOB rules required the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm was required to report on Form 3 were its becoming a respondent in certain disciplinary proceedings and the conclusion of such proceedings.

3. In 2018, the Firm and two of its associated persons became respondents in a disciplinary proceeding initiated by the HKICPA. The initiation of this proceeding against the Firm and its associated persons was a reportable event under Form 3. With respect to the proceeding, the Firm failed to file a Form 3 reporting that it and two associated persons had become respondents in the proceeding.

4. In addition, the conclusion of each proceeding was a reportable event under Form 3. The Firm also failed to file a report of the conclusion of the proceeding on Form 3.

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

C. Respondent Failed to Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3] Another such specified event occurs when a firm has become aware that a reportable proceeding (i.e., a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[4]

6. With respect to two such reportable events occurring in 2018, the Firm failed to file a Form 3 with the Board.

7. No later than May 17, 2018, the Firm became aware that the HKICPA had initiated a disciplinary proceeding against it and two of its associated persons. The proceeding related to the provision of professional services by the Firm to a company that was not an issuer.[5]

8. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the initiation of this proceeding.

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[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

[4] PCAOB Form 3, at Item 2.10.

[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

9. The proceeding against the Firm concluded on or around November 5, 2018.

10. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the conclusion of this proceeding.

11. The Firm's internal compliance and reporting systems failed to identify the initiation of the proceeding described above, and their conclusion, as being reportable to the PCAOB. As a result, the Firm inappropriately failed to notify the PCAOB of the initiation and conclusion of the disciplinary proceeding.

IV.

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

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

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

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process;

3. within ninety (90) days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm; and

4. within one hundred twenty (120) days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C.1 through C.3 above.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 29, 2020

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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of Ruihua Certified Public Accountants,

Respondent.

PCAOB Release No. 105-2020-017

September 29, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Ruihua Certified Public Accountants (the "Firm" or "Respondent"), a registered public accounting firm, and imposing a civil money penalty in the amount of $10,000 upon the Firm. The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

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

II.

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

Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Ruihua Certified Public Accountants** is, and at all relevant times was, a partnership organized under Chinese law, and headquartered in Beijing, China. The Firm is a member of the Crowe Global network. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed in China by the Chinese Ministry of Finance.

B. Summary

2. This matter concerns the Firm's failures to timely disclose seven reportable events, concerning five disciplinary proceedings, to the Board on Form 3 as required by PCAOB rules. PCAOB rules required the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm was required to report on Form 3 were its becoming a respondent in certain administrative or disciplinary proceedings and the conclusion of such proceedings.

3. Between November 2015 and January 2020, the Firm became a respondent in five separate disciplinary proceedings initiated by the China Securities Regulatory Commission ("CSRC"). The initiation of each of these proceedings against the Firm was a reportable event under Form 3. The Firm failed to file a Form 3 reporting one of the proceedings for over a year after learning of the initiation of that proceeding and failed to file a Form 3 reporting the initiation of the other proceedings until over four years after the initiation of one proceeding and well past the 30-day reporting deadline for the remaining proceedings.

4. Additionally, the Firm learned that two disciplinary proceedings against it by the CSRC had been concluded in December 2018 and August 2019. The conclusion of those proceedings against the Firm also constituted reportable events under Form 3. The Firm failed to report any of the events until June 16, 2020, well after the 30-day reporting deadline.

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

C. Respondent Failed to Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3] Another such specified event occurs when a firm has become aware that a reportable proceeding (i.e., a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[4]

6. Between 2015 and 2020, the CSRC initiated disciplinary proceedings against the Firm and certain of its associated persons. Each of the proceedings related to the Firm's provision of professional services to companies that were not issuers.[5] The Firm first learned of the initiation of the proceedings no later than the following dates:

- Proceeding 1: November 20, 2015
- Proceeding 2: May 31, 2016
- Proceeding 3: January 31, 2019

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[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

[4] PCAOB Form 3, at Item 2.10.

[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

- Proceeding 4: July 31, 2019

- Proceeding 5: January 31, 2020

7. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the initiation of Proceeding 1 until June 29, 2017, over a year after the initiation of that proceeding. In addition, in violation of Rule 2203, the Firm failed to file a Form 3 for the four other proceedings until June 16, 2020, over four years after the initiation of Proceeding 2 and well past the 30-day reporting deadline for the remaining three proceedings.

8. Additionally, the CSRC concluded Proceeding 2 on December 29, 2018, and Proceeding 1 on August 27, 2019.

9. In violation of Rule 2203, the Firm failed to file a Form 3 with respect to the conclusion of these two proceedings until June 16, 2020.

IV.

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

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

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

Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 29, 2020

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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of Zhonghua Certified Public Accountants LLP,

Respondent.

PCAOB Release No. 105-2020-018

September 29, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring Zhonghua Certified Public Accountants LLP (the "Firm" or "Respondent"), a registered public accounting firm, imposing a civil money penalty in the amount of $10,000 upon the Firm, and requiring the Firm to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements. The Board is imposing these sanctions on the basis of its findings that the Firm failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, in violation of PCAOB rules.

I.

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

II.

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

Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Zhonghua Certified Public Accountants LLP** is, and at all relevant times was, a partnership organized under Chinese law, and headquartered in Shanghai, China. At all relevant times, the Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed in China by the Chinese Ministry of Finance.

B. Summary

2. This matter concerns the Firm's failures to disclose four reportable events, concerning two disciplinary proceedings, to the Board on Form 3 as required by PCAOB rules. PCAOB rules required the Firm to complete and file a PCAOB special report on Form 3 to report any event specified in that form within 30 days of the event's occurrence. Among the events that the Firm was required to report on Form 3 were its becoming a respondent in certain disciplinary proceedings and the conclusion of such proceedings.

3. In 2019, the Firm and certain of its associated persons became respondents in two disciplinary proceedings initiated by the China Securities Regulatory Commission ("CSRC"). The initiation of each of those proceedings against the Firm was a reportable event under Form 3. With respect to each of the proceedings, the Firm failed to file a Form 3 reporting that it had become a respondent in the proceeding.

4. In addition, the conclusion of these proceedings constituted reportable events under Form 3. The Firm also failed to file a report of the conclusion of each matter on Form 3.

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

C. Respondent Failed to Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3] Another such specified event occurs when a firm has become aware that a reportable proceeding (i.e., a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[4]

6. No later than May 24, 2019, the Firm became aware that the CSRC had initiated disciplinary proceedings against it and two of its associated persons. The proceeding related to the provision of professional services by the Firm to a company that was not an issuer.[5]

7. No later than October 28, 2019, the Firm became aware that the CSRC had initiated disciplinary proceedings against it and two of its associated persons. The proceeding related to the provision of professional services by the Firm to a company that was not an issuer.

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[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "[R]eportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed). To be reportable under Item 2.7, the proceeding only has to relate to professional services for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

[4] PCAOB Form 3, at Item 2.10.

[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

8. In violation of Rule 2203, the Firm failed to file a Form 3 with the Board with respect to either the initiation or conclusion of these proceedings.

9. The Firm's internal compliance and reporting systems failed to identify the initiation of the proceedings described above, and their conclusion, as being reportable to the PCAOB. As a result, the Firm inappropriately failed to notify the PCAOB of the initiation and conclusion of relevant disciplinary proceedings.

IV.

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

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

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

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

   1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and

procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process;

3. within ninety (90) days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the Firm to fulfill those requirements on behalf of the Firm; and

4. within one hundred twenty (120) days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C.1 through C.3 above.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 29, 2020

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Grant Thornton LLP, Gary Homsley, CPA, and Larry Dana Leslie, CPA,

Respondents.

PCAOB Release No. 105-2020-019

November 5, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon Grant Thornton LLP (the "Firm" or "GT"), Gary C. Homsley, CPA, and Larry Dana Leslie CPA (collectively, "Respondents"). The Board is:

(1) imposing a $750,000 civil money penalty on the Firm;

(2) barring Homsley from being associated with a registered public accounting firm,[1] if Homsley is permitted to associate once again with any registered public accounting firm, limiting his activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), until three years from the date of this Order by prohibiting Homsley from serving in certain capacities in any audit, as described in Section IV hereto, and imposing a $15,000 civil money penalty on Homsley; and

(3) limiting Leslie's activities in connection with any "audit," as that term is defined in Section 110(1) of the Act, for a period of two years.

The Board is imposing these sanctions based on its findings that: (1) Homsley and the Firm violated PCAOB rules and standards[2] in connection with the Firm's audits of the financial

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

[2] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of audits discussed herein. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a

statements of Erickson Inc. ("Erickson" or the "Company") for the fiscal years ("FYs") ended December 31, 2015, 2014, and 2013 (together, the "Audits" and each an "Audit"); (2) Leslie violated PCAOB rules and standards in connection with the Firm's audits of the financial statements of Erickson for the FYs ended December 31, 2015 and 2014; and (3) the Firm violated PCAOB rules and standards by failing to design, implement, and maintain appropriate quality control policies and procedures related to the Firm's documentation of audit remediation in its hard copy working papers.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

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single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015).

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

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of

A. Respondents

1. **Grant Thornton LLP** is a limited liability partnership organized under the laws of the state of Illinois and headquartered in Chicago, Illinois. The Firm has offices in multiple locations, including Portland, Oregon, and Seattle, Washington. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Grant Thornton LLP was Erickson's external auditor, including for the Audits. The Firm issued unqualified audit opinions on Erickson's consolidated financial statements for FYs 2013, 2014, and 2015.

2. **Gary C. Homsley** is a certified public accountant licensed by the Oregon Board of Accountancy (License No. 6311). At all relevant times, Homsley was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Until July 31, 2019, Homsley was a Partner of the Firm, resident in its Portland, Oregon, office. Homsley was the engagement partner on the Audits.

3. **Larry Dana Leslie** is a certified public accountant licensed by the Washington State Board of Accountancy (License No. 20946). At all relevant times, Leslie was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Until October 31, 2018, Leslie was a Partner of the Firm, resident in its Seattle, Washington, office. From 2009 through August 1, 2016, Leslie served as the Pacific Northwest Audit Practice Leader, or equivalent position. Leslie conducted the engagement quality reviews ("EQRs") of the Audits.

B. Issuer

4. Erickson, Inc., was, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Erickson provided aviation services, mainly in the logging, firefighting, construction, and defense sectors. Erickson filed a voluntary petition for relief under chapter 11 of the U.S. Bankruptcy Code on November 8, 2016. Erickson emerged from bankruptcy in April 2017 and is now under private ownership.

C. Summary

5. This matter concerns, among other things, the Firm's and Homsley's violations of PCAOB rules and standards in auditing Erickson's liabilities resulting from aircraft lease agreements and Erickson's ability to continue as a going concern. Specifically, the Firm and

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negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

Homsley failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence in connection with certain Erickson lease-related liabilities. These lease-related liabilities concerned Erickson's contractual obligations to maintain or return aircraft to conditions specified under the relevant aircraft lease agreements. The Firm and Homsley failed to evaluate sufficiently whether Erickson's financial statements correctly reported its lease-related liabilities. The Firm and Homsley also failed, in the FY2015 Audit, to evaluate adequately Erickson's ability to continue as a going concern. As a result of these failures, the Firm lacked an appropriate basis to issue an unqualified opinion in each Audit.[5]

6. This matter also concerns Leslie's failure to perform his role as EQR partner with due professional care. Specifically, Leslie violated Auditing Standard ("AS") No. 7, Engagement Quality Review ("AS 7") by, among other things, failing to evaluate appropriately the engagement teams' significant judgments with respect to planning, including consideration of the risk of certain Erickson lease-related liabilities and consideration of Erickson's ability to continue functioning as a going concern.[6] As a result of the inadequacy of his engagement quality review, Leslie lacked an appropriate basis for his concurring approval of the issuance of GT's unqualified opinion in the FY2014 Audit and FY2015 Audit.[7]

7. Finally, the Firm and Homsley violated the auditing standards on documentation by failing to ensure that portions of each Audit's working papers in connection with audit remediation bore correct dates. As a result, certain hard copy remediation work papers for the Audits (the "Remediation Work Papers"), when archived, reflected that those work papers had been completed earlier than they actually had been.[8]

8. The documentation violations involving the Remediation Work Papers resulted, at least in part, from the Firm's insufficient QC system related to audit documentation, which failed to provide reasonable assurance that the engagement teams would document their audit work in accordance with professional standards.[9]

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

6 *See* AS 7 ¶ 10.a.

7 *See* AS 7 ¶ 12.

8 *See* AS No. 3, *Audit Documentation* ("AS 3").

9 *See* Quality Control Standard 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20").

D. Background

i. Erickson's Aircraft Leases

9. Erickson had 21 aircraft in its fleet as of December 31, 2012. On May 2, 2013, Erickson acquired Evergreen Helicopters, Inc. ("EHI") for a total purchase price of approximately $298 million (the "EHI Acquisition"), including 35 leased aircraft.

10. Erickson's aircraft leases contained provisions requiring Erickson to maintain the leased aircraft in a specified condition during the term of the lease, *i.e.*, a Return to Service Obligation ("RTS Obligation"), and/or to return the aircraft to the lessor in a specified condition at the end of the lease, *i.e.*, a Lease Return Obligation. These obligations could give rise to corresponding liabilities for Erickson. For example, should an aircraft be in a non-airworthy condition at the end of or during its lease, Erickson could be liable for the cost of returning the aircraft to an airworthy condition.[10]

11. Following the EHI Acquisition, Erickson recorded a liability relating to some of its newly acquired leases. This post-acquisition liability was initially $20.4 million and related to nine specific EHI aircraft (the "2013 EHI Liability"). Erickson subsequently amortized the 2013 EHI Liability. As of December 31, 2013, the remaining 2013 EHI Liability, included in Erickson's accrued and other current liabilities, totaled around $9.7 million. By the end of FY2014, Erickson had reduced the 2013 EHI Liability to zero. From the time of the EHI Acquisition through December 31, 2015, Erickson did not record any liabilities for RTS Obligations or Lease Return Obligations other than the 2013 EHI Liability. As of December 31, 2014 and 2015, Erickson had zero recorded liabilities for RTS Obligations and Lease Return Obligations.

12. On November 9, 2016, Erickson filed a Form 8-K reporting, among other things, that it had: (1) filed for bankruptcy under Chapter 11; (2) failed to make its November 2016 interest payments on its 2020 Senior Notes; and (3) concluded that its previously issued consolidated financial statements for the years ended December 31, 2015 and 2014 and for each of the quarterly and year-to-date periods ended in 2014 and 2015 and through June 30, 2016 should no longer be relied upon because of certain errors in the financial statements. Erickson reported that the errors resulted from not accruing an expense when various leased aircraft fell into non-airworthy condition, despite certain of the Company's aircraft lease agreements requiring that it maintain its leased aircraft in an airworthy condition at all times.

[10] Alternatively, Erickson could negotiate with the lessor to buy out the aircraft from its lease, which may have been economically beneficial for Erickson if the purchase price was lower than the repair-related cost.

Erickson reported that it had "discovered an estimated $13.8 million understatement of current liabilities and return-to-service expense as the net cumulative effect of these errors through June 30, 2016."[11] Erickson has now emerged from bankruptcy and is privately owned.

ii. The Engagement Teams

13. Prior to joining the Erickson engagement for the FY2012 Audit, Homsley had no experience auditing companies that operated aircraft or with the applicable GAAP for the aviation industry, *i.e.*, ASC Topic 908, Airlines. The engagement teams' members also lacked aviation industry audit experience outside the Erickson engagement. GT offered no aviation industry training to the engagement teams working on the Audits.

14. The Firm had audit quality concerns about Homsley before retaining him as engagement partner for the FY2015 Audit. Indeed, the Firm placed Homsley on a Partner Support Plan in September 2015, due to issues with Homsley's FY2013 and FY2014 Audits. The Firm and Homsley discussed reducing Homsley's client workload in connection with his transition to a different role at the Firm, but the Firm did not notify Homsley that it had placed him on the Partner Support Plan.

15. The Firm considered removing Homsley from all issuer audits before the FY2015 Audit, but, among other things, determined that doing so "could also negatively impact the workload of the partner the work was transferred to." The Firm decided to retain Homsley as the engagement partner for Erickson's FY2015 Audit, despite being aware of Homsley's audit quality issues. Likewise, the Firm chose to retain Leslie as EQR partner on the FY2015 Audit despite its awareness of audit quality issues relating to the FY2013 Audit and FY2014 Audit, on which Leslie had been the EQR partner.

E. The Firm and Homsley Violated PCAOB Standards in Auditing Erickson's Liabilities Relating to its Lease Agreements

i. Failure To Adequately Assess Risks

16. In connection with the preparation or issuance of any audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with

[11] Form 8-K filed by Erickson on November 9, 2016.

applicable auditing and related professional practice standards.[12] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[13]

17. PCAOB standards require auditors to perform risk assessment procedures that are sufficient to provide a reasonable basis for identifying and assessing the risks of material misstatement, whether due to error or fraud, and designing further audit procedures.[14] Auditors are required to obtain an understanding of the company and its environment to understand the events, conditions, and company activities that might reasonably be expected to have a significant impact on the risk of material misstatement.[15] Under those standards, auditors should obtain an understanding of the nature of the company, the selection and application of accounting principles, business risks, and company performance measures.[16]

18. The Firm and Homsley failed to ensure that the engagement teams obtained an adequate understanding of certain Erickson lease-related liabilities, as was required under AS 12.[17] AS 12 specifically provides that obtaining an understanding of a company includes understanding a company's industry, along with the company's objectives and strategies and those related business risks that might reasonably be expected to result in risks of material misstatement.[18] However, with the exception of the 2013 EHI Liability, the engagement teams failed to obtain an understanding of any of Erickson's individual lease terms that may have given rise to RTS Obligations or Lease Return Obligations.

19. During the FY2014 and FY2015 audits, the Firm and Homsley did not consider management's estimate of any aircraft lease liabilities in connection with RTS Obligations or Lease Return Obligations to be significant. Despite knowing that Erickson's fleet had expanded to include leased aircraft, GT's engagement teams did not identify a risk during the FY2014 and

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12 PCAOB Rule 3100, Compliance with Auditing and Related Professional Practice Standards; PCAOB Rule 3200T, Interim Auditing Standards; PCAOB Rule 3400T, Interim Quality Control Standards.

13 *See* AU § 508.07.

14 *See* AS No. 12, *Identifying and Assessing Risks of Material Misstatement* ("AS 12"), ¶¶ 4, 59.

15 *See id.* ¶ 7.

16 *See id.* ¶¶ 7-17.

17 *See, e.g., id.* ¶ 7.

18 *Id.*

FY2015 audits that Erickson's liabilities for RTS Obligations or Lease Return Obligations could be materially understated,[19] whether caused by error or fraud.

20. The Firm and Homsley failed to evaluate appropriately, whether, and how, Erickson's aircraft leases affected the risks of material misstatement. The Firm and Homsley also failed to obtain a sufficient understanding of Erickson's selection and application of accounting principles about its leased aircraft. The Firm and Homsley failed to evaluate whether Erickson's selection and application of accounting principles was appropriate for its business and consistent with GAAP.

21. The Firm and Homsley never obtained an adequate understanding of how Erickson management accounted for RTS Obligations or Lease Return Obligations after the EHI Acquisition. Despite knowing that Erickson's aircraft leases might contain terms that could cause these types of material liabilities, the Firm and Homsley failed to take sufficient steps, including adequately reviewing the aircraft lease agreements, to understand Erickson's contractual obligations related to potential RTS Obligations and Lease Return Obligations. Further, Homsley did not instruct the engagement teams to document these potential liabilities included in the aircraft leases that they reviewed. Other than for the 2013 EHI Liability, the engagement teams failed to obtain an understanding of any individual lease terms that may have given rise to RTS Obligations or Lease Return Obligations.

ii. Failure To Obtain Sufficient Audit Evidence To Support The Lack Of Liabilities

22. PCAOB standards require, among other things, that an auditor plan and perform the audit with due professional care and to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[20]

23. The Firm and Homsley failed to obtain sufficient appropriate evidence to support Erickson's determinations concerning certain lease-related liabilities. GT's engagement teams did not plan or perform procedures in the FY2014 or FY2015 Audits designed to identify unrecorded liabilities related to RTS Obligations or Lease Return Obligations. During the FY2014 and FY2015 Audits, the Firm and Homsley failed to test whether Erickson's conclusions in this

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[19] The risk of understatement related to the completeness and valuation or allocation assertions for Erickson's reported liabilities and expense accounts. *See* AS No. 15, *Audit Evidence*, ("AS 15") ¶ 11.

[20] *See* AU §§ 230.01-.02, .07, *Due Professional Care in the Performance of Work*; AS 15 ¶ 4.

area were correct, despite knowing that at least nine of Erickson's leased aircraft had previously been subject to RTS Obligations and/or Lease Return Obligations.

24. First, the Firm and Homsley failed to evaluate sufficiently, during the FY2014 or FY2015 audits, when the last major maintenance period was for any leased aircraft or when any of the aircraft leases terminated and the potential relevance of such information for Lease Return Obligations. They failed to evaluate adequately any leases for purposes of considering the timing of any potential Lease Return Obligations despite that the FY2014 and FY2015 work papers documented the scheduled termination of various aircraft leases in March 2015, March 2016, and December 2016. Nor did the work papers adequately demonstrate the interaction between last major maintenance periods or lease terminations and potential liabilities related to Lease Return Obligations. The Firm and Homsley lacked a basis on which to determine whether Erickson's failure to accrue costs to satisfy certain obligations was appropriate or not.

25. Second, the Firm and Homsley knew, or should have known, that Erickson needed to consider accruing a liability when an event occurred that damaged or otherwise caused a leased aircraft to enter into a state of disrepair which grounded the aircraft, rendering it non-airworthy. The Firm and Homsley knew that as of December 31, 2014, Erickson had fifteen non-airworthy aircraft. Despite this knowledge, the Firm and Homsley took no steps to determine whether any of those fifteen non-airworthy aircraft were leased for purposes of evaluating potential RTS Obligations. The Firm and Homsley knew, or should have known, that Erickson also had non-airworthy aircraft in 2015. However, the Firm and Homsley failed to test Erickson's determination that it had no liabilities related to RTS Obligations. Although the relevant aircraft leases revealed the potential for RTS Obligations on the face of the agreements, neither the Firm nor Homsley instructed anyone on the engagement teams to review the leases and perform procedures to identify and assess the impact of potential RTS Obligations included in the aircraft leases. As a result, Homsley and the engagement teams lacked a sufficient basis on which to assess whether Erickson's failure to record certain lease-related liabilities was appropriate.

26. As a result of these deficiencies, the Firm and Homsley failed to obtain sufficient appropriate audit evidence to determine whether all of Erickson's lease-related liabilities were fairly stated, in all material respects, in the FY2014 Audit and FY2015 Audit.[21]

[21] *See* AS 15 ¶ 4; *see also* AU §§ 230.01-.02, .07.

F. The Firm and Homsley Failed to Adequately Evaluate Erickson's Ability to Continue as a Going Concern

27. PCAOB standards required the Firm and Homsley to evaluate, based on their knowledge of relevant conditions and events that existed at or occurred before the date of the Firm's audit report, whether there was substantial doubt about Erickson's ability to continue as a going concern for a reasonable period of time, not to exceed one year, beyond the date of the financial statements being audited.[22] Ordinarily, information that significantly contradicts a going concern assumption relates to the entity's inability to continue to meet its obligations as they become due without substantial disposition of assets outside the ordinary course of business, restructuring of debt, externally forced revisions of its operations, or similar actions.[23] An auditor may identify information about certain conditions or events that, when considered in the aggregate, indicate there could be substantial doubt about the entity's ability to continue as a going concern for a reasonable period of time.[24] Examples of such conditions or events include: negative trends; other indications of possible financial difficulties; internal matters (*e.g.*, labor difficulties, substantial dependence on the success of a particular project, etc.); and certain external matters (*e.g.*, loss of a principal customer or supplier, matters which might jeopardize an entity's ability to operate, etc.).[25]

28. The FY2015 Erickson audit report, issued on March 10, 2016, did not include a going concern explanatory paragraph concerning Erickson's ability to continue operating as a going concern throughout FY2016, *i.e.*, until December 31, 2016.

29. The Firm and Homsley violated PCAOB standards by failing to consider sufficiently conditions and events of which they were aware, or should have been aware, that, when considered in the aggregate, should have caused the engagement team to evaluate further whether there was substantial doubt about Erickson's ability to continue operating as a going concern.[26]

30. The Firm and Homsley failed to consider appropriately numerous red flags that ought to have caused them to evaluate more closely Erickson's ability to continue functioning as a going concern. For example, the Firm and Homsley failed to evaluate adequately Erickson's

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22 AU § 341.02, *The Auditor's Consideration of an Entity's Ability to Continue as a Going Concern*.

23 AU § 341.01.

24 AU § 341.06.

25 AU § 341.06.

26 *See* AU §§ 341.02-.04.

predicted cash flow in FY2016 and ability to meet its FY2016 debt payment obligations. Based on information available to the Firm and Homsley, Erickson lacked sufficient predicted cash flow in FY2016 to meet its debt payment obligations for its long-term debt, including payments required to be made in connection with its credit facility ("Line of Credit"). While Erickson's forecasted FY2016 principal and interest obligations totaled between $44-45 million, its projected FY2016 cash flows, excluding principal and interest payments on its debt ("Net Debt-free Cash Flows"), totaled only around $26 million. Therefore, the required FY2016 principal and interest payments exceeded projected Net Debt-free Cash Flows by around $18-19 million. This shortfall exceeded Erickson's combined cash on hand of $2.1 million and positive working capital of $8.5 million by approximately $8.4 million. While the $22.9 million available under Erickson's Line of Credit exceeded the $8.4 million shortfall, the audit team failed to analyze adequately Erickson's projections given the amount drawn down on the Line of Credit observed in the first month of 2016.

31. The Firm and Homsley failed to consider adequately the terms of Erickson's financial covenants and their impact on Erickson's Line of Credit borrowing capacity. Erickson's borrowing increased by around $10 million in January 2016. As of January 31, 2016, Erickson's borrowing availability was around $13 million without triggering a default, which affected Erickson's ability to make up the shortfall between its debt service obligations and projected cash flows, while using the Line of Credit as a method of funding operations. The Firm and Homsley failed to consider the limiting effect of the financial covenants on Erickson's borrowing capacity and the effective cap on Erickson's ability to borrow.

32. The Firm and Homsley also failed to consider adequately multiple negative trends affecting Erickson. For example, Erickson's revenue decreased 14 percent, from $346.6 million in FY2014 to $297.5 million in FY2015. Erickson also decreased its projected revenue. Management announced in Q1 2015 that their FY2015 revenue forecast was to be between $330 to $350 million, which they decreased to around $300 million in Q3 2015. Another negative trend was that Erickson reported a net loss totaling $86.7 million for FY2015, a 742 percent increase from the reported net loss totaling $10.3 million for FY2014. The FY2015 net loss included impairment losses of around $65 million, which had increased by 200 percent from the reported impairment losses of $21.3 for FY2014.

33. Homsley and the engagement team also failed to consider adequately other indications of possible financial difficulties. For example, in FY2015 Erickson was considered to have an accounting and governance risk that was rated "Very Aggressive," in a research analysis report, from an outside data research firm that provided GT with analyst services. GT provided this report to the engagement team during the FY 2015 Audit. The report also placed Erickson

in the first percentile, indicating the Company had a higher likelihood of experiencing financial distress than 99 percent of other companies reviewed.

34. The Firm and Homsley also failed to adequately consider whether the following factors in the aggregate indicated that there could be substantial doubt about Erickson's ability to continue as a going concern: (i) Erickson classified around 20 percent of its operating fleet (15 aircraft) as held for sale as of December 31, 2015; (ii) Erickson reduced employee headcount from December 31, 2013 to December 31, 2015 by around 400, or 33 percent; and (iii) Erickson received a determination from the U.S. Small Business Administration ("SBA") on November 25, 2015 that concluded Erickson was no longer considered to have a "small business size" status. The SBA's decision precluded Erickson from bidding on certain contracts as the prime contractor, resulting in lower margins and increased uncertainty over revenue for the affected contracts for Erickson. Ultimately, Erickson was not able to continue operating as a going concern until December 31, 2016; it filed for bankruptcy protection in November 2016.

35. As a result of these deficiencies, the Firm and Homsley failed to exercise due professional care and failed to obtain sufficient appropriate evidence concerning Erickson's ability to continue as a going concern.[27]

G. Homsley Failed to Supervise Appropriately the Engagement Teams

36. PCAOB standards hold the engagement partner responsible for the engagement and its performance.[28] Homsley was therefore responsible for the assignment of tasks to, and supervision of, members of the engagement teams.[29]

37. Homsley failed to determine appropriately the extent of supervision necessary for his engagement teams' members to perform their work and form appropriate conclusions related to Erickson's aircraft lease liabilities.[30] Homsley failed to evaluate appropriately his teams' knowledge, skill, and ability.[31] For example, Homsley failed to take adequately into

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27 AU §§ 230.01-.02, .07; AU §§ 341.01-.02, .05-.07; AS 15 ¶ 4.

28 *See* AS No. 10, *Supervision of the Audit Engagement* ("AS 10"), ¶ 3; AU § 230.06.

29 *See* AU § 230.06; *see also* AS 10 ¶¶ 3-4.

30 *See* AS 10 ¶ 6.

31 *See id.*

account his teams' lack of experience with aviation companies like Erickson, and, in particular, his teams' lack of auditing experience relating to aircraft leases.

38. PCAOB standards also required Homsley, in the absence of other engagement team members performing supervisory activities, to review the work of his engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[32] Homsley failed to perform these responsibilities appropriately, including with regard to the engagement teams' work concerning certain Erickson lease-related liabilities and, in FY2015, the evaluation of Erickson's ability to continue operating as a going concern.

39. Homsley failed to supervise appropriately the engagement teams' review of Erickson's leases, including certain Erickson lease-related liabilities. Homsley failed to instruct the engagement teams to review Erickson's aircraft leases to examine potential RTS Obligations or Lease Return Obligations that might lead to liabilities, despite knowledge of similar obligations in Erickson's aircraft lease agreements that GT had reviewed in connection with the 2013 EHI Liability. Homsley also failed to direct the engagement teams to analyze the terms of the leases to identify when Erickson would incur such lease-related liabilities. Homsley further failed to instruct the FY2015 engagement team to perform sufficient work to support its conclusion as to Erickson's ability to continue functioning as a going concern. Homsley neglected to supervise the engagement team's work to ensure it had performed sufficient work to support its conclusion as to Erickson's ability to keep functioning as a going concern.

40. The audit deficiencies discussed above stemmed from, among other things, Homsley's failure to supervise properly the work of his engagement teams' members.

H. Leslie Violated PCAOB Rules and Standards in Connection with his Engagement Quality Reviews for the FY2014 and FY2015 Audits

41. The EQR partner is responsible for evaluating the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[33] The EQR partner's responsibilities include evaluating the engagement team's significant judgments that relate to engagement planning, including with respect to financial reporting risks.[34] In connection with an audit, the

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[32] *See* AS 10 ¶ 5.

[33] *See* AS 7 ¶ 9.

[34] *See* AS 7 ¶ 10.a.

EQR partner should evaluate whether the documentation that he or she reviewed supports the conclusions reached by the engagement team with respect to the matters reviewed.[35] The EQR partner must perform his or her responsibilities with due professional care and skepticism.[36]

42. Leslie violated PCAOB rules and standards by failing to evaluate appropriately the engagement teams' significant judgments relating to engagement planning with respect to financial reporting risks and the Company's ability to continue as a going concern.[37] Leslie also failed to exercise due professional care in performing his engagement quality reviews and thus, failed to have an appropriate basis to provide his concurring approval of issuance.[38]

43. Leslie failed to evaluate sufficiently the engagement teams' significant judgments relating to engagement planning in the FY2014 Audit and FY2015 Audit. Specifically, he failed to evaluate adequately the engagement teams' judgments not to plan in either the FY2014 Audit or FY2015 Audit to test whether Erickson may have understated certain of its liabilities arising from aircraft leases as described above. Leslie's omission occurred despite his knowledge that Erickson had previously recorded the lease-related liability of $20.4 million following the EHI Acquisition.

44. During the FY2015 Audit, Leslie inquired whether Erickson might be understating its liabilities relating to its RTS Obligations. As a result, he raised questions with an audit manager about whether the team had tested Erickson's estimate of such lease-related liabilities by reviewing flight logs. Leslie requested that the audit manager look at the flight logs and obtain any additional support for Erickson's estimate of its lease-related liabilities which, at the time of the FY2015 Audit, was zero. Despite raising these concerns and questions, Leslie failed to evaluate adequately whether the engagement team's documentation was sufficient to assuage his concerns relating to the risk that Erickson may be understating its liabilities. Therefore, Leslie did not evaluate sufficiently the engagement team's response to the concern he raised, or whether the engagement documentation he reviewed when performing his required procedures supported the conclusions reached by the engagement team concerning the risk that Erickson's lease-related liabilities were understated as of December 31, 2015.[39]

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35 *See* AS 7 ¶ 11.

36 *See* AS 7 ¶ 12; AU §§ 230.07-.09.

37 *See* Rule 3100; AS 7 ¶¶ 9, 10.a.; *see also* AS 7 ¶ 11.

38 *See* AS 7 ¶ 12.

39 *See* AS 7 ¶¶ 9-10.a., 11.

45. Leslie also failed to evaluate appropriately the significant judgments made by the engagement team concerning Erickson's ability to continue as a going concern.[40] Leslie considered the engagement team's conclusion that a going concern explanatory paragraph was not required in the FY2015 Audit report to be a significant judgment made by the engagement team. However, Leslie failed to evaluate appropriately the engagement team's consideration of Erickson's ability to continue as a going concern. Leslie did not adequately evaluate whether the engagement documentation supported the significant judgment made by the engagement team with respect to going concern. Leslie was aware from review of the engagement team's going concern documentation and his conversations with Homsley of conditions and events that may have contradicted the engagement's team conclusion. Leslie also failed to give sufficient weight to contradictory evidence in work papers that he reviewed.[41] In addition, Leslie failed to ensure his going concern considerations were sufficiently documented in the audit work papers.[42]

46. As a result of the deficiencies mentioned above, Leslie violated AS 7 and provided his concurring approval of issuance of the FY2014 Audit and FY2015 Audit reports without performing his EQRs with due professional care.[43]

I. The Firm and Homsley Violated PCAOB Rules and Auditing Standards Regarding the Dating of Audit Work Papers

47. AS No. 3, *Audit Documentation*, ("AS 3") requires that audit documentation contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to determine the person who reviewed the work and the date of the review.[44] AS 3 also requires that any documentation added after the documentation completion date must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.[45] Homsley understood this requirement when he signed off on the Remediation Work Papers for the Audits.

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40 *See* AS 7 ¶¶ 9-.10.a.

41 *See* AS 7 ¶¶ 9, 11.

42 *See* AS 7 ¶ 19.

43 *See* AS 7 ¶ 12; AU § 230.01.

44 AS 3 ¶ 6.

45 AS 3 ¶ 16.

48. The Firm and Homsley completed the Remediation Work Papers because each of the Audits was found to have deficiencies. The Firm's internal inspection function determined that the FY2013 Audit and FY2015 Audit required remediation. The PCAOB's inspectors examined the FY2014 Audit and issued four comment forms on that audit. As a result, Homsley and the engagement team also performed remediation work relating to the FY2014 Audit.

49. Homsley bore ultimate responsibility for ensuring that audit remediation work papers were complete and accurate and were added to the hard copy work papers file. Homsley understood the importance that the Board and the Firm placed on timely remediation and understood that failing to complete the remediation timely could negatively impact his performance evaluation and compensation.

50. Homsley and the engagement teams failed to ensure that the Remediation Work Papers relating to the FY2013, FY2014, and FY2015 Audits bore correct dates. The FY2013 Audit remediation cover memorandum was dated September 16, 2014. While the engagement team drafted a version of the cover memorandum by that date, the engagement team did not complete the FY2013 Audit remediation by that date. The engagement team continued to work on the FY2013 remediation through at least November 9, 2014. Indeed, the FY2013 Audit remediation work papers had not been finalized or added to the FY2013 external file, and the remediation of the FY2013 Audit remained open, on the date that GT issued its FY2014 Erickson audit report.

51. Homsley and the engagement team also failed to ensure that the Remediation Work Papers for the FY2014 Audit bore correct dates. The FY2014 Audit remediation cover memorandum was dated September 18, 2015. While the engagement team drafted a version of the cover memorandum by that date, the engagement team had not completed all of the documented procedures as of September 18, 2015. Further, the FY2014 Audit remediation work papers reflect communications between Homsley and Erickson's management and audit committee chair that did not occur until after the date reflected in the FY2014 Audit remediation work papers.

52. In addition, the FY2015 Audit remediation work was also not completed by the date reflected on that remediation cover memo.

53. As a result of the foregoing, the Firm and Homsley violated PCAOB rules and audit documentation standards.

J. The Firm Failed to Comply with PCAOB Quality Control Standards Relating to Certain Audit Remediation Documentation

54. PCAOB rules and standards require that registered firms establish and maintain an adequate system of quality control.[46] PCAOB quality control standards require firms to design, implement, and monitor policies and procedures to "provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality."[47]

55. "A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and procedures established to provide the firm with reasonable assurance of complying with professional standards."[48] "The nature, extent, and formality of a firm's quality control policies and procedures should be appropriately comprehensive and suitably designed in relation to the firm's size, the number of its offices, the degree of authority allowed its personnel and its offices, the knowledge and experience of its personnel, the nature and complexity of the firm's practice, and appropriate cost-benefit considerations."[49]

56. A firm should also establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures are suitably designed and are being effectively applied.[50] In addition, PCAOB quality control standards require that a firm "should communicate its quality control policies and procedures to its personnel in a manner that provides reasonable assurance that those policies and procedures are understood and complied with."[51]

57. The Firm's quality control system failed to meet the requisite standards with respect to the dating of hard copy remediation work papers. During the period of the violations described above, the Firm failed adequately to design, implement, maintain and monitor an

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46 *See* Rule 3400T, *Interim Quality Control Standards*; QC § 20.

47 QC § 20.03; *see also* QC §§ 20.01-.02.

48 QC § 20.04.

49 *Id.*

50 *See* QC § 20.20; Quality Control Standard 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

51 *See* QC § 20.23.

adequate QC system to ensure that personnel dated all hard copy work papers in compliance with professional standards.

58. Specifically, the Firm's quality control system failed to ensure that Firm personnel, including Homsley, accurately dated the Remediation Work Papers. Likewise, the Firm's QC system enabled Homsley and the engagement teams to access and finalize the Remediation Work papers without any significant controls to ensure certain professional standards related to the dating of remediation work papers were followed. Specifically, the Firm failed to monitor appropriately the access to, and dating of, hard copy Remediation Work Papers. As a result, the Firm failed to ensure that the Remediation Work Papers bore correct dates in each of the Audits.[52]

IV.

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

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Homsley is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[53]

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[52] The Firm has represented to the Board that, since the events described in this Order, it has issued revised internal quality control policies requiring engagement teams to document remediation procedures in the electronic work paper file, which requires electronic signoffs and allows the Firm's electronic audit program to automatically track the date remediation work papers are archived. Under the revised policies, engagement teams are also required to use a standard remediation cover memorandum, which instructs engagement teams to date the memorandum with the date it is added to the audit work papers (which, unless impracticable, should be the same date the remediation file is archived) as opposed to any other date. The revised policies also require a member of the Firm's National Office to determine whether the remediation work papers were appropriately archived.

[53] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Gary Homsley, CPA. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

B. Pursuant to PCAOB Rule 5302(b), Homsley may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order;

C. If Homsley is permitted to associate once again with a registered public accounting firm, pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of three years from the date of this Order, Homsley's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Homsley shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201, Supervision of the Audit Engagement; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, Engagement Quality Review; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, Part of the Audit Performed by Other Independent Auditors;

D. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two years from the date of this Order, Leslie's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Leslie shall not (1) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, Engagement Quality Review, or (2) serve, or supervise the work of another person serving, in any role that is equivalent to, but differently denominated from, engagement quality reviewer (such as "concurring partner"); and

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

1. Grant Thornton LLP, $750,000; and

2. Gary Homsley, $15,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay these civil money penalties within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. **Respondent Gary Homsley understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.**

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 5, 2020

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of Mimi Liu, CPA,

Respondent.

PCAOB Release No. 105-2020-021

December 3, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is suspending Mimi Liu, CPA ("Liu" or the "Respondent") from being an associated person of a registered public accounting firm for a period of one year from the date of this Order.

The Board is imposing this sanction on Liu on the basis of its findings that Liu violated PCAOB rules and standards in connection with the audits of the financial statements of Issuer A for the year ended December 31, 2016 and Issuer B for the year ended March 31, 2016 (collectively, the "Audits").

I.

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

II.

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

these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds[2] that:

A. Respondent

1. **Mimi Liu** is a certified public accountant licensed by the Nevada State Board of Accountancy (License No. CPA-5430). At all relevant times, Liu was a partner of AMC Auditing, LLC ("AMC" or the "Firm") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entity

2. **AMC Auditing, LLC** is a limited liability company organized under the laws of the State of Nevada and headquartered in Las Vegas, Nevada. AMC is licensed in the state of Nevada (Business ID NV20161240269). AMC is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

C. Issuers

3. Issuer A was, at all relevant times, a Marshall Islands corporation headquartered in Marjuro, Marshall Islands. Its public filings disclose that Issuer A was a development stage company focused on delivering targeted therapies, including chemotherapy drugs. Its common stock was registered, at all relevant times, under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act"). It was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

4. Issuer B was, at all relevant times, a Nevada corporation headquartered in Scottsdale, Arizona. Its public filings disclose that the company sold bottled water. Its common stock was registered, at all relevant times, under Section 12(g) of the Exchange Act. It was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

D. Summary

5. This matter concerns Liu's violations of PCAOB rules and standards in connection with the Audits. Liu served as the engagement quality review ("EQR") partner for the 2016 audit of Issuer A and as the engagement partner for the 2016 audit of Issuer B.[3]

6. Liu gave her concurring approval in connection with the issuance of AMC's 2016 audit report for Issuer A, which expressed an unqualified audit opinion on Issuer A's financial statements. The audit report stated that AMC's audit was conducted in accordance with PCAOB standards and that the company's financial statements were fairly presented in all material respects in conformity with U.S. Generally Accepted Accounting Principles ("GAAP"). As detailed below, while serving as EQR partner for the Firm's 2016 audit of Issuer A, Liu failed to: (a) properly evaluate significant judgments made by the engagement team; and (b) properly evaluate whether the audit documentation supported the engagement team's conclusions reached. As a consequence, Liu failed to perform her review of the Firm's 2016 audit of Issuer A with due professional care.

7. Liu authorized the issuance of AMC's 2016 audit report for Issuer B, which expressed an unqualified opinion on Issuer B's financial statements. The audit report stated that the audit was conducted in accordance with PCAOB standards, and that the company's financial statements were fairly presented in all material respects in conformity with GAAP. As detailed below, Liu failed to obtain sufficient appropriate audit evidence and failed to perform sufficient audit procedures to support the opinion expressed in the audit report, in violation of PCAOB rules and auditing standards.

[3] *See AMC Auditing, LLC and Alexandria Yi, CPA*, PCAOB Release No. 105-2020-020 (Dec. 3, 2020).

E. Respondent Violated PCAOB Rules and Standards in Connection with the 2016 Audit of Issuer A.

8. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[4] AS 1220, *Engagement Quality Review*, requires that an EQR be performed on all audit engagements conducted pursuant to PCAOB standards.[5] AS 1220 also provides that a firm may grant permission to an audit client to use the firm's audit report only after an EQR partner provides concurring approval of issuance of the report.[6] In conducting the engagement quality review, the EQR partner should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement.[7] The EQR partner should also evaluate whether the engagement documentation supports the conclusions reached by the engagement team with respect to the matters reviewed by the EQR partner.[8]

9. Prior to 2016, Issuer A had a history of recurring losses. In 2016, Issuer A reported an intangible asset, subject to amortization, related to a patent license agreement. The intangible asset represented approximately 37 percent of total assets. The company claimed to be using the patent license agreement in connection with developing a program to deliver chemotherapy drugs.

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[4] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for fiscal years ending before December 31, 2016); and PCAOB Rule 3200, *Auditing Standards* (applicable to audits for fiscal years ending on or after December 31, 2016). As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondent's conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

[5] *See* AS 1220.01.

[6] *Id.* at .13.

[7] *Id.* at .09.

[8] *Id.* at .11.

10. The engagement team did not perform an appropriate risk assessment relating to the intangible asset, and it did not perform sufficient procedures to identify and assess the risks of material misstatement related to the intangible asset.[9] The engagement team's risk assessment procedures were documented in work papers that Liu reviewed.

11. The engagement team also did not identify and assess risks related to the effect of certain conditions on the recoverability of the intangible asset or its valuation.[10] These conditions included the issuer's lack of revenue, recurring losses, negative cash flows from operating activities, and its accumulated deficit. In addition to reviewing the risk assessment work papers, Liu also reviewed the issuer's financial statements and the Firm's draft audit report, which identified these conditions.

12. The intangible assets section of AMC's work papers for this audit, which Liu reviewed, consisted of: (1) an amortization and depreciation worksheet; and (2) an impairment questionnaire filled out by company management. The engagement team did not perform audit procedures beyond recalculating the amortization and depreciation calculations on the worksheet and reviewing the issuer's impairment questionnaire responses. The impairment questionnaire contained questions asking management to identify events or changes in circumstances that indicated the potential need to test a long-lived asset for recoverability. For each item, management represented that the events or changes in circumstances were not applicable, even though certain items appeared to be applicable based on the facts known to the engagement team and Liu at the time of the audit. For example, one of the factors on the impairment questionnaire asked whether there was a "current-period operating or cash flow loss combined with a history of operating or cash flow losses or a projection or forecast that demonstrates continuing losses associated with the use of a long-lived asset (asset group)," and management responded "No." The engagement team and Liu, however, reviewed the issuer's financial statements, which revealed that the company had a current-year operating cash flow loss and operating cash flow losses for the last several years.

13. As stated above, Liu also reviewed AMC's draft audit report, which included an explanatory paragraph indicating that there was substantial doubt about the issuer's ability to continue as a going concern due to the following conditions: lack of revenue, recurring losses, negative cash flows from operating activities, and accumulated deficit. Despite knowing about this information, which contradicted management's representations in the completed questionnaire and raised serious questions about whether the intangible asset was properly

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[9] *See* AS 2110.04, *Identifying and Assessing Risks of Material Misstatement*.

[10] *See id.* at .07.

valued, Liu, serving as the EQR partner, provided concurring approval for the issuance of AMC's audit report, and the engagement partner authorized the issuance of that report.

14. Liu reviewed the engagement team's intangible asset work papers, and thus knew that the engagement team had determined not to perform procedures outside of recalculating the amortization and depreciation calculations and management inquiry. Liu also knew that certain management responses in the impairment questionnaire were contradicted by information in the issuer's financial statements and the Firm's own audit report. Finally, the work papers she reviewed did not evidence any consideration by the engagement team of contradictory audit evidence known to the team and Liu. As a result, Liu failed to conduct her review with due professional care and failed to properly evaluate the significant judgments made, and the related conclusions reached, by the engagement team.[11] Liu also failed to properly evaluate whether the audit documentation supported the engagement team's conclusions with respect to the intangible asset, in violation of PCAOB rules and auditing standards.[12]

F. Respondent Violated PCAOB Rules and Standards in Connection with the 2016 Audit of Issuer B.

15. An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[13] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[14]

16. Issuer B's 2016 financial statements were originally audited by a different firm. Following the Board's issuance of an order revoking the predecessor auditor's registration with the PCAOB, and suspending an engagement partner at the predecessor auditor, Issuer B was

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[11] *See* AS 1220.09; AS 1015.07, *Due Professional Care in the Performance of Work*.

[12] *See* AS 1220.11.

[13] *See* AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending before December 15, 2017).

[14] *See* AS 1015.01 and .07; AS 1105.04, *Audit Evidence*.

required to have its 2016 financial statements reaudited.[15] AMC performed the reaudit and Liu served as the engagement partner.

17. In 2016, Issuer B reported inventory that represented approximately 12 percent of total assets. The predecessor auditor's work papers, which were included in the AMC reaudit work papers, indicated that inventory was held at five locations. Liu did not perform sufficient appropriate procedures to test the existence of inventory, such as making or observing physical counts of the inventory and applying appropriate tests of intervening transactions, but instead relied on the predecessor auditor's performance, at the time of the original 2016 audit, of a year-end physical inventory observation and inventory test counts at two locations.[16] In 2016, inventory at those two locations represented approximately 42 percent of the issuer's inventory at year-end. In addition, Liu failed to perform any procedures to test the existence of inventory held at other locations and in transit, which represented approximately 58 percent of the issuer's inventory at year-end.[17] Despite this, Liu authorized the issuance of AMC's audit report containing an unqualified opinion.

18. In sum, because inventory observation procedures were not performed for most of the reported inventory, nor was sufficient evidence obtained or conclusions reached to evaluate Issuer B's representations about quantities and physical condition of inventory, Liu failed to obtain sufficient evidence for reported inventory during Issuer B's 2016 audit.[18]

IV.

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

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Mimi Liu, CPA is suspended for a period of one year from the date of this Order from

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15 *See Seale and Beers CPAs, LLC, and Charlie B. Roy, CPA*, PCAOB Release No. 105-2017-038 (Sept. 14, 2017).

16 *See* AS 2510.12, *Auditing Inventories*.

17 *See id.*; AS 1105.04 and .22.

18 *See id*.

being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[19]

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 3, 2020

[19] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Liu. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of AMC Auditing, LLC and Alexandria Yi, CPA,

Respondents.

PCAOB Release No. 105-2020-020

December 3, 2020

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon AMC Auditing, LLC ("AMC" or the "Firm") and Alexandria Yi, CPA ("Yi") (collectively, "Respondents"). The Board is:

(1) revoking the registration of AMC, a registered public accounting firm;[1] and

(2) barring Yi from being associated with a registered public accounting firm.[2]

The Board is imposing these sanctions on the basis of its findings that: (a) Respondents violated PCAOB rules and standards in connection with the Firm's audits of the financial statements of Issuer A for the year ended December 31, 2016, and Issuer B for the years ended March 31, 2016 and March 31, 2017 (collectively, the "Audits"); and (b) the Firm violated PCAOB rules and quality control standards in connection with the Audits.

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[1] The Firm may reapply for registration after one year from the date of this Order.

[2] Yi may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order. If the Board later consents to Yi associating with a registered firm, the Board further restricts, for one year from the date of the granting of such consent, the roles that Yi may perform on "audits," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act").

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. **AMC Auditing, LLC** is a limited liability company organized under the laws of the State of Nevada and headquartered in Las Vegas, Nevada. The Firm is licensed in the state of Nevada (Business ID NV20161240269). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Alexandria Yi** is a certified public accountant licensed by the Nevada State Board of Accountancy (License No. CPA-5330). At all relevant times, Yi was a partner of AMC and an

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

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuers

3. Issuer A was, at all relevant times, a Marshall Islands corporation headquartered in Marjuro, Marshall Islands. Its public filings disclose that Issuer A was a development stage company focused on delivering targeted therapies, including chemotherapy drugs. Its common stock was registered, at all relevant times, under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act"). It was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. Issuer B was, at all relevant times, a Nevada corporation headquartered in Scottsdale, Arizona. Its public filings disclose that the company sold bottled water. Its common stock was registered, at all relevant times, under Section 12(g) of the Exchange Act. It was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Audits. Yi served as the engagement partner for the 2016 audit of Issuer A, and as the engagement quality review ("EQR") partner for the 2016 and 2017 audits of Issuer B.[5]

6. In the 2016 audit report for Issuer A, the Firm expressed an unqualified opinion on Issuer A's financial statements. The audit report stated that the Firm's audit was conducted in accordance with PCAOB standards, and that the company's financial statements were fairly presented in all material respects in conformity with U.S. Generally Accepted Accounting Principles ("GAAP"). As detailed below, Respondents failed to obtain sufficient appropriate audit evidence and failed to perform sufficient audit procedures to support the opinion expressed in the audit report, in violation of PCAOB rules and auditing standards.

7. In the 2016 and 2017 audit reports for Issuer B, the Firm expressed unqualified opinions on Issuer B's financial statements. The audit reports stated that the Firm's audits were conducted in accordance with PCAOB standards, and that the company's financial statements were fairly presented in all material respects in conformity with GAAP. As detailed below, the

[5] *See Mimi Liu, CPA*, PCAOB Release No. 105-2020-021 (Dec. 3, 2020).

Firm failed to obtain sufficient appropriate audit evidence and failed to perform sufficient audit procedures to support the opinions expressed in the audit reports, in violation of PCAOB rules and auditing standards.

8. While serving as the EQR partner for the Firm's 2016 and 2017 audits of Issuer B, Yi provided her concurring approval for the issuance of the Firm's audit reports despite Yi failing to: (a) properly evaluate the significant judgments made, and the related conclusions reached, by the engagement teams; and (b) properly evaluate whether the audit documentation supported the engagement teams' conclusions. As a consequence, Yi failed to perform her review of the Firm's 2016 and 2017 audits of Issuer B with due professional care.

9. Finally, this matter concerns the Firm's violations of PCAOB rules and quality control standards. In connection with the Audits, the Firm failed to maintain a system of quality control sufficient to provide the Firm with reasonable assurance that engagement teams performed issuer audits in accordance with applicable professional standards and regulatory requirements.

D. Respondents Violated PCAOB Rules and Standards in Connection with the Audits.

10. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[7] Among

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[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for fiscal years ending before December 31, 2016); and PCAOB Rule 3200, *Auditing Standards* (applicable to audits for fiscal years ending on or after December 31, 2016). As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondents' conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

[7] *See* AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending before December 15, 2017).

other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate evidence to provide a reasonable basis for the auditor's opinion.[8]

11. Further, while management representations are part of the evidential matter the auditor obtains, they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit.[9] If management representations are contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representations made and, based on the circumstances, consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified.[10]

i. Respondents' 2016 Audit of Issuer A

12. Prior to 2016, Issuer A had a history of recurring losses. In 2016, Issuer A reported an intangible asset, subject to amortization, related to a patent license agreement. The intangible asset represented approximately 37 percent of total assets. The company claimed to be using the patent license agreement in connection with developing a program to deliver chemotherapy drugs.

13. Respondents failed to perform an appropriate risk assessment relating to the intangible asset, and failed to perform sufficient procedures to identify and assess the risks of material misstatement related to the intangible asset.[11] Respondents also failed to identify and document intangible assets as a significant account.

14. Respondents failed to identify and assess risks related to the effect of certain conditions on the recoverability of the intangible asset or its valuation.[12] These conditions,

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8 *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*.

9 *See* AS 2805.02, *Management Representations*.

10 *Id.* at .04.

11 *See* AS 2110.04, *Identifying and Assessing Risks of Material Misstatement*.

12 *See id.* at .07.

which were known to Respondents, included the issuer's lack of revenue, recurring losses, negative cash flows from operating activities, and its accumulated deficit.

15. The intangible assets section of AMC's work papers for this audit consisted of: (1) an amortization and depreciation worksheet; and (2) an impairment questionnaire filled out by company management. Respondents failed to perform audit procedures beyond recalculating the amortization and depreciation calculations on the worksheet and reviewing the issuer's impairment questionnaire responses. As explained below, the procedures performed failed to provide sufficient appropriate audit evidence about whether the asset was properly valued. [13]

16. Respondents also failed to take into account all relevant audit evidence, regardless of whether it appeared to corroborate or to contradict the assertions in the financial statements.[14] Management's representations in the impairment questionnaire were contradicted by other audit evidence. The impairment questionnaire contained questions asking management to identify events or changes in circumstances that indicated the potential need to test a long-lived asset for recoverability. For each item, management represented that the events or changes in circumstances were not applicable, even though certain items appeared to be applicable based on the facts known to Respondents at the time of the audit. For example, one of the factors on the impairment questionnaire asked whether there was a "current-period operating or cash flow loss combined with a history of operating or cash flow losses or a projection or forecast that demonstrates continuing losses associated with the use of a long-lived asset (asset group)," and management responded "No." Respondents knew, and the issuer's financial statements revealed, however, that the company had a current-year operating cash flow loss and operating cash flow losses for every year since 2013.[15] Respondents, however, failed to exercise professional skepticism by not investigating the circumstances and considering the reliability of the management representations made.[16]

17. In addition, the Firm's audit report included an explanatory paragraph indicating that there was substantial doubt about the issuer's ability to continue as a going concern due to the following conditions: lack of revenue, recurring losses, negative cash flows from operating activities, and accumulated deficit. Despite knowing about this information, which contradicted management's representations in the completed questionnaire and raised serious questions

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[13] *See* AS 1015.07; AS 1105.04.

[14] *See* AS 2810.03, *Evaluating Audit Results.*

[15] *See* AS 1105.29; AS 2805.02 and .04; AS 2810.03.

[16] *See* AS 1015.07.

about whether the intangible asset was properly valued, Yi authorized the issuance of the Firm's audit report without investigating the circumstances and considering the reliability of management's representations.[17]

18. Respondents failed to evaluate the intangible asset with due professional care and professional skepticism, and failed to resolve inconsistencies in the audit evidence suggesting that management's representations in the impairment questionnaire were inaccurate.[18] Instead, Respondents accepted management's representations and ignored the inconsistent audit evidence.[19] Respondents thus failed to obtain sufficient appropriate audit evidence and failed to perform sufficient procedures to assess the impairment and valuation of the intangible asset, in violation of PCAOB rules and auditing standards.

ii. AMC's 2016 and 2017 Audits of Issuer B

19. Issuer B's 2016 financial statements were originally audited by a different firm. Following the Board's issuance of an order revoking the predecessor auditor's registration with the PCAOB, and suspending an engagement partner at the predecessor auditor, Issuer B was required to have its 2016 financial statements reaudited. AMC performed the reaudit.[20]

20. In 2016, Issuer B reported inventory that represented approximately 12 percent of total assets. The predecessor auditor's work papers, which were included in the AMC reaudit work papers, indicated that inventory was held at five locations. The Firm did not perform sufficient appropriate procedures to test the existence of inventory, such as making or observing physical counts of the inventory and applying appropriate tests of intervening transactions, but instead relied on the predecessor auditor's performance, at the time of the original 2016 audit, of a year-end physical inventory observation and inventory test counts at two locations.[21] In 2016, inventory at those two locations represented approximately 42 percent of the issuer's inventory at year-end. In addition, the Firm failed to perform any

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17 *See id.*; AS 1105.29; AS 2805.02 and .04; AS 2810.03.

18 *See id.*

19 *See* AS 1105.29.

20 *See Seale and Beers CPAs, LLC, and Charlie B. Roy, CPA*, PCAOB Release No. 105-2017-038 (Sept. 14, 2017).

21 *See* AS 2510.12, *Auditing Inventories*.

procedures to test the existence of inventory held at other locations and in transit, which represented approximately 58 percent of the issuer's inventory at year-end.[22]

21. In 2017, Issuer B reported inventory that represented approximately 19 percent of total assets. At year-end, the issuer had inventory in six locations and inventory in-transit. The Firm performed an inventory observation at the same two locations selected the prior year, where approximately 25 percent of inventory was held in 2017. The Firm, however, failed to perform any procedures related to the existence of approximately 75 percent of inventory.

22. In sum, because inventory observation procedures were not performed for most of the reported inventory, nor was sufficient evidence obtained or conclusions reached to evaluate Issuer B's representations about quantities and physical condition of inventory, the Firm failed to obtain sufficient evidence for the reported inventory during Issuer B's 2016 audit and most of the reported inventory for the 2017 audit.[23]

iii. Yi's EQR of the 2016 and 2017 Audits of Issuer B

23. AS 1220 requires that an EQR be performed on all audit engagements conducted pursuant to PCAOB standards.[24] AS 1220 also provides that a firm may grant permission to an audit client to use the firm's audit report only after an EQR partner provides concurring approval of issuance of the report.[25] Further, the EQR partner should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement.[26] The EQR partner should also evaluate whether the engagement documentation supports the conclusions reached by the engagement team with respect to the matters reviewed by the EQR partner.[27]

24. Yi reviewed the engagement documentation that indicated the procedures performed for inventory testing in the 2016 and 2017 audits of Issuer B, and gave her concurring approval for the issuances of the 2016 and 2017 audit reports. During her EQR, Yi reviewed the issuer's financial statements, which reflected that inventory represented

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22 *See id.*; AS 1105.04 and .22.

23 *See* AS 1105.04 and .22.

24 *See* AS 1220.01, *Engagement Quality Review*.

25 *Id.* at .13.

26 *Id.* at .09.

27 *Id.* at .11.

approximately 12 percent of total assets in 2016 and 19 percent in 2017. Yi also reviewed the engagement teams' inventory work papers, and thus knew that the engagement team had determined in each audit to rely on the testing of the same two locations. In giving her concurring approval, Yi failed to properly evaluate this significant judgment made, and the related conclusions reached, by the engagement teams for these audits, and failed to properly evaluate whether the audit documentation supported the engagement teams' conclusions with respect to the existence of reported inventory during Issuer B's 2016 audit and most of the reported inventory for the 2017 audit, in violation of PCAOB rules and auditing standards.[28]

E. The Firm Violated PCAOB Quality Control Standards.

25. PCAOB rules and standards require that a registered firm establish and maintain a system of quality control for its accounting and auditing practice.[29] A firm should establish policies and procedures to provide it with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[30]

26. In connection with the Audits, AMC failed to establish and maintain policies and procedures that provided reasonable assurance Firm personnel complied with applicable professional standards and regulatory requirements, including exercising due professional care and obtaining sufficient appropriate evidence.[31] Instead, on multiple issuer audits, conducted by multiple engagement personnel over the course of multiple years, AMC and its professionals failed to comply with applicable professional standards and regulatory requirements. As a result, AMC violated PCAOB rules and quality control standards.

IV.

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

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28 *See* AS 1015.07; AS 1220.09-.11.

29 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*; QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

30 QC § 20.17.

31 *See id.*

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

B. After one year from the date of this Order, AMC Auditing, LLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Alexandria Yi, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[32]

D. Pursuant to PCAOB Rule 5302(b), Alexandria Yi, CPA may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order; and

E. If Alexandria Yi, CPA is permitted to associate once again with a registered public accounting firm, pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date the bar is terminated, her role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Alexandria Yi, CPA shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) assist the engagement partner under

[32] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Yi. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

AS 1201.04, *Supervision of the Audit Engagement*, in fulfilling his or her responsibilities under that auditing standard; (6) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*; or (7) serve, or supervise the work of another individual serving, as a professional practice director.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 3, 2020

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS AND IMPOSING SANCTIONS

In the Matter of Tan Joon Wei,

Respondent.

PCAOB Release No. 105-2021-001

March 29, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is barring Tan Joon Wei ("Tan" or "Respondent") from being an associated person of a registered public accounting firm.[1] The Board is imposing this sanction on the basis of its findings that Tan failed to cooperate with a Board inspection and violated PCAOB audit documentation standards in connection with the audit of an issuer.

I.

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

II.

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

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

Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Tan Joon Wei**, age 32, is a member of the Institute of Singapore Chartered Accountants (member no. 830651). Until January 2020, and at all relevant times, Tan was a manager at KPMG LLP, a firm based in Singapore ("KPMG Singapore" or "Firm"). Tan participated as a member of the engagement team in the audit of Issuer A's 2018 financial statements. At all relevant times, Tan was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer A

2. Issuer A is based in Germany with American Depository Shares listed on the New York Stock Exchange. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

3. This matter concerns Tan's failure to cooperate with a Board inspection and violation of PCAOB audit documentation requirements. Tan was a manager on the Firm engagement team that performed an audit of the 2018 financial statements of a subsidiary of Issuer A ("Subsidiary"). The audit of those financial statements ("Subsidiary Audit") was performed as part of the 2018 audit of Issuer A conducted—and in support of an audit opinion issued—by KPMG AG Wirtschaftsprüfungsgesellschaft ("KPMG Germany").

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

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

4. Following the documentation completion date for the Issuer A and Subsidiary audits, Tan learned that the Subsidiary Audit had been selected for review as part of an upcoming PCAOB inspection of the Firm. Tan thereafter oversaw the modification of four work papers to add descriptions of audit procedures, including certain procedures conducted following KPMG Germany's issuance of its audit opinion on Issuer A's 2018 financial statements. Those modified work papers were then included in hard copy binders provided to PCAOB inspectors without any indication that modifications had been made, nor any information about when, why, or by whom they had been modified.

5. Tan also prepared on behalf of the Firm a Substantial Role and Referred Work Engagement Profile ("Engagement Profile"), a form that PCAOB inspectors asked the Firm to complete in advance of their fieldwork. Tan falsely stated therein that no changes had been made to the work papers for the Subsidiary Audit after the documentation completion date. During inspection fieldwork, Tan participated in meetings with the inspectors, but failed to disclose the work paper modifications or the false statement in the Engagement Profile.

6. Tan's actions and omissions violated his duty to cooperate with a Board inspection and the PCAOB's audit documentation standard.

D. Tan Violated PCAOB Rules and Standards

i. Duty to Cooperate with a Board Inspection and Audit Documentation Requirements

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[4]

8. The Board's audit documentation standard states in part: "Prior to the report release date, the auditor must have completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report. A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*) . . . . Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[5]

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[4] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards.*

[5] AS 1215.15-.16, *Audit Documentation* (emphasis in original).

9. PCAOB Rule 4006 states in part: "Every registered public accounting firm, and every associated person of a registered public accounting firm, shall cooperate with the Board in the performance of any Board inspection."[6] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information" to the Board's inspectors.[7]

ii. Tan Oversaw Improper Work Paper Modifications in Anticipation of a PCAOB Inspection

10. The documentation completion date for KPMG Germany's 2018 audit of Issuer A was April 6, 2019. The Firm assembled for retention the final sets of electronic and hard copy work papers for the Subsidiary Audit on March 5, 2019, and April 6, 2019, respectively.

11. By letter dated July 16, 2019, the PCAOB's Division of Registration and Inspections notified KPMG Singapore that the Firm had been selected for inspection, with fieldwork scheduled to begin in August. Tan learned of the scheduled inspection and, in early August, of the inspectors' selection of the Subsidiary Audit for review as part of that inspection.

12. Tan subsequently expressed concern to colleagues about the quality of work conducted in certain areas of the Subsidiary Audit and about the potential findings from the upcoming inspection. On August 4, 2019, for example, in reference to the anticipated review of the Subsidiary Audit, he wrote in a chat communication to a senior-in-charge assigned to the Subsidiary Audit: "I think [Issuer A] got picked for pcaob/ We are screwed." On the same day, he wrote to another colleague: "[Issuer A] only revenue work is good/ All else is crap....."

13. Over the next several days, Tan had additional communications with Firm audit staff regarding concerns related to the adequacy of the Subsidiary Audit generally and of the work in particular audit areas.

14. On August 7, 2019, the senior-in-charge wrote in a chat communication to Tan about certain deficiencies in work papers for the Subsidiary Audit. The senior-in-charge proposed: "we do hardcopy and file in? then no timestamp." Tan replied affirmatively to that suggestion. That same day, Tan asked another member of the Subsidiary Audit engagement team to check out the hard copy work paper files for the Subsidiary Audit from the Firm's Central Filing Room.

15. Between August 7, 2019, and the beginning of inspection fieldwork on August 19, 2019, other Firm audit staff worked with Tan to modify four work papers from the

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[6] PCAOB Rule 4006, *Duty to Cooperate with Inspectors*.

[7] *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), *petition for review denied*, *Kabani & Co., Inc. v. SEC*, 733 Fed App'x 918 (9th Cir. 2018).

Subsidiary Audit. They modified the electronic versions of those work papers by deleting, revising, and adding content; printing out the revised versions; and placing them in the hard copy work paper binders for the Subsidiary Audit. The modifications reflected the results of both procedures performed only after the issuance of KPMG Germany's report on the 2018 audit of Issuer A and procedures performed duiring the Subsidiary Audit but never documented. The modified work papers contained no indication they had been modified following the April 6, 2019 documentation completion date for the Subsidiary Audit, nor any information concerning who made the modifications or when or why they had been made.

16. Tan understood that the work paper binders would be provided to the Board's inspectors when they arrived to conduct their fieldwork.

17. On August 16, 2019, after the modified work papers had been printed and added to the hard copy work paper files, in a chat conversation with the senior-in-charge, Tan stated: "I damn scared they go and catch the hardcopy."

18. The hard copy binders, containing the four improperly altered work papers, were provided to the Board's inspectors when they arrived to conduct their fieldwork.

iii. Tan Prepared a Misleading Engagement Profile and Failed to Disclose the Modifications in Meetings with the Board's Inspectors

19. Tan prepared the Engagement Profile that KPMG Singapore provided to the Board's inspectors prior to the commencement of their fieldwork. The Engagement Profile contained the question: "Have there been any changes made to the audit documentation subsequent to the documentation completion date?" Tan added the response: "no."

20. During the first week of the inspection fieldwork, Tan participated in multiple meetings with inspection staff. Tan, however, disclosed neither the modification of the work papers nor the false statement in the Engagement Profile.

21. Later that week, the inspectors encountered indications that the work papers had been modified. They communicated their concerns to Firm management and engagement team personnel, and Tan learned of those concerns. Rather than disclose the modifications at that point, however, Tan falsely told Firm leadership and the engagement partner for the Subsidiary Audit that the modifications had been made in connection with the Firm's still ongoing audit of the Subsidiary's financial statements for purposes of local reporting requirements, rather than in anticipation of the PCAOB inspection. Tan did not clarify or correct that false information when the engagement partner communicated it to the Board's inspectors in Tan's presence.

22. Tan's actions and omissions violated his duty to cooperate with the Board's inspection of the Subsidiary Audit under PCAOB Rule 4006, as well as the audit documentation requirements of AS 1215.

IV.

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

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Tan is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[8] and

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

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 29, 2021

[8] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Tan. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of Morgan & Company LLP,

Respondent.

PCAOB Release No. 105-2021-002

March 30, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or PCAOB) is imposing sanctions upon Morgan & Company LLP ("Morgan," the "Firm," or "Respondent"). The Board is:

(1) censuring the Firm, a registered public accounting firm; and

(2) imposing a $25,000 civil money penalty on the Firm.

The Board is imposing these sanctions on the basis of its findings that Morgan violated PCAOB rules and standards in connection with the audits of an issuer.

I.

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

II.

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

these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Morgan & Company LLP**[2] is a limited liability partnership organized under the laws of British Columbia, Canada, and headquartered in Vancouver, Canada. The Firm was, until its practice merger on August 1, 2020, licensed by the Institute of Chartered Accountants of British Columbia (Lic. No. 664381). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Other Relevant Entity

2. **Firm B** is a partnership organized under the laws of Mexico and headquartered in Mexico City, Mexico. At all relevant times, the firm was a "public accounting firm" within the meaning of Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii).

C. Issuer

3. "Issuer A" was, at all relevant times, a Canadian corporation. Issuer A's public filings disclose that, at all relevant times, it was a mineral company engaged in the business of acquiring and exploring mineral properties. Its common stock was registered, at all relevant times, under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act"). Issuer A was required to file periodic reports with the Securities and Exchange Commission ("Commission"), and the financial statements contained in those reports were required to be audited pursuant to PCAOB standards. Issuer A was, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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

[2] Effective August 1, 2020, the Firm merged its practice with Canadian PCAOB registrant Smythe LLP and also submitted a Form 1-WD to withdraw from PCAOB registration on that date. The Firm's withdrawal request is pending.

D. Summary

4. This matter concerns Morgan's violations of PCAOB rules and standards in connection with its audits of Issuer A.

5. During three consecutive audits of the consolidated financial statements of Issuer A for fiscal years ended August 31, 2015, 2016 and 2017, respectively (the "FY 2015 – FY 2017 Audits"), Morgan issued audit reports on Issuer A's financial statements as Issuer A's principal auditor. During this period, Morgan used the work of a Mexican public accounting firm not registered with the PCAOB ("Firm B") in opining on Issuer A's financial statements.

6. Firm B audited over 90% of Issuer A's assets and performed services that Morgan used or relied on in issuing its audit reports. Morgan knew from inquiries to Firm B that it was not PCAOB-registered. However, during the FY 2015 – FY 2017 Audits, Morgan failed to perform an adequate analysis regarding whether it could serve as Issuer A's principal auditor and use the work of Firm B.

7. During each audit, Morgan also failed to appropriately coordinate its activities with Firm B. Morgan asked Firm B to perform specified procedures to support its opinions, and instructed Firm B to perform the procedures in accordance with Canadian Auditing Standards (CAS), not PCAOB standards. Firm B personnel were not trained in CAS or PCAOB standards, and, in fact, performed its procedures in accordance with Mexican Auditing Standards (MAS). Morgan was not aware that Firm B applied MAS, and failed to determine whether Firm B's audit work was compliant with PCAOB standards.

8. As such, Morgan failed, as described in more detail below, to comply with PCAOB rules and standards during the FY 2015 – FY 2017 Audits.

E. Morgan Violated PCAOB Rules and Standards in Connection with the FY 2015 – FY 2017 Audits of Issuer A

9. For the FY 2015 – FY 2017 Audits, Morgan served as the principal auditor of Issuer A. In each independent auditor's report included with Issuer A's financial statements filed with the Commission on Form 20-F for FY 2015 – FY 2017, Morgan stated that it had conducted

its audits in accordance with CAS and PCAOB standards.[3] The audit reports did not make reference to another auditor.[4]

10. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6] In addition, AS 1015, *Due Professional Care in the Performance of Work*, requires "[d]ue professional care … to be exercised in the planning and performance of the audit and the preparation of the report."[7]

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[3] The Firm issued audit reports containing unqualified audit opinions on the financial statements of Issuer A dated December 23, 2015, December 28, 2016, and December 21, 2017, respectively. Each report contained an explanatory paragraph on the entity's ability to continue as a going concern, and was included in Forms 20-F filed with the Commission on January 15, 2016, January 18, 2017, and January 18, 2018, respectively.

[4] *See* AS 1205.04-.05.

[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for fiscal years ending before December 31, 2016); PCAOB Rule 3200, *Auditing Standards* (applicable to audits for fiscal years ending on or after December 31, 2016). As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondent's conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

[6] *See* AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending before December 15, 2017) ("The auditor's standard report states that the financial statements present fairly, in all material respects, an entity's financial position, results of operations, and cash flows in conformity with generally accepted accounting principles. This conclusion may be expressed only when the auditor has formed such an opinion on the basis of an audit performed in accordance with the standards of the PCAOB.").

[7] AS 1015.01.

11. AS 1205, *Part of the Audit Performed by Other Independent Auditors*, establishes requirements that apply when an auditor of an issuer's financial statements "use[s] the work and reports of other independent auditors who have audited the financial statements of one or more subsidiaries, divisions, branches, components, or investments included in [that issuer's] financial statements…."[8]

12. In circumstances where a significant part of the audit is performed by another auditor, a firm, in considering whether it can serve as principal auditor, must decide whether its own participation in the audit is sufficient to enable it to serve as the principal auditor and to report as such on the financial statements.[9]

13. In deciding this question, the auditor should consider, among other things, the materiality of the portion of the financial statements the firm audited in comparison with the portion audited by other auditors, the extent of the auditor's knowledge of the overall financial statements, and the importance of the components the firm audited in relation to the enterprise as a whole.[10]

14. Whether or not the principal auditor decides to make reference to the audit of the other auditor, it should make inquiries concerning the professional reputation and independence of the other auditor.[11] In addition, the principal auditor should adopt appropriate measures to assure the coordination of its activities with those of the other auditor in order to achieve a proper review of the matters affecting the consolidating or combining of accounts in the financial statements.[12]

15. A public accounting firm that prepares or issues any audit report with respect to any issuer, broker, or dealer or plays a substantial role in the preparation or furnishing of an audit report with respect to any issuer, broker, or dealer must be registered with the Board.[13] A public accounting firm plays a substantial role in the preparation or furnishing of an audit report and is thus required to register when it: (1) performs material services that a public accounting

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[8] AS 1205.01.

[9] *See* AS 1205.02.

[10] *See id*.

[11] *See* AS 1205.10.

[12] *See id.*

[13] PCAOB Rule 2100, *Registration Requirements for Public Accounting Firms*; *see also* Section 102(a) of the Act.

firm uses or relies on in issuing all or part of its audit report; or (2) performs the majority of the audit procedures with respect to a subsidiary or component of any issuer, broker, or dealer, the assets or revenues of which constitute 20% or more of the consolidated assets or revenues of such issuer, broker, or dealer, necessary for the principal auditor to issue an audit report.[14]

16. The term "material services" means "services, for which the engagement hours or fees constitute 20% or more of the total engagement hours or fees, respectively, provided by the principal auditor in connection with the issuance of all or part of its audit report." [15] The term "does not include non-audit services provided to non-audit clients."[16]

i. Morgan's Use of Firm B's Work in the FY 2015 – FY 2017 Audits

17. During each of the FY 2015 – FY 2017 Audits, Morgan knew Issuer A's Mexican subsidiary held a substantial portion—over 90%—of Issuer A's assets. Morgan used another independent auditor—a Mexican public accounting firm, Firm B—to audit the subsidiary. Morgan inquired as to Firm B's professional reputation and independence, and understood from its inquiries that Firm B was not registered with the PCAOB.

18. Morgan failed to comply with PCAOB rules and standards in its use of Firm B's work. For each of the FY 2015 – FY 2017 Audits, Morgan failed to perform any analysis to determine whether it could serve as Issuer A's principal auditor and use the work of Firm B.

19. Firm B in fact played a substantial role in the each of the FY 2015 – FY 2017 Audits—a level of participation requiring PCAOB registration.[17] Firm B performed the majority of the audit procedures with respect to the assets held by Issuer A's Mexican subsidiary, which constituted over 90% of the consolidated assets of Issuer A—substantially over the "20% or more" substantial role participation threshold.[18]

20. Firm's B's engagement hours and fees also amounted to "material services" that Morgan relied upon in issuing its reports, and constituted substantial role participation in the FY

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14 *See* PCAOB Rule 1001(p)(ii).

15 *See* Note 1 to Rule 1001(p)(ii).

16 *See id*.

17 *See* PCAOB Rule 2100.

18 *See* PCAOB Rule 1001(p)(ii).

2015 – FY 2017 audits.[19] In particular, the percentage of Firm B's hours out of the total audit hours ranged from 28% to 44%—each over the "material services" threshold of 20%. Firm B's fees, which varied from 21% to 24% of the total audit fees, were also over the 20% material services threshold.

21. Morgan failed to consider, in light of the materiality of the assets of the Mexican subsidiary that Firm B audited and the importance of the subsidiary in relation to the enterprise as a whole, whether Morgan's participation was sufficient to serve as a principal auditor.[20] Morgan also failed to perform any analysis as to whether it could use Firm B's audit work.

22. An adequate inquiry and analysis performed with due professional care concerning Firm B's professional reputation, based in part on the significance of the assets audited by Firm B, should have revealed that because Firm B was not registered with the PCAOB, Morgan should not have used its audit work.[21]

ii. Morgan Failed to Appropriately Coordinate its Activities with Firm B

23. During the FY 2015 – FY 2017 Audits, Morgan also failed to adopt appropriate measures to assure the coordination of its activities with Firm B in order to achieve a proper review of the matters affecting the consolidating or combining of accounts in Issuer A's financial statements.[22]

24. At the outset of each audit, Morgan provided Firm B with detailed instructions for performing more than 20 specified substantive audit procedures on the Mexican subsidiary, ranging from obtaining and preparing internal control process narratives and walkthroughs to identification of related parties and related balance confirmations. For each audit, Morgan directed Firm B to perform the specified procedures in accordance with CAS, not PCAOB standards. During the FY 2017 audit, for example, Morgan made no mention of PCAOB standards in its instructions to Firm B, and provided Firm B with copies of two CAS standards for reference.

25. Morgan never ascertained whether Firm B was familiar with PCAOB standards, and did not provide Firm B with any comparison or analysis of relevant CAS or PCAOB standards. In fact, Firm B personnel were trained in MAS, and applied MAS to the specified

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19 *See id*.

20 *See* AS 1205.02.

21 *See* AS 1015.01; AS 1205.02.

22 *See* AS 1205.10.

procedures, as they were not trained in auditing pursuant to CAS or PCAOB standards. Due to the lack of coordination between Morgan and Firm B, Morgan was not aware that Firm B personnel were applying MAS.

26. Morgan thus failed, during the FY 2015 – 2017 Audits, to perform adequate procedures to determine whether the work Firm B performed complied with the PCAOB standards referenced in its audit reports. In sum, Morgan failed to perform its work with due professional care and to assure the appropriate coordination of its activities with Firm B during the FY 2015 – FY 2017 Audits, in violation of PCAOB standards.[23]

iii. Morgan's Opinions Were Not Formed on the Basis of Audits Performed Pursuant to PCAOB Standards

27. Finally, because Morgan issued audit reports containing unqualified opinions on Issuer A's financial statements when the Firm had in fact failed during those audits to exercise due professional care and to adhere to PCAOB standards relating to the use of another auditor, as described above, Morgan also violated AS 3101 during the FY 2015 – FY 2017 Audits.[24]

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty of $25,000 on Morgan & Company LLP. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting

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[23] *See* AS 1015.01; AS 1205.10.

[24] *See* AS 3101.07 (applicable to audits for fiscal years ending before December 15, 2017).

Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. By consenting to this Order, Respondent acknowledges that failure to pay the civil money penalty described above may alone be grounds to deny any reapplication for registration pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 30, 2021

PCAOB
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Order Making Findings and Imposing Sanctions

In the Matter of MJF & Associates, APC and Miguel J. Figueroa, CPA,

Respondents.

PCAOB Release No. 105-2021-003

April 22, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon MJF & Associates, APC ("MJF" or "Firm") and Miguel J. Figueroa, CPA ("Figueroa") (collectively, "Respondents"). The Board is:

(1) revoking the registration of MJF, a registered public accounting firm;[1]

(2) barring Figueroa from being associated with a registered public accounting firm;[2] and

(3) imposing a $10,000 civil money penalty jointly and severally upon Respondents.

The Board is imposing these sanctions on the basis of its findings that: (a) MJF violated PCAOB rules and quality control standards, as well as the Sarbanes-Oxley Act of 2002, as amended ("Act") by failing to take adequate steps to prevent a person subject to a Board-ordered bar from becoming an associated person of the Firm; and (b) Figueroa violated PCAOB rules and auditing standards by substantially contributing to MJF's violations and by violating the two-year cooling off period for engagement quality reviewers.

[1] MJF may reapply for registration after one year from the date of this Order.

[2] Figueroa may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

I.

The Board instituted non-public disciplinary proceedings against Respondents on December 19, 2019.[3] Pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.[4]

II.

On the basis of Respondents' Offers, the Board finds that:[5]

A. Respondents

1. **MJF & Associates, APC** is a professional corporation organized under the laws of the State of California and headquartered in Los Angeles. MJF is licensed by the California Board of Accountancy (Lic. No. 6236). At all relevant times, MJF was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Miguel J. Figueroa** is a certified public accountant licensed by the California Board of Accountancy (Lic. No. 87686) and the Florida Board of Accountancy (Lic. No. AC43301). At all relevant times, Figueroa was the managing partner and sole owner of MJF. Figueroa was,

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[3] Section 105(c)(2) of the Act provides that litigated disciplinary proceedings shall not be public, "unless otherwise ordered by the Board for good cause shown, with the consent of the parties." Although the Board found good cause for making the proceedings public, Respondents did not consent, as permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203.

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

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Other Relevant Individual

3. Partner A joined MJF in February 2015 and remained with the Firm until July 2019. Pursuant to a Board order, Partner A was barred from associating with a registered public accounting firm for a period of over a year during the time Partner A was employed by MJF. During that bar period, therefore, MJF was prohibited from permitting Partner A to associate with the Firm, including by participating in the preparation or issuance of any audit report for MJF's issuer clients, without the consent of the Board or the Securities and Exchange Commission ("Commission").[6]

C. Issuers

4. Issuer A is a Nevada corporation with its principal offices located in China. Issuer A's business focused on mining and processing direct reduced iron feed stock for the Chinese steel industry until it shifted its focus to the provision of digital displays for exhibition booths and real estate in late 2018. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. Issuer B is a Nevada corporation with its principal offices in China. Issuer B's business focuses on developing waste energy recycling projects for industrial application. At all relevant times, Issuer B was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

6. Issuer C is a Nevada corporation with its principal offices in China. Issuer C's business focused on the sale in China of imported consumer products until the first quarter of 2017, when it pivoted to operating an upscale restaurant and catering business. At all relevant times, Issuer C was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

7. Issuer D is a Nevada corporation with its principal offices in China. Issuer D's business focuses on the design and manufacturing of heat pumps for commercial applications. At all relevant times, Issuer D was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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[6] *See* Act § 105(c)(7)(A); PCAOB Rule 5301(b). No such consent was provided by the Board or Commission.

D. Summary

8. This matter concerns MJF's and Figueroa's failure to take adequate steps to ensure that MJF would not permit Partner A to associate with the Firm while barred. Figueroa, MJF's sole owner and managing partner, was aware of the PCAOB order barring the individual from associating with any registered public accounting firm ("Bar Order") and understood that it precluded Partner A from remaining in a position that allowed Partner A to participate in any activity of MJF connected to the preparation or issuance of issuer audit reports.

9. However, while Partner A was barred, MJF did not take adequate steps to prevent Partner A from participating in year-end 2017 audits of Issuers A, B, and C, as well as quarterly reviews of those issuers during 2017. By failing to implement sufficient measures to preclude Partner A's participation in issuer audits and reviews while barred, MJF violated provisions of the Act and PCAOB rules prohibiting a registered public accounting firm that knows an individual is barred from allowing that person to become or remain associated with the firm. The Firm also violated the Board's quality control standards. Figueroa violated PCAOB rules by directly and substantially contributing to MJF's violations.

10. In addition, Figueroa violated AS 1220 in three separate instances by serving as the engagement quality reviewer ("EQR") for Issuers B and D within two years of serving as the engagement partner in audits of Issuers B and D.[7]

E. MJF Violated the Act, PCAOB Rules, and Quality Control Standards

i. Registered Firms May Not Permit Barred Individuals to Associate and Must Have Adequate Systems of Quality Control

11. Under the Act and PCAOB rules, a registered public accounting firm that knows, or in the exercise of reasonable care should have known, an individual is barred from being an associated person of a registered public accounting firm may not permit that person to become or remain an associated person of the firm without the consent of the Board or Commission.[8] A person becomes (or remains) associated with a registered public accounting firm when, among other things, that person is an "accountant" who "in connection with the preparation or

[7] AS 1220, *Engagement Quality Review*. All references to PCAOB rules and standards are to the versions of those rules and standards in effect at the time of the relevant audits.

[8] Act § 105(c)(7)(A); PCAOB Rule 5301(b), *Effect of Sanctions.*

issuance of any audit report . . . participates as agent or otherwise on behalf of such accounting firm in any activity of that firm."[9]

12. Additionally, PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[10] which provide that a registered public accounting firm "shall have a system of quality control for its accounting and auditing practice."[11] PCAOB quality control standards specify that "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[12]

13. PCAOB quality control standards also provide that policies and procedures for monitoring "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied,"[13] and that the firm's "system of quality control is effective."[14]

ii. MJF Failed to Take Adequate Steps to Not Permit Partner A to Associate with the Firm While Barred

14. Partner A informed Figueroa of the impending Bar Order prior to its issuance and Figueroa received a copy of the Bar Order after it was formally issued by the Board. Figueroa understood that the Bar Order meant Partner A could not participate in MJF's audits and reviews of issuer clients.

15. After the Board issued the Bar Order, however, MJF permitted Partner A to become or remain associated with the Firm by having Partner A remain in a position that allowed Partner A to engage in activities in connection with the preparation or issuance of issuer audit reports. Although MJF took certain steps to restrict Partner A's activity, the Firm

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9 Act § 2(a)(9); PCAOB Rule 1001(p)(i), *Definitions of Terms Employed in Rules*.

10 PCAOB Rule 3400T, *Interim Quality Control Standards*.

11 PCAOB Interim Quality Control Standard ("QC") § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

12 QC § 20.17.

13 QC § 20.20.

14 QC § 30.01, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

failed to develop sufficient policies or procedures designed to ensure that Partner A did not associate with the Firm while barred.[15]

16. MJF continued to employ Partner A while barred, and MJF decided that it would continue performing audit work for issuer clients, many of which Partner A had brought to the Firm when Partner A joined MJF.

17. In response to the Bar Order, Respondents removed Partner A from the engagement teams conducting audits and reviews for issuer clients and assigned Partner A to engagements for non-issuers. Figueroa and Partner A informed MJF's issuer clients that Partner A would not act as engagement partner.

18. Respondents also blocked Partner A's access to MJF's electronic audit software as well as its electronic portal for receiving and storing client documents. Figueroa informed MJF staff about the Bar Order and continued his practice of conducting general periodic inquiries of Firm staff to ask if anything significant had occurred that he should know about. Figueroa, however, did not specifically inquire about whether Partner A had continued to participate in activities related to issuer audits.

19. Despite their awareness that Partner A had relationships with many of MJF's issuer clients and had previously served as engagement partner on those clients' audits, Respondents took no additional steps designed to ensure Partner A's compliance with the Bar Order. For instance, MJF did not enact any policies or procedures in response to the Bar Order. Nor did MJF institute any steps designed to directly monitor whether the Firm was permitting Partner A to associate while barred.

iii. MJF Permitted Partner A to Associate with the Firm While Barred

20. As a result of the above conduct, MJF permitted Partner A, while subject to the Bar Order and employed by MJF, to participate in MJF's year-end 2017 audits of Issuers A, B, and C, as well as quarterly reviews of those issuers during 2017.

21. Partner A's participation included communications with MJF engagement team members and issuer client personnel. For example, Partner A provided specific comments on audit work papers for issuer audits, raised substantive accounting issues for the engagement teams to consider, offered his professional opinion on accounting issues, and commented on

[15] *See, e.g.*, *Pritchett, Siler & Hardy, P.C. and Douglas W. Child, CPA*, PCAOB Release No. 105-2019-014 (June 5, 2019); *Deloitte & Touche LLP*, PCAOB Release No. 105-2013-008 (Oct. 22, 2013).

specific language for issuer clients' public filings. Figueroa was not made aware of any of these communications.

22. Accordingly, MJF permitted Partner A to become an associated person of the Firm by engaging in activities on MJF's behalf in connection with the preparation or issuance of audit reports for MJF's issuer audit clients in violation of the Act and PCAOB rules.[16] Moreover, MJF's failure to implement adequate policies and procedures to ensure that the Firm would not permit Partner A's association while barred violated PCAOB quality control standards.[17]

F. Figueroa Violated PCAOB Rules and Auditing Standards

i. Figueroa Directly and Substantially Contributed to MJF's Violations

23. PCAOB Rule 3502 states that, "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[18]

24. Throughout the time MJF employed Partner A, Figueroa was MJF's sole owner and managing partner. He was responsible for MJF's response to the Bar Order, including whether to continue to employ Partner A, what restrictions to place on Partner A while barred, and how to monitor Partner A's compliance with the Bar Order. Figueroa was also responsible for implementing quality control policies and procedures at MJF.

25. All of MJF's conduct described above was either conduct of Figueroa's, or omissions to act for which Figueroa was responsible, that Figueroa knew, or was reckless in not knowing, would directly and substantially contribute to MJF's violations of the Act, PCAOB rules, and quality control standards described above. Figueroa thereby violated PCAOB Rule 3502.

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16 Act § 105(c)(7)(A); PCAOB Rule 5301(b).

17 QC §§ 20.01, 20.17, 20.20, 30.01.

18 PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

ii. Figueroa Violated Auditing Standards by Serving as EQR within Two Audits of Serving as Engagement Partner

26. AS 1220 requires that "[t]he person who served as the engagement partner during either of the two audits preceding the audit subject to the engagement quality review may not be the engagement quality reviewer."[19]

27. MJF audited Issuer B's financial statements as of and for the years ended December 31, 2015, and December 31, 2016. Figueroa served as the engagement partner for the year-end 2015 audit of Issuer B and EQR for the year-end 2016 audit of Issuer B.

28. MJF audited Issuer D's financial statements as of and for the years ended December 31, 2015, December 31, 2016, and December 31, 2017. Figueroa served as the engagement partner for the year-end 2015 audit of Issuer D and EQR for the year-end 2016 and 2017 audits of Issuer D.

29. Therefore, on three separate occasions, Figueroa served as EQR on an issuer audit after having served as engagement partner within the prior two audits of that issuer in violation of PCAOB auditing standards.

III.

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

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

B. After one year from the date of this Order, MJF & Associates, APC may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Miguel J. Figueroa is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[20]

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[19] AS 1220.08.

[20] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Figueroa. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully

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

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed jointly and severally upon MJF and Figueroa. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies MJF and Figueroa as Respondents in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***Respondents understand that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm, or any reapplication for registration pursuant to PCAOB Rule 2101.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 22, 2021

to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of RBSM LLP,

Respondent.

PCAOB Release No. 105-2021-004

August 9, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon RBSM LLP ("Respondent," "RBSM," or the "Firm"). The Board is:

(1) Censuring Respondent;

(2) Imposing a civil money penalty of $50,000 on Respondent; and

(3) Requiring Respondent to engage an independent consultant for a period of three years to review and make recommendations concerning RBSM's quality control policies and procedures.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and quality control standards by failing to take sufficient steps from 2015 through 2018 to ensure that its system of quality control provided reasonable assurance that its personnel complied with applicable professional standards and the Firm's standards of quality, despite auditing and quality control concerns repeatedly brought to the Firm's attention through several PCAOB inspections.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that[2]:

A. Respondent

1. **RBSM LLP** is a limited liability partnership organized under the laws of the state of Virginia with headquarters in McLean, Virginia. The Firm has offices in multiple locations, including in Larkspur, California; Henderson, Nevada; New York, New York; Beijing, China; and Mumbai and Pune, India. The Firm is licensed to practice public accounting by the state of Virginia (License No. 132879), among others. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns the Firm's failure to comply with PCAOB rules and quality control standards. The Firm failed to establish engagement performance and monitoring policies and procedures sufficient to provide it with reasonable assurance that its policies and procedures were suitably designed and effectively applied. During the period from 2014 through 2017, PCAOB inspectors repeatedly brought concerns to the Firm's attention related to significant deficiencies in various audit areas, and raised concerns that RBSM's system of quality control failed to provide reasonable assurance of complying with the related professional

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

[2] The Board finds that the Firm's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

standards. Despite the Firm's awareness of these deficiencies and concerns, the Firm's internal monitoring procedures failed to provide reasonable assurance that its system of quality control was effective, and the Firm failed to make changes to improve its system of quality control, as indicated by the repeated significant deficiencies in the 2014 through 2017 inspections and a subsequent 2019 inspection.

C. The Firm Violated PCAOB Rules and Quality Control Standards

3. PCAOB rules require a registered public accounting firm to comply with PCAOB quality control standards.[3] These standards require that a registered firm have a system of quality control for its accounting and auditing practice.[4] "A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and procedures established to provide the firm with reasonable assurance of complying with professional standards."[5]

4. A firm's system of quality control should, among other things, include policies and procedures for engagement performance.[6] A firm should establish policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[7] Quality control policies and procedures for engagement performance encompass all phases of the design and execution of an engagement.[8] To the extent appropriate and as required by applicable professional standards, these policies and procedures should cover planning, performing, supervising, reviewing, documenting, and communicating

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[3] *See* PCAOB Rules 3100, *Compliance with Auditing and Related Professional Practice Standards*, and 3400T, *Interim Quality Control Standards*. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards.

[4] *See* Quality Control Standard 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20"), .01.

[5] QC § 20.04.

[6] *See* QC § 20.07.

[7] QC § 20.17.

[8] QC § 20.18.

the results of each engagement.[9] These policies and procedures also should address engagement quality reviews.[10]

5. A firm should also establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures are suitably designed and are being effectively applied.[11] Monitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective. Procedures that provide the firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the firm's policies and procedures contribute to the monitoring element. Among other things, a firm's monitoring procedures may include inspection procedures, preissuance or postissuance review of selected engagements, determination of any corrective actions to be taken and improvements to be made in the quality control system, communication to appropriate firm personnel of any weaknesses identified, and follow-up to ensure that any necessary modifications are made to the quality control system on a timely basis.[12]

6. Inspection procedures, as a part of a firm's system of quality control, evaluate the adequacy of a firm's policies and procedures, its personnel's understanding of those policies and procedures, and the extent of the firm's compliance with its quality control policies and procedures.[13] Inspection procedures contribute to the monitoring function because findings are evaluated and changes in, or clarifications of, quality control policies and procedures are considered.[14]

7. To provide reasonable assurance that the firm's quality control system achieves its objectives, appropriate consideration should be given to the assignment of quality control responsibilities within the firm, the means by which quality control policies and procedures are communicated, and the extent to which the policies and procedures and compliance should be documented.[15]

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9 *Id.*

10 *Id.*

11 *See* QC § 20.20; Quality Control Standard 30, *Monitoring a CPA Firm's Accounting and Auditing Practice* ("QC § 30"), .02.

12 QC § 30.03. *See also* QC § 30.04 - .08.

13 QC § 30.04.

14 *Id*.

15 QC § 20.21.

8. PCAOB quality control standards further require that a firm prepare appropriate documentation to demonstrate compliance with its quality control policies and procedures, including monitoring, and that such documentation be retained for a period of time sufficient to enable those performing monitoring procedures and a peer review to evaluate the extent of the firm's compliance with its quality control policies and procedures.[16]

i. RBSM Received Notice of Significant Audit Deficiencies in the Firm's Audits through Repeat Notifications in Multiple PCAOB Inspections

9. During the time period from 2014 through 2019, the PCAOB inspection staff notified the Firm of repeated significant audit deficiencies that raised concerns about the Firm's engagement performance. The initial instances of these deficiencies provided the Firm with notice of engagement performance issues. Subsequent findings of deficiencies provided continuing notice and indicated the Firm's system of quality control had failed to adequately address the deficiencies noted in previous inspections.

10. In 2014, PCAOB inspection staff conducted an inspection of the Firm. In connection with the inspection, between July 2014 and February 2015, PCAOB inspection staff informed the Firm of its findings regarding significant audit deficiencies in RBSM issuer audits related to revenue testing, specifically audit sampling and substantive analytical reviews, and engagement quality reviews (EQR). With respect to the EQR deficiencies, certain work papers, including documentation of significant judgments related to engagement planning and the engagement completion document, that should have been reviewed by the engagement quality review partner prior to granting permission for the issuer to use the Firm's audit reports to satisfy the requirements of AS No. 7, *Engagement Quality Review*, were not completed by the engagement team until after the audit report release date.[17]

11. In 2015, PCAOB inspection staff conducted another inspection of the Firm. In connection with the inspection, between January 2016 and February 2016, PCAOB inspection staff informed the Firm of its findings regarding significant audit deficiencies in numerous RBSM issuer audits related again to revenue testing, specifically audit sampling, and EQRs. With respect to the EQR deficiencies, the inspection staff noted that, among other issues, documentation of the EQR did not contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to identify the documents reviewed by, or otherwise to understand the procedures performed by, the engagement quality review partner.[18] In addition, the inspection staff also identified audit deficiencies in fair value assumptions and using the work of specialists.

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16 QC § 20.25.

17 *See* AS No. 7 (now AS 1220) at ¶¶ 9-12.

18 *Id*. at ¶ 19.

12. In 2017, PCAOB inspection staff conducted an inspection of the Firm. In connection with the inspection, during 2017, PCAOB inspection staff informed the Firm of its findings regarding significant audit deficiencies in numerous RBSM issuer audits related to revenue testing, fair value assumptions, using the work of specialists, and EQRs. With respect to the EQR deficiencies, the inspection staff noted that, among other issues, documentation of the EQR did not contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to identify the documents reviewed by, or otherwise to understand the procedures performed by, the engagement quality review partners.[19]

13. In 2019, PCAOB inspection staff conducted an inspection of the Firm. In connection with the inspection, between October 2019 and January 2020, PCAOB inspection staff informed the Firm regarding significant audit deficiencies in numerous RBSM issuer audits related to revenue testing, fair value assumptions and using the work of specialists, and EQRs. With respect to the EQR deficiencies, PCAOB inspection staff identified one or more deficiencies in areas that the engagement quality review partners were required to evaluate, such as the engagement teams' assessment of, and audit responses to, areas of significant risk, including in some cases a fraud risk.[20]

ii. Despite the Repeat, Significant Audit Deficiencies, the Firm's Quality Control Policies and Procedures Failed to Provide Reasonable Assurance That They Were Suitably Designed and Being Effectively Applied from 2015 through 2018

14. From 2015 through 2018, the engagement performance element of the Firm's system of quality control failed to provide the Firm with reasonable assurance that the work performed by its engagement personnel met applicable professional standards, regulatory requirements, and the firm's standards of quality.[21] In addition, the Firm's monitoring procedures were limited to inspections ("Internal Inspections") that were deficient and failed to provide the Firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the Firm's policies and procedures that contribute to the monitoring element.[22]

15. During 2015, the Firm's written policy stated that an integral part of its monitoring process for its system of quality control would be annual Internal Inspections. During the period from 2016 through 2018, the Firm's updated written policy stated that its system of quality control would be monitored on an ongoing basis through "pre-issuance

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19 *Id.*

20 *Id.* at ¶ 10.

21 *See* QC § 20.17.

22 *See* QC § 30.03.

reviews of reports, financial statements and notes to financial statements, engagement quality control review, where applicable, and [Internal Inspections]."

16. While the Firm performed Internal Inspections annually during the period from 2015 through 2018, these procedures were ineffective. The Firm's quality control policies on monitoring stated that a team, not "directly involved in the administration, supervision, or performance of the QC procedures or engagements each will inspect," would be selected to perform inspection procedures. Nevertheless, during these years, the Firm's managing partner was solely responsible for and performed all Internal Inspections for the Firm, including audits in which he had served as the engagement quality review partner. This led to a higher risk that noncompliance with the Firm's quality control policies and procedures would not be detected.[23]

17. To address requirements that a firm's monitoring element provide it with reasonable assurance that its policies and procedures for each of the other elements of its system of quality control are suitably designed and were being effectively applied,[24] the Firm's policies indicated that inspection procedures were to be performed on all elements of the Firm's quality control system, at least annually. Notwithstanding the requirements of quality control standards and the Firm's policies, the Internal Inspections conducted by the managing partner of the Firm were limited to the engagement performance element of quality control.

18. In addition, the Firm's Internal Inspections failed to identify any deficiencies in the engagement performance for any audits reviewed, other than in the 2015 Internal Inspection report, which noted only two documentation deficiencies. In fact, a number of audits documented in the Firm's Internal Inspections as having no deficiencies were subsequently found in later PCAOB inspections to contain significant audit deficiencies.

19. Despite the Firm's awareness that PCAOB inspectors had found repeated engagement performance deficiencies in specific audits, the Firm's monitoring process did not consider and evaluate the adequacy of RBSM's policies and procedures in light of these findings.[25] The Firm failed to make changes to, or improve, its policies and procedures to

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[23] *See* QC § 30.11 ("An individual inspecting his or her own compliance with a quality control system may be inherently less effective than having such compliance inspected by another qualified individual. When one individual inspects his or her own compliance, the firm may have a higher risk that noncompliance with policies and procedures will not be detected.").

[24] QC § 20.20.

[25] *See* QC § 30.03, .05.

address the failures of its procedures to identify these deficiencies, such as engaging a qualified individual from outside the Firm to perform internal inspection procedures.[26]

20. Appropriate documentation to demonstrate compliance with a firm's quality control policies and procedures should be prepared by the firm.[27] However, the Internal Inspection reports prepared by the Firm were, for the most part, created in response to requests from PCAOB staff, and prepared after the completion dates of those Internal Inspections. As such, the Firm failed to prepare appropriate documentation to demonstrate its compliance with the monitoring element of its quality control policies and procedures during the period from 2015 through 2018.

21. Other than the deficient Internal Inspections described above, the Firm did not perform other effective monitoring procedures to obtain reasonable assurance that its system of quality control was effective. For example, from 2016 through 2018, the Firm failed to perform pre-issuance reviews, in contravention of its written policy.

22. In addition, the Firm's EQR procedures failed to identify and communicate circumstances necessitating changes to or the need to improve compliance with the Firm's policies and procedures.[28] In fact, the individuals performing the Firm's EQRs failed to comply with professional standards and regulatory requirements in their performance.

23. As a result, the Firm violated PCAOB rules and quality control standards by failing to have monitoring procedures, taken as a whole, that enabled the Firm to obtain reasonable assurance that its system of quality control was effective, such that the policies and procedures for each of the elements of its system of quality control were suitably designed and being effectively applied, including engagement performance.

IV.

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

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

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[26] *See* QC § 30.11.

[27] QC § 20.25.

[28] QC § 30.03.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon RBSM. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. RBSM shall pay the civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies RBSM as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Sections 105(c)(4)(C) and (G) of the Act and PCAOB Rules 5300(a)(3), (8), and (9), the Board orders that:

1. Independent Consultant.

   a. RBSM shall retain and pay for an independent consultant not unacceptable to the PCAOB staff who has experience with, and is knowledgeable concerning, PCAOB quality control standards ("Independent Consultant"). Within sixty days after the entry of this Order, RBSM shall submit to the PCAOB staff a proposal setting forth the identity, qualifications, and proposed terms of retention of the Independent Consultant. RBSM may not retain as the Independent Consultant any individual or entity that has provided legal, auditing, or other services to, or has any affiliation with, RBSM during the prior year.

   b. To ensure the independence of the Independent Consultant, RBSM: (i) shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the PCAOB staff; and (ii) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

   c. RBSM will enter into an agreement with the Independent Consultant that provides that, for the period of the engagement and for a period of three

years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing, or other professional relationship with RBSM or any of their present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. The agreement also will provide that the Independent Consultant will require that any firm with which the Independent Consultant is affiliated or of which the Independent Consultant is a member, and any person engaged to assist the Independent Consultant in performance of the Independent Consultant's duties under this Order, shall not, without prior written consent of the PCAOB staff, enter into any employment, consultant, attorney-client, auditing, or other professional relationship with RBSM or any of their present or former affiliates, directors, officers, employees, or agents acting in their capacity as such, for the period of the engagement and for a period of three years after the engagement.

d. RBSM shall cooperate fully with the Independent Consultant and shall provide reasonable access to its personnel, information, and records as the Independent Consultant may reasonably request for the Independent Consultant's review, evaluation, and reports described in Paragraphs IV.C.2 and IV.C.3 below.

e. If RBSM, despite its best, good faith efforts, is unable to identify an Independent Consultant candidate that meets all of the above-listed criteria, RBSM may seek approval from the PCAOB staff of alternative candidates or alternative terms that RBSM believes to be otherwise suitable.

2. Areas Independent Consultant Is To Review. Within the periods specified below, the Independent Consultant will review and evaluate the following:

a. RBSM's quality control policies and procedures as they relate to "Engagement Performance," as that term is described in QC Section 20.17;

b. RBSM's quality control policies and procedures as they relate to "Monitoring," as that term is described in QC Section 20.20 and as further discussed in QC Section 30;

c. RBSM's quality control policies, procedures, and staff training as they relate to the performance of an "Engagement Quality Review" as that term is used in AS 1220, *Engagement Quality Review*, applicable to audits and reviews conducted pursuant to PCAOB standards; and

d. Whether RBSM is devoting appropriate resources to professional education and training of its personnel to ensure the adequate functioning of its system of quality control.

3. Independent Consultant Reports and Certifications.

a. Within five months of the Independent Consultant being retained, RBSM shall require the Independent Consultant to issue a detailed written report ("Report") to RBSM: (i) summarizing the Independent Consultant's review and evaluation of the areas identified in Paragraph IV.C.2 above, and (ii) making recommendations, where appropriate, reasonably designed to ensure that RBSM maintains a system of quality control sufficient to give the Firm reasonable assurance that its engagement teams perform issuer audits in compliance with applicable PCAOB auditing standards. RBSM shall require the Independent Consultant to provide a copy of the Report to the PCAOB staff when the Report is issued.

b. RBSM will adopt, as soon as practicable, all recommendations of the Independent Consultant in the Report; provided, however, that within thirty days of the issuance of the Report, RBSM may advise the Independent Consultant and the PCAOB staff in writing of any recommendation that it considers to be unnecessary, unduly burdensome, or impractical. RBSM need not adopt any such recommendation at that time, but instead may propose in writing to the Independent Consultant and the PCAOB staff an alternative proposal designed to achieve the same objective or purpose. RBSM and the Independent Consultant will engage in good faith negotiations in an effort to reach agreement on any recommendations objected to by RBSM.

c. In the event that the Independent Consultant and RBSM are unable to agree on an alternative proposal within forty-five days, RBSM either will abide by the determinations of the Independent Consultant or will seek approval from the PCAOB staff to engage, at RBSM's expense, a qualified third party acceptable to the PCAOB staff to promptly resolve the issue(s).

d. Within seventy-five days of the issuance of the Report and the resolution of any issues that are the subject of disagreement between RBSM and the Independent Consultant, RBSM will certify to the PCAOB staff in writing that it has adopted and has implemented or will implement all recommendations of the Independent Consultant ("Certification"). RBSM will provide a copy of the Certification to the PCAOB staff.

e. Within six months of the issuance of the Report, RBSM shall require the Independent Consultant to test whether RBSM has implemented the

Independent Consultant's recommendations and to assess the effectiveness of those implemented recommendations. Within eighteen months of the issuance of the Report, RBSM shall require the Independent Consultant to test and to assess the effectiveness of the implemented recommendations and to issue a detailed written report ("Interim Review") summarizing the results of the Independent Consultant's test and assessment of RBSM's system of quality control. The Independent Consultant's test and assessment of RBSM's system of quality control should determine whether RBSM is maintaining a system of quality control sufficient to give the Firm reasonable assurance that its engagement teams are performing issuer audits in compliance with applicable PCAOB auditing standards. RBSM shall require the Independent Consultant to provide a copy of the Interim Review to the PCAOB staff when the Interim Review is issued.

f. RBSM shall require the Independent Consultant to issue a detailed written final report no later than three years from the date of the Independent Consultant being retained summarizing the results of the Independent Consultant's test and assessment of RBSM's system of quality control during the entire period ("Final Report") and to provide a copy of the Final Report to the PCAOB staff. At this time, if the Independent Consultant determines that the undertakings discussed herein have been completed to the satisfaction of the Independent Consultant, RBSM shall require the Independent Consultant to certify in writing that the undertakings have been so completed ("Independent Consultant Certification") and to provide a copy of this certification to the PCAOB staff.

g. The Report, Interim Review, Final Report, Certification, and Independent Consultant Certification shall be submitted by the Firm to the Director of the Division of Enforcement and Investigations.

h. For good cause shown, the PCAOB staff may extend any of the procedural dates relating to these undertakings.

i. RBSM understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 9, 2021

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Morey, Nee, Buck & Oswald, LLC, John P. Morey, CPA, and Gerard B. Nee, CPA,

Respondents.

PCAOB Release No. 105-2021-005

August 10, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon Morey, Nee, Buck & Oswald, LLC (the "Firm"), John P. Morey, CPA ("Morey"), and Gerard B. Nee, CPA ("Nee") (collectively, "Respondents"). The Board is:

(1) Censuring the Respondents;

(2) Imposing a civil money penalty in the amount of $10,000 on the Firm; and

(3) Limiting Respondents' activities, for a period of two years from the date of this Order, by prohibiting them from performing audit services in audit engagements, including examination engagements, for clients that are brokers or dealers that are required to file a compliance report under Securities Exchange Act of 1934 ("Exchange Act") Rule 17a-5, 17 C.F.R. § 240.17a-5, of the U.S. Securities and Exchange Commission ("Commission"), including audit engagements for clients that are brokers or dealers that carry customer or broker or dealer accounts and receive or hold funds or securities for those persons.

The Board is imposing these sanctions on the basis of its findings that Respondents violated PCAOB rules and standards in connection with the Firm's 2017 and 2018 examination engagements for a broker-dealer ("Broker-Dealer A") registered with the Commission, and that the Firm and Morey violated PCAOB rules and standards in connection with their 2017 and 2018 audits of Broker-Dealer A.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports,

that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **Morey, Nee, Buck & Oswald, LLC** is a professional limited liability company headquartered in Bethlehem, Pennsylvania. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm served as Broker-Dealer A's independent auditor from November 2017 to October 2019.

2. **John P. Morey, CPA** is a certified public accountant licensed by the Pennsylvania State Board of Accountancy (license no. CA031172R). At all relevant times, Morey was an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Morey is the managing partner of the Firm and was the engagement partner on the Firm's audit and examination engagements for Broker-Dealer A.

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

[2] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

3. **Gerard B. Nee, CPA** is a certified public accountant licensed by the New Jersey State Board of Accountancy (license no. 20CC01247800). At all relevant times, Nee was an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Nee is a partner in the Firm and served as the engagement quality reviewer on the Firm's audit and examination engagements for Broker-Dealer A.

B. Broker-Dealer

4. At all relevant times, Broker-Dealer A was a New York corporation headquartered in New York. At all relevant times, Broker-Dealer A's public filings disclosed that it was registered with the Commission as a broker-dealer, and was engaged in a single line of business as a self-clearing securities broker-dealer that provides a service to help customers become enrolled in dividend reinvestment plans of publicly traded companies. At all relevant times, Broker-Dealer A was a "broker" and "dealer," as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii). At all relevant times, Broker-Dealer A was a "carrying broker-dealer" (*i.e.*, a broker-dealer that maintains custody of customer funds and/or securities).

C. Summary

5. This matter concerns the Firm's and Morey's violations of PCAOB rules and Attestation Standard No. 1 ("AT No. 1"), *Examination Engagements Regarding Compliance Reports of Brokers and Dealers*, when performing their examinations of the statements made by Broker-Dealer A in its fiscal year end ("FYE") December 31, 2017 and FYE December 31, 2018 compliance reports (the "Examinations") prepared pursuant to Exchange Act Rule 17a-5, 17 C.F.R. § 240.17a-5 ("Rule 17a-5"). In particular, the Firm and Morey failed to identify and test Broker-Dealer A's key internal controls over compliance with Commission rules for safeguarding certain customer assets held by Broker-Dealer A.

6. This matter also concerns the Firm's and Morey's violations of PCAOB rules and standards in connection with their audits of the financial statements and accompanying supporting schedules of Broker-Dealer A for FYEs December 31, 2017 and December 31, 2018 (the "Audits"). Among other things, the Firm and Morey failed to obtain sufficient appropriate audit evidence to support the Firm's audit opinion on Broker-Dealer A's financial statements and supporting schedules.

7. Additionally, in connection with the above Examinations, Nee violated AS 1220, *Engagement Quality Review*, by providing his concurring approval of issuance without performing the required engagement quality reviews with due professional care.

D. The Firm and Morey Violated AT No. 1 in The Firm's Examinations of Broker-Dealer A's 2017 and 2018 Compliance Reports

i. Certain Commission Reporting Requirements for Broker-Dealer A

8. At all relevant times, Exchange Act Rule 15c3-3, 17 C.F.R. § 240.15c3-3 ("Rule 15c3-3"), also known as the "Customer Protection Rule," imposed various obligations on Broker-Dealer A to avoid, in the event of a broker-dealer failure, a delay in returning customer securities or worse, a shortfall in which customers are not made whole.[3] For example, paragraph (e) of Rule 15c3-3 (the "Reserve Requirements Rule") required Broker-Dealer A, among other things, to maintain with a bank or banks[4] a "Special Reserve Bank Account for the Exclusive Benefit of Customers" that was kept separate from its other accounts ("Customer Reserve Bank Account"), to deposit therein an amount calculated in accordance with that paragraph, and to make and maintain a record of each such computation. Paragraph (f) of Rule 15c3-3 required Broker-Dealer A, among other things, to have a written contract with any bank at which it maintained one or more Customer Reserve Bank Accounts that provides that the cash and/or qualified securities[5] in such Customer Reserve Bank Account(s) will at no time be used directly or indirectly as a security for a loan to the broker-dealer by the bank and will not be subject to any right, charge, security interest, lien, or claim of any kind in favor of the bank or any person claiming through the bank. And paragraph (d) of Rule 15c3-3 required Broker-Dealer A, with respect to customers'[6] fully-paid securities and excess margin securities,[7] regularly to determine: (i) whether such securities are in its possession and control, in accordance with paragraphs (b) and (c) of Rule 15c3-3 (*i.e.*, held in a "Good Control Location"), and (ii) the quantity of such securities.

9. At all relevant times, Rule 17a-5 required Broker-Dealer A, among other things, to file with the Commission[8] an annual report containing: (a) a financial report that includes

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[3] Division of Trading and Markets and Division of Enforcement of the U.S. Securities and Exchange Commission, *Customer Protection Rule Initiative*, modified June 23, 2016, at Section II, available at https://www.sec.gov/divisions/enforce/customer-protection-rule-initiative.shtml. Although some broker-dealers qualify for exemption from the Customer Protection Rule under paragraph (k) of Rule 15c3-3, Broker-Dealer A, at all relevant times, did not qualify for such an exemption.

[4] "Bank" is defined in Rule 15c3-3(a)(7).

[5] The term "qualified security" is defined in Rule 15c3-3(a)(6).

[6] The term "customer" is defined in Rule 15c3-3(a)(1).

[7] The terms "fully paid securities" and "excess margin securities" are defined, respectively, in Rule 15c3-3(a)(3), (5).

[8] *See* Rule 17a-5(d)(6).

financial statements and supporting schedules,[9] and, in the case of a broker-dealer (including Broker-Dealer A) not claiming exemption under paragraph (k) of Rule 15c3-3,[10] (b) a compliance report concerning the effectiveness of the broker-dealer's internal control over compliance ("ICOC")[11] with, among other things, the Customer Protection Rule;[12] and (c) a report by a PCAOB-registered firm based on an examination of the broker-dealer's financial and compliance reports that meets certain specified requirements.[13] Rule 17a-5 also required that the auditor's examinations of each of Broker-Dealer A's financial report and compliance report be performed in accordance with PCAOB standards.[14]

10. Rule 17a-5 also required, at all relevant times, Broker-Dealer A's compliance report to contain certain statements ("assertions") about its compliance with, among other things, the Customer Protection Rule, including that: (a) the broker-dealer's ICOC was effective during the most recent fiscal year; (b) the broker-dealer's ICOC was effective as of the end of

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[9] *See* Rule 17a-5(d)(1)(i)(A). The financial report, including the required supporting schedules, must be in a format that is consistent with the statements contained in Commission Form X-17A-5. *See* Rule 17a-5(d)(2).

[10] The Commission has stated that there may be circumstances in which a broker-dealer has not held customer securities or funds during the past year, but does not fit into one of the exemptive provisions set forth in paragraph (k) of Rule 15c3-3, and should file an "exemption report" under Rule 17a-5(d)(1)(i)(B)(*2*) in lieu of a "compliance report" under Rule 17a-5(d)(1)(i)(B)(*1*). *See* U.S. Securities and Exchange Commission, *Broker-Dealer Reports*, Exchange Act Release No. 70073 (July 30, 2013), at n. 74, *available at* https://www.sec.gov/rules/final/2013/34-70073.pdf. *See also* Division of Trading and Markets of the U.S. Securities and Exchange Commission, *Frequently Asked Questions Concerning the July 30, 2013 Amendments to the Broker-Dealer Financial Reporting Rule* (updated July 1, 2020), at Question and Answer 8 (describing the views of the staff of the Division of Trading and Markets regarding the eligibility of certain broker-dealers to file exemption reports in accordance with the circumstances described in footnote 74 of the 2013 *Broker-Dealer Reports* release), available at https://www.sec.gov/divisions/marketreg/amendments-to-broker-dealer-reporting-rule-faq.htm. Those circumstances are not applicable here.

[11] The term "internal control over compliance" is defined in Rule 17a-5(d)(3)(ii) as follows: "The term *Internal Control Over Compliance* means internal controls that have the objective of providing the broker or dealer with reasonable assurance that non-compliance with [Exchange Act Rules 15c3-1, 15c3-3, 17a-13], or any rule of the designated examining authority of the broker or dealer that requires account statements to be sent to the customers of the broker or dealer (an 'Account Statement Rule') will be prevented or detected on a timely basis."

[12] *See* Rule 17a-5(d)(1)(i)(B)(*1*), (d)(3).

[13] *See* Rule 17a-5(d)(1)(i)(C), (g), (i).

[14] *See* Rule 17a-5(g).

the most recent fiscal year; and (c) the broker-dealer was in compliance with, among other things, the Reserve Requirements Rule as of the end of the most recent fiscal year.[15]

ii. Relevant Provisions of PCAOB Rules and Standards

11. In connection with the preparation or issuance of an audit report, including an examination report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards, including attestation standards.[16]

12. AT No. 1 provides that, in performing an examination of the assertions made by a broker or dealer in a compliance report (an "examination engagement"), the auditor's objective is to express an opinion regarding whether the assertions made by the broker or dealer in its compliance report are fairly stated, in all material respects.[17] AT No. 1 also provides that, to express such an opinion, the auditor must plan and perform the examination engagement to obtain appropriate evidence that is sufficient to obtain reasonable assurance about whether, among other things: (1) one or more material weaknesses[18] existed during the most recent fiscal year specified in the broker's or dealer's assertion; (2) one or more material weaknesses existed as of the end of the most recent fiscal year specified in the broker's or dealer's assertion; and (3) one or more instances of non-compliance with the Reserve Requirements Rule existed as of the end of the most recent fiscal year specified in the broker's or dealer's assertion.[19] As noted in AT No. 1, the auditor's examination should include an evaluation of the effectiveness of ICOC with the Customer Protection Rule during, and as of the end of, the most recent fiscal year.[20]

13. AT No. 1 also provides that the auditor must exercise due professional care, which includes application of professional skepticism, in planning and performing the examination and preparation of the report, and that the engagement partner is responsible for proper planning and supervision of work for the engagement.[21]

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15 *See* Rule 17a-5(d)(3)(i)(A)(*2*) – *(4)*.

16 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

17 *See* ¶ 3 of AT No. 1.

18 The term "material weakness" is defined in AT No. 1, Appendix A ¶ A4.

19 *See* ¶ 4 of AT No. 1.

20 *See id.* ¶ 4, Note.

21 *See id.* ¶¶ 6(d), 7.

14. Additionally, when planning the examination engagement, the auditor should obtain an understanding of the broker-dealer's processes regarding compliance with, among other things, the Customer Protection Rule, which includes evaluating the design of controls that are relevant to the examination and determining whether they have been implemented.[22] When performing the examination engagement, the auditor must test the controls that are important to the auditor's conclusion about whether the broker or dealer has maintained effective ICOC for, among other things, the Customer Protection Rule during the fiscal year and at fiscal year-end.[23] The auditor must obtain evidence that the controls over compliance selected for testing are designed effectively and operated effectively during the fiscal year and at fiscal year-end.[24]

15. AT No. 1 further requires the auditor to conduct tests that are sufficient to support the auditor's conclusions regarding whether the broker or dealer was in compliance with the Reserve Requirements Rule at fiscal year-end; the auditor does this by, among other things, testing the accuracy and completeness of the information that the broker or dealer used to determine its compliance with that rule at fiscal year-end.[25]

16. As provided in AT No. 1, the auditor should evaluate whether he or she has obtained sufficient appropriate evidence to support the conclusions to be presented in the examination report, taking into account the risks associated with controls and non-compliance, the results of the examination procedures performed, and the appropriateness (*i.e.*, the relevance and reliability) of the evidence obtained.[26] If the auditor is unable to obtain sufficient appropriate evidence about an assertion, the auditor should express a disclaimer of opinion.[27]

17. As described below, the Firm and Morey failed to comply with applicable PCAOB rules and standards in connection with their examinations of the assertions made by Broker-Dealer A in its compliance reports for FYEs December 31, 2017, and December 31, 2018.

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[22] *See id*. ¶ 9(b), Notes.

[23] *See id.* ¶ 11.

[24] *See id.* The auditor should test the design effectiveness of the selected controls by determining whether they can effectively prevent or detect instances of non-compliance with, among other things, the Customer Protection Rule on a timely basis. *See id.* ¶ 14. Additionally, the auditor should test the operating effectiveness of the selected controls by determining whether each selected control is operating as designed. *See id.* ¶ 16.

[25] *See id.* ¶ 21.

[26] *See id.* ¶ 27.

[27] *See id.* ¶ 29.

iii. The Firm's Examinations of Broker-Dealer A's 2017 and 2018 Compliance Reports

18. Broker-Dealer A filed its Forms X-17A-5 Part III for Fiscal Year ("FY") 2017 and FY 2018 with the Commission on February 22, 2018 and on February 27, 2019, respectively. In connection with those filings, Broker-Dealer A filed its related compliance reports – the FY 2017 compliance report was dated February 21, 2018, and the FY 2018 compliance report was dated February 21, 2019 (collectively, the "Compliance Reports"). The Compliance Reports' assertions included that Broker-Dealer A's ICOC with the Customer Protection Rule was effective during the period from January 1, 2017 to December 31, 2017 and as of December 31, 2017, and also from January 1, 2018 to December 31, 2018 and as of December 31, 2018, respectively.

19. Morey authorized the Firm's issuance of its examination reports for FY 2017 and FY 2018 concerning Broker-Dealer A's related Compliance Reports (collectively, the "Examination Reports"), and Nee, as the engagement quality reviewer, provided concurring approval of issuance of those Examination Reports. The Firm's examination report for FY 2017 was dated February 21, 2018, and the Firm's examination report for FY 2018 was dated February 26, 2019. The Examination Reports expressed the Firm's unqualified opinions that Broker-Dealer A's assertions in the respective Compliance Reports were fairly stated, in all material respects, and the Examination Reports stated, among other things, that the respective examinations were conducted in accordance with PCAOB standards.

20. With respect to both the 2017 and 2018 Examinations, the Firm and Morey failed to plan and perform adequate procedures to obtain appropriate evidence that was sufficient to obtain reasonable assurance about whether there were material weaknesses in Broker-Dealer A's ICOC, as required by AT No. 1.[28] In particular, the Firm and Morey failed to perform any procedures to obtain an understanding of Broker-Dealer A's ICOC, even though the Firm and Morey had no pre-existing knowledge of Broker-Dealer A until the start of the 2017 audit and examination engagements.[29] In addition, the Firm and Morey failed to perform any procedures to test controls that were important to the Firm's conclusion about whether Broker-Dealer A maintained effective ICOC, and obtain evidence that those controls were designed effectively and operating effectively.[30]

21. More specifically, the Firm and Morey failed to perform any procedures to identify, understand, or test the design effectiveness and operating effectiveness of any ICOC with the rules requiring Broker-Dealer A to: (1) properly calculate the minimum amount of funds it must hold in its Customer Reserve Bank Accounts, in compliance with the Reserve

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28 *See id.* ¶ 4, Appendix A ¶ A4.

29 *See id.* ¶ 9(b), Note.

30 *See id.* ¶¶ 9(b), 11.

Requirements Rule; (2) obtain written evidence that its Customer Reserve Bank Accounts were compliant with the "no-lien" requirement, in compliance with Rule 15c3-3(f); (3) determine the quantity of customers' fully-paid securities and excess margin securities held by Broker-Dealer A, in compliance with Rule 15c3-3(d); and (4) maintain those customer securities in an appropriate Good Control Location, in compliance with Rule 15c3-3(b) – (d).

22. The Firm and Morey also violated AT No. 1 by failing to perform certain required tests to determine whether Broker-Dealer A was in compliance with the Reserve Requirements Rule at year-end 2017 and 2018.[31] Specifically, the Firm and Morey tested Broker-Dealer A's compliance with the Reserve Requirements Rule at year-end by comparing information produced by Broker-Dealer A to a schedule it used to calculate the amount required to be reserved in the Customer Reserve Bank Accounts, but the auditors failed to test the accuracy and completeness of the information in the schedules that Broker-Dealer A had used to compute whether its Customer Reserve Bank Accounts held sufficient reserves in compliance with the Reserve Requirements Rule at the end of the respective fiscal years.[32]

23. As a result of the above deficiencies, the Firm and Morey failed to obtain appropriate audit evidence sufficient to provide reasonable assurance about whether there were material weaknesses in Broker-Dealer A's ICOC, as required by AT No. 1.[33]

E. The Firm and Morey Violated PCAOB Rules and Standards in The Firm's Audits of Broker-Dealer A's 2017 and 2018 Supporting Schedules

24. Rule 17a-5 required that Broker-Dealer A file certain supplemental information in supporting schedules accompanying its 2017 and 2018 financial statements, and that those schedules be audited by a PCAOB-registered firm.[34]

25. In connection with the preparation or issuance of an audit report on such supplemental information, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[35] Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism in performing the audit.[36]

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31 *See id.* ¶ 21.

32 *See id.* ¶ 21(b).

33 *See id.* ¶¶ 3 – 6.

34 *See* Rule 17a-5(d)(1)(i)(A), (d)(1)(i)(C), (d)(2), (g).

35 *See* PCAOB Rule 3100; PCAOB Rule 3200.

36 *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*.

26. PCAOB standards also require that, when the auditor is engaged to perform audit procedures and report on supplemental information accompanying audited financial statements, the auditor should perform audit procedures to obtain appropriate audit evidence that is sufficient to support the auditor's opinion regarding whether the supplemental information is fairly stated, in all material respects, in relation to the financial statements as a whole.[37] In doing so, the auditor should, among other things, obtain an understanding of the criteria that management used to prepare the supplemental information, including relevant regulatory requirements.[38] The auditor also should perform procedures to test the completeness and accuracy of the information presented in the supplemental information to the extent it was not tested as part of the audit of financial statements, and should evaluate whether the supplemental information complies with relevant regulatory requirements or other applicable criteria, if any.[39] Additionally, when an auditor uses information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to, among other things, test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information.[40]

27. According to PCAOB standards, if an auditor is unable to obtain sufficient appropriate audit evidence to support an opinion on the supplemental information, the auditor should disclaim an opinion on the supplemental information.[41]

28. As described below, the Firm and Morey failed to comply with PCAOB rules and standards in connection with the audit procedures they performed on the supplemental information in supporting schedules accompanying Broker-Dealer A's 2017 and 2018 financial statements.

29. Broker-Dealer A filed its Forms X-17A-5 Part III for FY 2017 and FY 2018 with the Commission on February 22, 2018, and on February 27, 2019, respectively. Included in those filings were the Firm's audit reports for FY 2017 and FY 2018 dated February 21, 2018, and February 26, 2019, respectively (collectively, the "Audit Reports"). Morey authorized the Firm's issuance of the Audit Reports, which expressed an unqualified opinion on Broker-Dealer A's related financial statements and supporting schedules, and stated, among other things, that the Firm's audits were conducted in accordance with PCAOB standards. Nee, as the engagement

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[37] *See* AS 2701.02 – .03, *Auditing Supplemental Information Accompanying Audited Financial Statements*.

[38] *See id.* at .04(a).

[39] *See id.* at .04(e) – (f).

[40] *See* AS 1105.10, *Audit Evidence*.

[41] *See* AS 2701.15.

quality reviewer, provided concurring approval of issuance of the Audit Reports. The Audit Reports also stated that the supplemental information in the accompanying supporting schedules was subjected to audit procedures in connection with the Firm's audits of Broker-Dealer A's related financial statements. In particular, the Firm represented that it had "perform[ed] procedures to test the completeness and accuracy of the information presented in the supplemental information."[42]

30. For both 2017 and 2018, Broker-Dealer A's supporting schedules reported on its compliance with the Reserve Requirements Rule and Rule 15c3-3(f), relating to obtaining documentation of compliance with the Reserve Requirements Rule. Broker-Dealer A's supporting schedules also reported on its compliance with the Commission rule requiring it to, among other things, maintain customers' fully paid securities and excess margin securities in an appropriate Good Control Location in compliance with Rule 15c3-3(b) – (d).

31. In these supporting schedules for 2017 and 2018, Broker-Dealer A reported that its minimum required reserve under the Reserve Requirements Rule was $68,868 and $66,848, respectively, and that the "Amount on deposit in 'Reserve Bank Accounts' over amount required" was $630,249 and $634,292, respectively. Broker-Dealer A's supplemental information also represented that, as of the report date, all customers' fully paid securities and excess margin securities entrusted to Broker-Dealer A were held in a Good Control Location in compliance with the Customer Protection Rule.

32. But, in both years, the engagement teams' procedures concerning these supporting schedules relied solely on information produced by Broker-Dealer A without testing that information for completeness or testing Broker-Dealer A's controls over the completeness of that information. And with respect to the supplemental information concerning the quantity of customers' fully paid securities and excess margin securities that Broker-Dealer A held in custody accounts, the Firm and Morey also failed to test the accuracy of the client-produced information that the engagement team used as audit evidence. Additionally, the Firm and Morey failed to obtain documentation establishing that Broker-Dealer A's Customer Reserve Bank Accounts were in compliance with the "no-lien" requirement of the Customer Protection Rule.[43]

33. Consequently, the Firm and Morey violated PCAOB standards in both the FY 2017 and FY 2018 audits by failing to obtain sufficient appropriate audit evidence that the

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[42] According to PCAOB standards, "The auditor should take into account relevant evidence from . . . the attestation engagement[] . . . in planning and performing audit procedures related to the supplemental information and in evaluating the results of the audit procedures to form the opinion on the supplemental information." AS 2701.03(c) Note.

[43] *See* Rule 15c3-3(f).

supplemental information in the FY 2017 and FY 2018 supporting schedules was fairly stated, in all material respects, in relation to the financial statements as a whole.[44]

F. Nee Violated PCAOB Rules and Standards in Connection with the Engagement Quality Reviews for the Examinations

34. As noted above, PCAOB Rules provide that associated persons of registered public accounting firms shall comply with all applicable auditing and related professional practice standards.[45]

35. AS 1220, *Engagement Quality Review*, requires that an engagement quality review be performed on all audits and certain attestation engagements conducted pursuant to PCAOB standards, like the Examinations.[46] AS 1220 also provides that the engagement quality reviewer for an engagement performed pursuant to PCAOB attestation standards should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the attestation engagement.[47] In an attestation engagement performed pursuant to AT No. 1, a firm may grant permission to an audit client to use the firm's engagement report only after an engagement quality reviewer provides concurring approval of issuance of the report.[48]

36. Moreover, under AS 1220, the engagement quality reviewer may provide concurring approval of issuance of the report for an engagement performed pursuant to PCAOB attestation standards only if, after performing with due professional care the review required by AS 1220, he or she is not aware of a significant engagement deficiency.[49] AS 1220 states that a significant engagement deficiency in an attestation engagement exists when, among other things, "the engagement team failed to perform attestation procedures necessary in the circumstances of the engagement."[50]

37. In connection with the Examinations, Nee failed to appropriately evaluate the conclusions reached by the engagement team with respect to significant areas of the Examinations, including the testing of Broker-Dealer A's ICOC and the testing of Broker-Dealer

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44 *See* AS 2701.02 – .04.

45 *See* PCAOB Rule 3100.

46 *See* AS 1220.01.

47 *See id*. at .18A.

48 *See id.* at .18C.

49 *See id.* at .18B.

50 *Id.* at .18B Note.

A's compliance with the Reserve Requirements Rule at fiscal year-end. Specifically, the Firm's engagement teams did not perform any procedures concerning Broker-Dealer A's assertions in its Compliance Reports that its ICOC with the Customer Protection Rule was effective during, and at the end of, the most recent fiscal year, even though such procedures were critical to the core objectives of the Firm's Examinations of the Compliance Reports. Additionally, the engagement teams failed to perform required procedures to test the accuracy and completeness of information in the schedules that Broker-Dealer A used to assert in its Compliance Reports that, at FYE December 31, 2017 and FYE December 31, 2018, respectively, its Customer Reserve Bank Accounts held sufficient reserves in compliance with the Reserve Requirements Rule.[51] Nee knew the engagement teams had concluded that these assertions in the Compliance Reports were fairly stated, in all material respects, yet he saw no evidence in his reviews that the teams had performed the above necessary procedures related to those assertions.

38. As a result, Nee was aware of a significant engagement deficiency in each of the Examinations: the engagement teams' failures to perform attestation procedures necessary in the circumstances of the engagements.[52] Nevertheless, Nee provided his concurring approvals of issuance of the Examination Reports. Accordingly, Nee failed to perform the engagement quality reviews with due professional care, in violation of AS 1220.

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Morey, Nee, Buck & Oswald, LLC, John P. Morey, CPA, and Gerard B. Nee, CPA, are hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay the civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal money order, certified check, bank cashier's check or bank money

[51] *See* ¶ 21(b) of AT No. 1.

[52] *See* AS 1220.18B, Note.

order; (c) made payable to the Public Company Accounting Oversight Board, (d) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (e) submitted under a cover letter which identifies Morey, Nee, Buck & Oswald, LLC as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

C. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two years from the date of this Order, the Firm, John Morey, and Gerard Nee shall not perform audit services in audit engagements, including examination engagements, for clients that are brokers or dealers that are required to file a compliance report under Securities Exchange Act of 1934 Rule 17a-5, 17 C.F.R. § 240.17a-5, of the U.S. Securities and Exchange Commission, including audit engagements for clients that are brokers or dealers that carry customer or broker or dealer accounts and receive or hold funds or securities for those persons.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 10, 2021

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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of Haskell & White LLP,

Respondent.

PCAOB Release No. 105-2021-006
(Corrected Copy)

August 13, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or PCAOB) is imposing sanctions upon Haskell & White LLP ("H&W," "the Firm," or "Respondent"), a registered public accounting firm. The Board is:

(1) censuring the Firm;

(2) imposing a civil money penalty in the amount of $20,000 on the Firm;

(3) requiring the Firm to establish quality control policies and procedures, or revise and/or supplement existing policies and procedures, including monitoring procedures, for the purpose of providing the Firm with reasonable assurance of compliance with the documentation requirements of AS 1215, *Audit Documentation*, applicable to audits and quarterly reviews, including with respect to the timely assembly for retention of audit documentation ("archiving"); and

(4) requiring the Firm to provide additional professional education and training to its associated persons related to AS 1215.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and standards by repeatedly failing to: (1) timely archive audit documentation in connection with audits, in violation of AS 1215; (2) effectively implement policies and procedures to provide it with reasonable assurance that its engagement personnel were timely archiving audit documentation in compliance with AS 1215, in violation of the PCAOB's quality control standards; and (3) timely make changes or improve compliance with the Firm's policies and procedures in order to enable the Firm to obtain reasonable assurance that its system of quality control was effective, upon becoming aware of repeated failures by engagement personnel to archive audit documentation in compliance with AS 1215.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. Haskell & White LLP is a limited liability partnership headquartered in Irvine, California. The Firm is licensed in the states of California (License No. PAR 5257), Oregon (License No. 2742), Washington (License No. 6316), and Nevada (License No. PART-0816). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns the Firm's repeated violations of PCAOB rules and standards by failing to archive a complete and final set of audit documentation by the relevant documentation completion date.[2] The Firm serves as an external auditor for certain issuers that

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

[2] As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The

file Forms 10-K with the U.S. Securities and Exchange Commission. The PCAOB standard concerning audit documentation, AS 1215, provides that "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[3] Beginning in 2016 through 2019, in connection with at least six issuer audits and four quarterly reviews (the "Audits"), the Firm failed to archive a complete and final set of audit documentation by the relevant documentation completion dates, in violation of AS 1215.

3. From 2016 through 2019, the Firm also violated PCAOB quality control standards by failing to effectively implement policies and procedures to provide it with reasonable assurance that its engagement teams would timely archive audit documentation for the Audits.[4]

4. Despite the Firm's annual internal inspections from 2016 through 2019 identifying late archiving of audit documentation as a significant, ongoing problem, the Firm failed to timely make changes or improve compliance with the Firm's policies and procedures in order to enable the Firm to obtain reasonable assurance that its system of quality control was effective. That failure constituted a further violation of PCAOB quality control standards.[5]

C. The Firm Violated PCAOB Standards in Connection with its Repeated Failures to Timely Archive Audit Documentation Beginning in 2016

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards.[6] PCAOB standards provide, among other things, that the auditor must prepare audit documentation in connection with

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reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondent's conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

[3] AS 1215.15. Audit documentation is the written record of the basis for the auditor's conclusions that provides the support for the auditor's representations, whether those representations are contained in the auditor's report or otherwise. AS 1215.02. Audit documentation also may be referred to as *work papers* or *working papers*. *Id.*

[4] *See* QC § 20.17, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[5] *See* QC §§ 20.20, 30.02-.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for fiscal years ending before December 31, 2016); and PCAOB Rule 3200, *Auditing Standards* (applicable to audits for fiscal years ending on or after December 31, 2016).

each engagement conducted pursuant to the standards of the PCAOB.[7] The auditor must document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[8] This documentation requirement applies to the work of all those who participate in the engagement.[9] As noted above, "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date)*."[10]

6. Beginning no later than 2016, the Firm's engagement teams failed to timely archive audit and quarterly review documentation for the Audits. For example, on a number of occasions, the audit documentation was not finalized for over 500 days after the documentation completion date.

7. As a result of the above-described conduct, the Firm violated AS 1215.

D. The Firm Violated PCAOB Quality Control Standards by Failing to Effectively Implement Policies and Procedures and to Timely Make Changes or Improve Compliance In Order to Provide Reasonable Assurance Related to Timely Archiving of Audit Work Papers

8. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards.[11] PCAOB quality control standards, in turn, require that a registered firm "shall have a system of quality control for its accounting and auditing practice."[12]

9. Pursuant to PCAOB quality control standards, firms should establish policies and procedures to provide reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[13] To the extent appropriate and as required by applicable professional

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7 AS 1215.04.

8 AS 1215.06.

9 *Id.*

10 AS 1215.15.

11 PCAOB Rule 3400T, *Interim Quality Control Standards*.

12 QC § 20.01.

13 QC § 20.17.

standards, these policies and procedures should cover planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement.[14]

10. PCAOB quality control standards provide that one required element of a quality control system is monitoring.[15] Monitoring involves an ongoing consideration and evaluation of the: (a) relevance and adequacy of the firm's policies and procedures; (b) appropriateness of the firm's guidance materials and any practice aids; (c) effectiveness of professional development activities; and (d) compliance with the firm's policies and procedures.[16] Monitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective.[17]

11. A firm's monitoring procedures may include internal inspection procedures,[18] which contribute to the monitoring function because findings are evaluated and changes in or clarifications of quality control policies and procedures are considered.[19] The adequacy of and compliance with a firm's quality control system are evaluated by performing such inspection procedures as: (a) discussions with the firm's personnel; (b) summarization of the findings from the inspection procedures, at least annually, and consideration of the systemic causes of findings that indicate improvements are needed; (c) determination of any corrective actions to be taken or improvements to be made with respect to the specific engagements reviewed or the firm's quality control policies and procedures; and (d) consideration of inspection findings by appropriate firm management personnel who should also determine that any actions necessary, including necessary modifications to the quality control system, are taken on a timely basis.[20]

12. Review of work papers after the issuance of the audit report may constitute inspection procedures provided: (a) the review is sufficiently comprehensive to enable the firm to assess compliance with all applicable professional standards and the firm's quality control policies and procedures; (b) findings of such reviews that may indicate the need to improve compliance with or modify the firm's quality control policies and procedures are periodically summarized, documented, and communicated to the firm's management personnel having the

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14 QC § 20.18.

15 QC § 20.07.

16 QC § 30.02; *see also* QC § 20.20.

17 QC § 30.03.

18 *Id.*

19 QC § 30.04.

20 QC § 30.06.

responsibility and authority to make changes in those policies and procedures; (c) the firm's management personnel consider on a timely basis the systemic causes of findings that indicate improvements are needed and determine appropriate actions to be taken; and (d) the firm implements on a timely basis such planned actions, communicates changes to personnel who might be affected, and follows up to determine that the planned actions were taken.[21]

13. At all relevant times, the Firm's quality control personnel performed annual internal inspections of the Firm's audit practice. The annual internal inspections were intended to provide reasonable assurance that the Firm's policies and procedures were suitably designed and being effectively applied.

14. As part of its annual internal inspections, the Firm's quality control personnel evaluated, among other things, whether audit engagement teams archived audit work papers in accordance with the Firm's policies and the requirements of AS 1215 regarding the archiving of audit documentation. The Firm's annual internal inspections included, but were not limited to, reviews of the Audits.

15. During its annual internal inspections from 2016 through 2019, the Firm identified numerous instances where engagement teams did not timely archive audit work papers. After each of those annual internal inspections, the Firm's Quality Control Partner-in-Charge and the Audit Department Partner-in-Charge conducted department-wide trainings with all department members that referenced the importance of archiving. The internal inspection findings were also reported to and discussed each year with the Firm's entire audit department, all department managers, and all principals and partners, including the Managing Partner of the Firm.

16. Notwithstanding the repeated identification of failures to archive work papers on a timely basis and the communication of those problems to the Firm's Managing Partner, the Firm's archiving problems persisted.

17. As a result of the above-described conduct, the Firm violated PCAOB standards by failing to effectively implement policies and procedures to provide it with reasonable assurance that its engagement personnel were timely archiving audit documentation.[22] For example, during the relevant time period, Firm personnel were not required to and did not consistently input report release dates into the Firm's audit software, which significantly limited the Firm's visibility into timely archiving audit documentation.

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[21] QC § 30.08.

[22] *See* QC § 20.17.

18. Despite identifying late archiving of audit work papers as a significant problem each year from 2016 to 2019, the Firm's steps to address the failures were inadequate.

19. Thus, the Firm failed to adequately monitor compliance with its quality control policies and procedures regarding archiving of audit work papers and to timely make changes or improve compliance with the Firm's policies and procedures in order to enable the Firm to obtain reasonable assurance that its system of quality control was effective.[23]

IV.

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

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation in this matter. Specifically, the Firm voluntarily modified and implemented enhancements to its quality control policies and procedures in relevant areas, including hiring a third-party consultant to improve the Firm's internal inspection and archiving processes; requiring personnel to input the report release date into the Firm's audit software, which allows the Firm to create reports identifying documentation completion dates and related milestones; and incorporating failures to timely finalize audit documentation into Firm personnel's performance evaluations. The Board took these remedial or corrective actions into account in ordering the sanctions.

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $20,000 upon Haskell & White LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Haskell & White LLP shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W.,

[23] *See* QC § 20.20; QC §§ 30.02-.03.

Washington D.C. 20006; and (c) submitted under a cover letter which identifies Haskell & White LLP as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

C. Pursuant to Sections 105(c)(4)(F) and (G) of the Act and PCAOB Rules 5300(a)(6) and (9), the Firm is required:

1. within ninety (90) days of the entry of this Order, to establish quality control policies and procedures, or revise and/or supplement existing policies and procedures, including monitoring procedures, for the purpose of providing the Firm with reasonable assurance that the work performed by engagement personnel complies with documentation requirements applicable to audits and quarterly reviews, including with respect to the archiving of audit documentation pursuant to AS 1215;

2. within ninety (90) days from the entry of this Order, to ensure that all professionals involved in any audit, as that term is defined in Section 110(1) of the Act, have received four (4) hours of additional training[24] concerning compliance with AS 1215, including archiving of audit documentation in accordance with AS 1215; and

3. within one hundred twenty (120) days from the entry of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, the Firm's compliance with paragraphs C.1 and C.2 above.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 13, 2021

[24] This training is in addition to any training the Firm has provided prior to the date of this Order.

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

1666 K Street NW
Washington, DC 20006
Office: 202-207-9100
Fax: 202-862-8430

Order Instituting Disciplinary Proceedings, Making Findings And Imposing Sanctions

In the Matter of Tamba S. Mayah, CPA, and Tamba Seibu Mayah, CPA,

Respondents.

PCAOB Release No. 105-2021-007

September 13, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions on Tamba S. Mayah, CPA (the "Firm") and Tamba Seibu Mayah, CPA ("Mayah") (collectively, "Respondents"). The Board is:

(1) censuring Respondents;

(2) limiting the Firm's activities for a period of two years from the date of this Order, by prohibiting it from issuing an audit report for any clients that are issuers, or broker-dealers;

(3) limiting Mayah's activities for a period of two years from the date of this Order, in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"); and

(4) requiring Mayah to complete fifty hours of continuing professional education ("CPE") directly related to the audits of issuers or broker-dealers under PCAOB standards, in addition to any CPE required in connection with any professional license.

The Board is imposing these sanctions on the basis of its findings that Respondents violated PCAOB rules and standards in connection with their 2018 and 2019 audit and review engagements for a broker-dealer audit client ("Broker-Dealer A") registered with the Commission.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **Tamba S. Mayah, CPA** is a sole proprietorship headquartered in New Carrollton, Maryland. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm served as Broker-Dealer A's independent auditor for the fiscal years ending December 31, 2018 ("FY 2018"), and December 31, 2019 ("FY 2019").

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

[2] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

2. **Tamba Seibu Mayah, CPA** is a certified public accountant licensed by the Maryland Board of Public Accountancy (license no. 24191). Mayah was, at all relevant times, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Mayah is the sole owner and only employee of the Firm, and was the engagement partner on the Firm's FY 2018 and FY 2019 audit and review engagements for Broker-Dealer A.

B. Broker-Dealer

3. Broker-Dealer A was, at all relevant times, a Commonwealth of Virginia corporation headquartered in Falls Church, Virginia. Broker-Dealer A's public filings disclose that it is registered with the Commission as an introducing broker and dealer in securities primarily consisting of stocks, bonds, and mutual funds. Broker-Dealer A also claimed an exemption pursuant to paragraph (k)(2)(ii) of Rule 15c3-3, 17 C.F.R. § 240.15c3-3(k)(2)(ii), *Customer Protection-Reserves and Custody of Securities* ("Rule 15c3-3"), under the Securities Exchange Act of 1934 ("Exchange Act"). At all relevant times, Broker-Dealer A was a "broker" and "dealer" as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii).

C. Summary

4. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Firm's FY 2018 and FY 2019 audits of the financial statements and accompanying supplemental information of Broker-Dealer A (the "Audits"). Among other things, Respondents failed to obtain sufficient appropriate audit evidence and exercise due professional care and professional skepticism to support the Firm's audit opinions on the financial statements and accompanying supplemental information of Broker-Dealer A.

5. This matter also concerns Respondents' violation of Attestation Standard No. 2 ("AT No. 2"), *Review Engagements Regarding Exemption Reports of Brokers and Dealers*, in performing their reviews of the statements of Broker-Dealer A in the FY 2018 and FY 2019 exemption reports (the "Reviews") prepared pursuant to paragraph (d)(1)(B)(2) of Exchange Act Rule 17a-5, 17 C.F.R. § 240.17a-5 ("Rule 17a-5").

6. In connection with the above Audits and Reviews, the Firm also violated AS 1220, *Engagement Quality Review*, by improperly permitting the issuance of engagement reports without obtaining an engagement quality review and concurring approval of issuance. Mayah violated PCAOB rules by substantially contributing to the Firm's violation of AS 1220.

D. Respondents Violated PCAOB Rules and Standards in Their Audits

i. Commission Reporting Requirements and PCAOB Rules and Standards Related to the Audits

7. Rule 17a-5 generally requires a broker-dealer, among other things, to file annually with the U.S. Securities and Exchange Commission ("Commission"): (a) a financial report containing certain financial statements and supporting schedules (*i.e.*, supplemental information);[3] and (b) a report prepared by a PCAOB-registered firm based on an examination of a broker-dealer.[4]

8. In connection with the preparation or issuance of audit reports, PCAOB rules require a registered public accounting firm and its associated persons to comply with the Board's auditing and related professional practice standards.[5]

9. An auditor is in a position to express an unqualified opinion on the financial statements and supplemental information when the auditor has conducted an audit in accordance with the PCAOB standards and concludes that (a) the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework, and (b) the supplemental information is fairly stated, in all material respects, in relation to the financial statements as a whole.[6] Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism, and to obtain sufficient appropriate audit evidence to provide a reasonable basis for an opinion regarding the financial statements and supplemental information that accompanies the audited financial statements.[7]

10. PCAOB standards further require that the auditor properly plan the audit, which includes performing risk assessment procedures sufficient to provide a reasonable basis for

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[3] *See* Rule 17a-5(d)(1)(i)(A) and (d)(2). *See also* SEC Form X-17A-5, 17 C.F.R. § 249.617 ("Form X-17A-5").

[4] *See* Rule 17a-5(d)(1)(i)(C), (f)(1), and (g)(1).

[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; *see also* PCAOB Rule 3200*, Auditing Standards*.

[6] *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*; AS 2701.02, *Auditing Supplemental Information Accompanying Audited Financial Statements*.

[7] *See* AS 1015, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*; AS 2701.02-03.

identifying and assessing the risks of material misstatement, whether due to error or fraud.[8] The auditor should identify and assess the risks of material misstatement at the financial statement level and the assertion level, and design and implement overall responses to address the assessed risks of material misstatement.[9]

11. When the auditor is engaged to perform audit procedures and report on supplemental information accompanying audited financial statements, the auditor should, among other things, obtain an understanding of the criteria that management used to prepare the supplemental information, including relevant regulatory requirements.[10] The auditor also should perform procedures to test the completeness and accuracy of the information presented in the supplemental information to the extent it was not tested as part of the audit of financial statements, and should evaluate whether the supplemental information, including its form and content, complies with relevant regulatory requirements or other applicable criteria, if any.[11]

12. As described below, Respondents failed to comply with applicable PCAOB rules and standards in connection with the Audits of Broker-Dealer A.

ii. Violations Related to the Audits of Broker-Dealer A's Financial Statements

13. Mayah was the engagement partner for the Firm's Audits of Broker-Dealer A. Mayah also authorized the Firm's issuance of audit reports containing unqualified opinions on Broker-Dealer A's FY 2018 and FY 2019 financial statements included in Form X-17A-5 Part III, filed with the Commission on March 4, 2019, and March 3, 2020, respectively. The Firm's audit reports on Broker-Dealer A's FY 2018 and FY 2019 financial statements both stated, among other things, that the Firm's audit of Broker-Dealer A's financial statements was conducted in accordance with PCAOB standards.

14. Respondents failed to comply with applicable PCAOB standards in connection with the Firm's audits of Broker-Dealer A's FY 2018 and FY 2019 financial statements. Specifically, Mayah failed to establish an overall audit strategy for the engagement or to develop an audit plan.[12] Respondents also failed to perform any risk assessment procedures to identify and assess the risks of material misstatement and to design and implement overall

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[8] *See* AS 2101.04-.05, *Audit Planning*; AS 2110.04, *Identifying and Assessing Risks of Material Misstatement.*

[9] *See* AS 2110.59; AS 2301.05, *The Auditor's Responses to the Risks of Material Misstatement*.

[10] *See* AS 2701.04(a).

[11] *See id.* at .04(e) – (f).

[12] *See* 2101.05.

responses to address the assessed risks of material misstatement.[13] Further, Respondents failed to obtain sufficient appropriate audit evidence concerning each relevant assertion of each significant account and disclosure in Broker-Dealer A's financial statements.[14] Other than obtaining representations from management, Respondents failed to perform any audit procedures concerning Broker-Dealer A's reported assets, liabilities, revenues and expenses.

15. As a result of the above deficiencies, Respondents failed to comply with PCAOB rules and standards in connection with the audits of Broker-Dealer A's financial statements for FY 2018 and FY 2019.

iii. Violations Related to Audits of Broker-Dealer A's Supplemental information

16. Broker-Dealer A's Form X-17A-5 included supplemental information accompanying its FY 2018 and FY 2019 financial statements, relating to (i) computation of aggregate indebtedness and net capital ("Net Capital") pursuant to 17 C.F.R. § 240.15c3-1;[15] and (ii) reconciliation of the computation of aggregate indebtedness and net capital with that of the registrant [Broker-Dealer A] as filed in Part IIA of Form X-17A-5 ("Reconciliation Report").[16]

17. Respondents failed to obtain sufficient audit evidence appropriate to support the Firm's opinion on Broker-Dealer A's supplemental information for both FY 2018 and FY 2019 as required by PCAOB standards.[17] Specifically, other than obtaining Broker-Dealer A's Net Capital calculations and agreeing them to regulatory reports prepared by management, Respondents failed to perform the required audit procedures under AS 2701 on Broker-Dealer A's Net Capital and Reconciliation Report included in the supplemental information.[18]

18. Consequently, Respondents violated PCAOB standards by failing to obtain sufficient appropriate evidence that the supplemental information accompanying Broker-Dealer A's FY 2018 and FY 2019 financial statements was fairly stated, in all material respects, in relation to the financial statements as a whole.[19]

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13 *See* AS 2110.04; AS 2301.05.

14 *See* AS 1105.04; 2301.08.

15 *See* Rule 17a-5(d)(2)(ii).

16 *See id*. at (d)(2)(iii).

17 *See* AS 2701.03.

18 *See id.* at .04.

19 *See id.* at .03-.04.

E. The Firm and Mayah Violated AT No. 2 in Their Reviews of Broker-Dealer A's 2017 and 2018 Exemption Reports

i. Commission Reporting Requirements and PCAOB Rules and Standards Related to the Reviews

19. Rule 17a-5 requires a broker or dealer that claims it was exempt from Rule 15c3-3 throughout the most recent fiscal year to prepare an exemption report.[20] This report must contain the following statements made to the best knowledge and belief of the broker-dealer: (1) a statement that identifies the provisions in paragraph (k) of Rule 15c3-3 under which the broker or dealer claimed an exemption from Rule 15c3-3; (2) state that the broker-dealer met the identified exemption provisions throughout the most recent fiscal year without exception or that it met the identified exemption provisions throughout the most recent fiscal year except as described in the exemption report; and (3) if applicable, a statement that identifies each exception during the most recent fiscal year in meeting the identified exemption provisions in paragraph (k) of Rule 15c3-3 and that briefly describes the nature of each exception and the approximate date(s) on which the exception existed.[21]

20. Rule 17a-5(g) further requires that an independent public accountant registered with the PCAOB prepare a report based on a review of the statements made by the broker or dealer in the exemption report, in accordance with PCAOB standards.[22] PCAOB Rule 3100 requires a registered public accounting firm and its associated persons to comply with all applicable auditing and related professional practice standards.

21. AT No. 2 establishes requirements that apply when an auditor is engaged to perform a review of the statements (also referred to as "assertions") made by a broker or dealer in an exemption report ("Review Engagement").[23] When performing the review, the auditor must plan and perform the Review Engagement to obtain appropriate evidence that is sufficient to obtain moderate assurance about whether one or more conditions exist that would cause one or more of the broker-dealer's assertions not to be fairly stated, in all material respects.[24] The Review Engagement should be coordinated with the audit of the financial statements and the audit procedures performed on the supplemental information of the

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20 *See* Rule 17a-5(d)(1)(i)(B)(*2*).

21 *See* Rule 17a-5(d)(4).

22 *See* Rule 17A-5(d)(1)(i)(C) and (g)(2)(ii).

23 *See* AT No. 2. ¶ 1.

24 *See id.* at ¶ 4.

broker-dealer.[25] Prior to issuing a review report, the auditor is required to obtain written representations from management of the broker-dealer.[26]

22. As described below, Respondents failed to comply with applicable PCAOB standards in connection with their Reviews of the statements made by Broker-Dealer A in its exemption reports for FY 2018 and FY 2019.

ii. Violations Related to the Exemption Report Reviews

23. Broker-Dealer A filed exemption reports with its Forms X-17A-5 for FY 2018 and FY 2019. Both reports stated that Broker-Dealer A: (i) was exempt under paragraph (k)(2)(ii) of Rule 15c3-3; and (ii) met the identified exemption provisions in paragraph (k) of Rule 15c3-3 throughout the most recent fiscal year without exception.

24. The Firm reviewed the statements made by Broker-Dealer A in its FY 2018 and FY 2019 exemption reports and issued review reports, dated February 28, 2019, and January 15, 2020, respectively (collectively, the "Review Reports").

25. Mayah was responsible for the Reviews and the performance of procedures related to those Reviews.[27] He also authorized the Firm's issuance of the Review Reports.

26. Among other things, the Review Reports stated that the Firm was not aware of any material modifications that should be made in the statements made by Broker-Dealer A in its FY 2018 and FY 2019 exemption reports for them to be fairly stated, in all material respects.

27. Respondents failed to plan and perform the Reviews, however, to obtain appropriate evidence that was sufficient to obtain moderate assurance about whether one or more conditions existed that would cause one or more of Broker-Dealer A's statements in the FY 2018 and FY 2019 exemption reports not to be fairly stated, in all material respects.[28] Specifically, other than reading those exemption reports and testing whether customer funds were promptly transmitted to the clearing broker, Respondents failed to plan and perform the procedures required under AT No. 2, including inquiries, to opine that the Firm was not aware

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[25] *See id.* at ¶ 7.

[26] *See id.* at ¶¶ 13, 14.

[27] *See id.* at ¶ 6.

[28] *See id.* at ¶ 4.

of any material modifications that should be made to the statements in the FY 2018 and FY 2019 exemption reports for them to be fairly stated, in all material respects.[29]

28. Additionally, Respondents failed to obtain written representations from Broker-Dealer A's management as required by AT No. 2.[30] The failure to obtain written representations from management constituted a limitation on the scope of those engagements.[31]

29. As a result of the above deficiencies, Respondents lacked a sufficient basis for their opinions in the Review Reports. Consequently, Respondents violated AT No. 2.[32]

F. The Firm Violated PCAOB Rules and Standards Relating to Engagement Quality Review

30. As noted above, PCAOB rules further provide that a registered public accounting firm and its associated persons shall comply with all applicable auditing and related professional practice standards.

31. AS 1220 requires that an engagement quality review be performed on all audits and certain attestation engagements, including a review engagement under AT No. 2, conducted pursuant to PCAOB standards.[33] In addition, a firm may grant permission to a client to use an engagement report only after an engagement quality reviewer provides concurring approval of issuance.[34]

32. The Firm failed to obtain engagement quality reviews for the Audits and Reviews of Broker-Dealer A, and improperly permitted the issuance of its engagement reports without concurring approval of issuance. As a result, the Firm repeatedly violated AS 1220.[35]

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29 *See id.* at ¶¶ 4, 8b, 10.

30 *See id.* at ¶ 13.

31 *See id.* at ¶¶ 14, 20.

32 *See id.* at ¶¶ 3, 4.

33 *See* AS 1220.01.

34 *See* AS 1220.13, .18C.

35 *Id.*

G. Mayah Contributed to the Firm's Violations of PCAOB Rules and Standards Relating to Engagement Quality Review

33. PCAOB Rule 3502 states that, "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[36]

34. Mayah was the sole owner of the Firm and the engagement partner for the Audits and Reviews. For each audit engagement and review, Mayah was responsible for ensuring that the Firm complied with PCAOB rules and standards. Mayah knew that he was directly and substantially contributing to the Firm's violations of AS 1220, as described above. As a result, Mayah violated PCAOB Rule 3502.

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Tamba S. Mayah, CPA and Tamba Seibu Mayah, CPA, are hereby censured;

B. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two years from the date of this Order, the Firm shall not issue an audit report for any clients that are: (i) an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii); or (ii) a "broker" or "dealer", as those terms are defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii), respectively;

C. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two years from the date of this Order, Mayah's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Mayah shall not (1) serve, or supervise the work of

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[36] *See* PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor" or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*; and

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Mayah is required to complete, within two years of the date of the Order, fifty hours of professional education and training directly related to the audits of issuers or broker-dealers under PCAOB standards (such hours shall be in addition to, and shall not be counted in, continuing professional education Mayah is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 13, 2021

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions

In the Matter of KPMG,

Respondent.

PCAOB Release No. 105-2021-008

September 13, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon KPMG ("KPMG Australia," the "Firm," or "Respondent"). The Board is:

(1) censuring the Firm;

(2) imposing a $450,000 civil money penalty on the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that KPMG Australia violated PCAOB rules and quality control standards over several years in connection with the Firm's internal training program.

In ordering these sanctions, the Board took into account the Firm's extraordinary cooperation in this matter, including self-reporting, substantial assistance, and personnel and policy actions, as described in more detail below.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG** is an unincorporated partnership in Australia, and headquartered in Sydney, New South Wales, Australia. It is a member firm of the KPMG International Limited global network of firms ("KPMG Global"). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm served as the auditor for one issuer audit client. Additionally, at all relevant times, the Firm performed audit work that other PCAOB-registered firms, including member firms of KPMG Global, used or relied on in issuing audit reports for their issuer clients.

B. Summary

2. From at least 2016 until early 2020, KPMG Australia violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and monitoring training tests, including tests designed to help the Firm's audit professionals satisfy the requirements for maintaining their accounting licenses. Those quality control failures prevented the Firm from identifying that more than 1,100 Firm personnel, including more than 250 of its auditors, were involved in improper answer sharing—either by providing or receiving answers—in connection with tests for mandatory training courses covering topics that included professional independence, auditing, and accounting.

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

3. After discovering the training-related misconduct in February 2020, KPMG Australia reported the matter to the PCAOB within 15 days and began implementing remedial policies and procedures.

C. KPMG Australia Violated PCAOB Rules and Standards

i. Applicable PCAOB Rules and Quality Control Standards

4. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[2] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[3]

5. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[4] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[5] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[6]

6. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[7] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[8] Under

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[2] *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

[3] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[4] QC § 20.09.

[5] QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

[6] QC § 20.13.c; QC § 40.02.c.

[7] QC § 20.08.

[8] *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[9]

ii. Training Requirements for KPMG Australia Personnel

7. As part of KPMG Australia's personnel management system, the Firm administers a training program for all of its professionals. The Firm has designed its training program to serve multiple purposes, including to provide Firm personnel with technical instruction, to further their professional development, and to satisfy some of the continuing professional education requirements imposed by the accountancy boards that license the Firm's auditors. The Firm's training requirements vary by each professional's position, role, and industry practice area, and are intended to be relevant to, among other things, the independence of its personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. The Firm's internal training often includes a testing component.

8. Since at least 2016, the Firm has utilized an online platform to offer training to its personnel. The platform enables the Firm to deliver, track, and record completion of mandatory training and testing. The platform records the dates and times when personnel access and complete mandatory training and testing. For training courses with a testing component, the Firm does not credit personnel with completing the training until they satisfactorily pass the related test.

9. Since at least 2016, the Firm has required all personnel to take certain online courses, including courses on "Independence." These courses include a testing component at the end. During the same period, the Firm has also administered a number of online courses related to auditing, including "Audit Foundations," "Spotlight" (bi-annual training for the Firm's audit personnel covering accounting and auditing standards), and "US GAAP and GAAS training." The particular courses the Firm's auditors must take vary based on their experience levels. These audit-related courses include a testing component and are mandatory for audit personnel.

[9] *See* QC § 20. 20.c-.d; QC § 30.02.c-.d.

iii. Failures by KPMG Australia to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

10. Between 2016 and 2020, KPMG Australia had in place certain quality control policies and procedures intended to address integrity and personnel management, including the training aspect of personnel management. For example, with respect to integrity, the Firm's Code of Conduct generally advised personnel that the Firm does not "tolerate behavior . . . that is . . . unethical." The Firm also stated in its audit training policy document that "employees should ensure that the results of the online assessments . . . reflect their own capabilities and not those of their peers." Further, in connection with annual Independence Training, the Firm informed personnel that they should complete the training test without the assistance of others. In administering all other training courses, however, the Firm failed to communicate this expectation. During the same time period, the Firm also employed certain monitoring procedures related to internal training, but those procedures were limited to tracking completion of courses and related tests. The monitoring procedures were not designed to detect other compliance issues, such as answer sharing.

11. As described below, these policies and procedures were inadequate to prevent or detect the extensive answer sharing on training tests that occurred among Firm personnel over multiple years.

iv. Widespread Sharing of Answers to Training Tests at KPMG Australia

12. From at least 2016 to early 2020, more than 1,100 KPMG Australia personnel were involved in improper answer sharing when taking training tests. Firm personnel primarily shared answers using email, by attaching documents containing answers to training test questions. In addition, individuals also shared answers using text messages or instant message services, by providing the answers in hard copy documents, by saving the answers to test questions on a shared server, or orally when taking tests in the presence of others.

13. Instances of improper answer sharing occurred in connection with tests that were a part of the Firm's mandatory training, including the Independence Training, Audit Foundations, Spotlight, and U.S. GAAP and GAAS courses.

14. Improper sharing of training test answers occurred at all levels of the Firm. After Firm leadership learned of the practice and conducted an internal investigation, the Firm sanctioned 1,131 individuals, or approximately 12% of Firm personnel, for their involvement in answer sharing. The Firm's investigation revealed that the misconduct was widespread within the Firm's audit practice, including among those who performed work on audits governed by

PCAOB standards. With respect to audit training tests, at least 277 personnel engaged in answer sharing.

15. As illustrated by the misconduct described above, from 2016 to early 2020, KPMG Australia failed to establish policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) Firm personnel performed all professional responsibilities with integrity; (2) work was assigned to personnel having the degree of technical training and proficiency required in the circumstances; and (3) personnel participated in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies. Accordingly, the Firm violated PCAOB quality control policies related to integrity and personnel management.[10]

IV.

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

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation in this matter.[11] First, the Firm voluntarily self-reported the matter to PCAOB staff within fifteen days of learning about the misconduct. Second, the Firm provided substantial assistance to the PCAOB's investigation by conducting, and providing to the PCAOB the results of, a thorough internal investigation, including evidence relating to each of the Firm's interviews of the 1,172 individuals it suspected of engaging in improper answer sharing. The Firm also held regular update calls with PCAOB staff and provided a root cause analysis of the underlying misconduct, as well as a detailed written report of the results of its internal investigation. Third, the Firm promptly instituted remedial measures, including retaining an independent consultant to undertake a systemic review of the Firm's culture, conduct, and ethics; and requiring personnel to re-take certain training and testing. The Firm also took disciplinary action against 1,131 personnel, ranging from requiring individuals to retire to issuing verbal cautions. Absent the Firm's extraordinary cooperation, the civil money penalty imposed would have been significantly larger, and the Board may have imposed additional sanctions.

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[10] *See* QC § 20.09, .13.b-.c, .20; QC § 30.02; and QC § 40.02.b-.c.

[11] *See Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations,* PCAOB Rel. No. 2013-003 (Apr. 24, 2013).

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty of $450,000 on KPMG. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. KPMG shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, certified check, bank cashier's check, or bank money order (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (c) submitted under a cover letter which identifies KPMG as the Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), KPMG is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (a) personnel perform all professional responsibilities with integrity; (b) work is assigned to personnel having the degree of technical training and proficiency required in the circumstances; (c) personnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies; and (d) the above-described policies and procedures are suitably designed and are being effectively applied.

2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1.

above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. KPMG shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 13, 2021

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Sarah C. Martin, CPA,

Respondent.

PCAOB Release No. 105-2021-009

September 17, 2021

By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is barring Sarah C. Martin, CPA ("Martin" or "Respondent") from being an associated person of a registered public accounting firm[1] and imposing a civil money penalty in the amount of $10,000 on Martin. The Board is imposing these sanctions on the basis of its findings that Martin violated PCAOB rules and standards in connection with the 2017 integrated audit of an issuer's financial statements and internal control over financial reporting ("ICFR") and her subsequent failure to cooperate with the Board's inspection of that audit.

I.

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

II.

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

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

subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order") as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Sarah C. Martin** was, at all relevant times, a certified public accountant licensed by the Virginia Board of Accountancy (license no. 26944). Martin's CPA license is currently on inactive status. Martin was, at all relevant times, a partner in PricewaterhouseCoopers LLP's ("PwC") Richmond, Virginia office and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). She served as the engagement partner for PwC's integrated audit of the Issuer's 2017 financial statements and ICFR.

B. The Issuer

2. The **Issuer** was, at all relevant times, a Virginia corporation and an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

3. This matter concerns Martin's violations of PCAOB rules and standards in connection with the integrated audit of the Issuer's financial statements and ICFR as of and for the year ended December 31, 2017, and during the PCAOB's subsequent inspection of that audit.

4. During the 2017 audit, Martin failed to perform sufficient audit procedures to test the design and operating effectiveness of certain of the Issuer's controls. As a result,

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

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

Martin failed to identify numerous control deficiencies that PwC later determined, following a PCAOB inspection, to be material weaknesses in ICFR.

5. Specifically, Martin's failure to perform sufficient audit procedures caused her not to identify 15 material weaknesses. Following PwC's post-inspection ICFR supplemental procedures, the Issuer and PwC combined these 15 individual material weaknesses into two aggregated material weaknesses that existed as of December 31, 2017: one with respect to the accuracy and occurrence of revenue, and a second with respect to the review of cash flow forecasts. The Issuer filed a Form 8-K disclosing that PwC's unqualified 2017 ICFR opinion should no longer be relied upon.

6. In addition, during the PCAOB's inspection of the 2017 Issuer audit, Martin participated in meetings during which PwC personnel provided the PCAOB inspectors with a sensitivity analysis performed during the inspection that PwC personnel claimed had informed the engagement team's work during the audit. Martin knew or should have known that the sensitivity analysis had been created during the inspection and had not informed the team's work during the audit. However, Martin failed to disclose this information to the PCAOB inspectors, in violation of PCAOB rules.

D. Martin Violated PCAOB Rules and Standards During the 2017 Audit of the Issuer's ICFR

7. Martin served as the engagement partner for PwC's 2017 audit of the Issuer. On February 21, 2018, PwC issued unqualified audit opinions on the Issuer's financial statements and ICFR as of and for the year ended December 31, 2017. The Issuer filed PwC's audit report with the Securities and Exchange Commission ("Commission") as part of its 2017 Form 10-K.

8. During the 2017 audit of the Issuer's ICFR, Martin reviewed audit documentation identifying the likely sources of potential misstatement ("LSPMs") for each relevant area of the audit, as well as all of the related walkthrough work papers where the controls that were intended to address those LSPMs were identified and described. Martin also reviewed many, but not all, of the relevant detailed control testing work papers.

9. Based on her review, Martin knew or should have known that the Issuer's controls failed to address the LSPMs she had identified with respect to the accuracy and occurrence of revenue in two of the Issuer's divisions ("Division 1" and "Division 2," respectively) and the review of cash flow forecasts.

10. The PCAOB inspection of the 2017 Issuer audit resulted in the issuance of four comment forms criticizing PwC's ICFR testing. As part of its remediation of the inspection

comments, PwC performed supplemental procedures and identified nine material weaknesses in controls related to the Division 1 revenue cycle and five material weaknesses in controls related to the Division 2 revenue cycle. The Issuer and PwC aggregated these individual material weaknesses into a single aggregated material weakness in controls over the accuracy and occurrence of revenue.

11. During its post-inspection ICFR supplemental procedures, PwC also identified two deficiencies in controls related to cash flow forecasts used in valuing certain of the Issuer's assets. The Issuer and PwC aggregated these deficiencies into a single material weakness in controls over the review of cash flow forecasts.

12. On November 1, 2018, the Issuer filed a Form 8-K stating that it and PwC had re-evaluated the company's ICFR as of December 31, 2017, and identified material weaknesses in the two areas discussed above, and that PwC's 2017 ICFR opinion should no longer be relied upon.

i. Relevant PCAOB Rules and Standards

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

14. Section 404 of the Act requires company management to assess and report on the effectiveness of ICFR. The Act also, in certain circumstances, requires a company's independent auditor to attest and report on management's assessment of the effectiveness of ICFR. Effective ICFR provides reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes.[5] However, a company's ICFR cannot be considered effective if one or more material weaknesses in internal control exist.[6]

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[4] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; *see also* PCAOB Rule 3200, *Auditing Standards*.

[5] AS 2201.02, *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements*.

[6] *Id*.

15. PCAOB standards provide that an auditor performing an ICFR audit should test those controls that are important to the auditor's conclusion about whether the company's controls sufficiently address the assessed risk of misstatement for each relevant assertion.[7]

16. "The auditor should test the design effectiveness of controls by determining whether the company's controls, if they are operated as prescribed by persons possessing the necessary authority and competence to perform the control effectively, satisfy the company's control objectives and can effectively prevent or detect errors or fraud that could result in material misstatements in the financial statements."[8] The auditor also should test the operating effectiveness of controls "by determining whether the control is operating as designed and whether the person performing the control possesses the necessary authority and competence to perform the control effectively."[9]

17. When determining whether a control deficiency rises to the level of a material weakness, the auditor should evaluate the effect of compensating controls.[10] "To have a mitigating effect, the compensating control should operate at a level of precision that would prevent or detect a misstatement that could be material."[11]

ii. Controls Over Division 1 and Division 2 Revenue

18. Division 1 and Division 2 contributed 31% and 24%, respectively, of the Issuer's 2017 revenue.

19. During the 2017 audit, Martin and the engagement team identified LSPMs for Division 1 revenue, which included: (1) inaccurate or incomplete entry of sales orders; (2) recognition of revenue for goods or services that were not ordered by customers; and (3) a failure to recognize revenue at the appropriate price.

20. Martin failed to ensure that the engagement team adequately tested whether the Issuer's controls were, in fact, appropriately designed to address these LSPM risks.[12] For example, Martin failed to ensure that the engagement team identified or tested any controls

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7 AS 2201.39.

8 AS 2201.42.

9 AS 2201.44.

10 AS 2201.68.

11 *Id*.

12 *See* AS 2201.42.

over whether the sales order quantities manually recorded in the company's software system were consistent with customer purchase orders.

21. Similarly, while Martin and the engagement team identified two controls that were intended to address the accuracy of prices used to record revenue, neither of these controls tested sales orders in a price range from which the Issuer derived 98% of its Division 1 revenue.

22. For Division 2 revenue, the LSPMs that Martin and the engagement team identified included: (1) inaccurate or incomplete entry of sales orders; (2) recognition of revenue for goods or services that were not ordered by customers; (3) a failure to properly segregate duties; (4) inaccurate recording of cash receipts; and (5) a failure to record cash receipts in the correct period.

23. Once again, while Martin and the engagement team identified several controls that purported to address these LSPM risks, they failed to adequately test whether the Issuer's controls were, in fact, appropriately designed to do so.[13] For example, Martin and the engagement team identified a design deficiency relating to the accuracy of sales order entries and the potential recognition of revenue for goods and services not ordered by customers. In response, Martin and the engagement team identified certain compensating controls upon which they relied to conclude that the deficiency was not a material weakness. However, these compensating controls did not adequately mitigate the risk from the identified control deficiency.[14]

24. One of the controls that PwC identified as compensating was the automatic generation of sequential sales order numbers by the Issuer's software system when a purchase order was manually entered. Martin and the engagement team noted that the control prevented duplicate sales orders, but they did not evaluate the control's failure to address whether the manually-entered order quantities were accurate. The remaining compensating controls identified by Martin and the engagement team likewise failed to adequately address this risk.

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13 *See id*.

14 *See* AS 2201.68.

25. Accordingly, Martin failed to ensure that the engagement team adequately tested whether the Issuer's controls were designed in a manner that appropriately addressed the LSPMs identified with respect to Division 1 and Division 2 revenue.[15]

iii. Controls Over Cash Flow Forecasts

26. The Issuer reported a significant investment in a private company representing 7% of the Issuer's total assets as of December 31, 2017 ("Investment"). The Issuer accounted for the Investment using the fair value method, which relied on cash flow forecasts, and recorded a net gain on the Investment of 63% of the Issuer's net income during 2017.

27. In addition, the Issuer recorded a significant acquisition ("Acquisition") during 2017 for which it recorded customer relationship and trade name intangible assets totaling 4% of total assets. The Issuer used revenue projections in valuing these intangible assets.

28. During the 2017 audit, Martin and the engagement team identified the significant judgment used in management's cash flow projections and inaccurate revenue growth rate assumptions as LSPMs with respect to the valuation of the Investment and the acquired intangible assets, respectively.

29. Martin and the engagement team determined that these LSPMs were addressed by two controls involving the corporate controller's review of cash flow projections, including revenue projections, for reasonableness.

30. However, in testing these two controls, Martin and the engagement team failed to evaluate the specific review procedures the corporate controller performed to assess the reasonableness of projected cash flows and revenue growth assumptions. Martin and the engagement team failed to evaluate whether and how the controller would follow up on items relating to management's use of significant judgment or the accuracy of revenue growth rate assumptions. Accordingly, Martin failed to ensure that the engagement team adequately tested whether the controls were designed and operating in a manner that appropriately addressed the LSPMs.[16]

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15 *See* AS 2201.42.

16 *See* AS 2201.42, .44.

E. Martin Failed to Cooperate With a Board Inspection

i. Duty to Cooperate With a Board Inspection

31. PCAOB rules require that registered public accounting firms and their associated persons "shall cooperate with the Board in the performance of any Board inspection."[17] This cooperation requirement includes an obligation not to provide misleading documents or information in connection with, or otherwise to interfere with, the Board's inspection processes.[18] An auditor provides misleading information if he or she fails to disclose that documentation presented to inspectors as having existed at the time of the audit was, in fact, subsequently altered or created.[19]

ii. Martin Failed to Disclose that a Sensitivity Analysis Provided to the PCAOB Inspectors Had Not Existed at the Time of the Audit

32. Because PwC issued its audit report on February 21, 2018, the 45 day period for PwC to complete its documentation for the 2017 audit of the Issuer ended on April 7, 2018.[20]

33. The Board selected the 2017 audit of the Issuer for inspection. The Board's Division of Registration and Inspections ("DRI") performed field work for the inspection during the week of May 21, 2018.

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17 PCAOB Rule 4006, *Duty to Cooperate with Inspectors*.

18 S*ee*, *e.g.*, *Kabani & Co.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017) (sustaining Board finding that respondents failed to cooperate with inspection where improper work paper alterations "interfered with the PCAOB's ability to fulfill its regulatory function of ensuring that auditors comply with their professional responsibilities"); *Dale Arnold Hotz, CPA, Jyothi Nuthulaganti Manohar, CPA, and Michael Jared Fadner, CPA*, PCAOB Rel. No. 105-2012-008, ¶ 7 (Nov. 13, 2012) (Rule 4006 "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes." (internal quotation omitted)).

19 *See*, *e.g.*, *Elliot D. Kim, CPA*, PCAOB Rel. No. 105-2018-010 (May 23, 2018) (respondent failed to cooperate with inspection when he remained silent during discussion with inspectors of document that he had improperly altered); *José Fernandez Alves*, PCAOB Rel. No. 105-2016-039 (Dec. 5, 2016) (respondent failed to cooperate when he failed to disclose during meeting with inspectors that he had learned that certain documents had been improperly altered); *Renata Coelho de Sousa Castelli*, PCAOB Rel. No. 105-2016-040 (Dec. 5, 2016) (same).

20 *See* AS 1215.15, *Audit Documentation* ("A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*).").

34. The engagement team's testing of the Issuer's accounting for the Acquisition, and in particular the team's testing of the customer relationship intangible asset, was an area of interest of the PCAOB inspection.

35. On May 21, 2018, a PwC audit staff member requested that PwC's Transaction Services Group perform a sensitivity analysis—"a valuation of customer relationships assuming a static growth rate of 4% in revenue"—in response to questions during the inspection. Martin was then copied on emails concerning the preparation of the analysis.

36. The next day, a member of PwC's Transaction Services Group sent the newly-created sensitivity analysis to Martin and other PwC personnel. Martin forwarded the sensitivity analysis to a PwC audit staff member, along with a note stating that it was "[o]ne more piece of support for the [Acquisition] file for tomorrow."

37. Also on May 22, 2018, Martin and other PwC personnel participated in a meeting with the PCAOB inspectors. PwC's notes of this meeting record that PwC personnel told the inspectors that a sensitivity analysis had "informed our work" with respect to the customer relationship intangible asset.

38. During the May 22 meeting, neither Martin nor any other PwC personnel disclosed that the specific sensitivity analysis shown to the inspectors had not existed during the 2017 audit, and so could not have informed their work at the time of the audit.

39. On May 24, 2018, Martin and other PwC personnel participated in another meeting with the inspectors to discuss the engagement team's testing of the Acquisition. PwC personnel provided the inspectors with a hard copy of the sensitivity analysis. Martin and her team did not provide the inspectors with an electronic copy of the sensitivity analysis; nor did they disclose that the sensitivity analysis had been created during the inspection week, and not during the 2017 audit.

40. At the end of the day on May 24, Martin and one other PwC representative attended an additional meeting with a PCAOB inspector. PwC's notes from this meeting, which were located in a spreadsheet tab labeled "High priority," indicate that the inspector requested "anyting [sic] that can show the sensitivy [sic] was done at the time of the audit." The notes do not reflect a response.

41. Martin knew or should have known that the inspector's comment reflected her understanding that PwC purported to have performed the sensitivity analysis at the time of the 2017 audit. Nonetheless, Martin did not disclose that the sensitivity analysis had, in fact, been created during the inspection, and not during the time of the 2017 audit of the Issuer.

42. Martin's acts and omissions as described above violated her duty under Rule 4006 to cooperate with the Board's inspection of the 2017 audit of the Issuer.

IV.

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

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Sarah C. Martin, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[21]

B. Pursuant to PCAOB Rule 5302(b), Sarah C. Martin may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order; and

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $10,000 on Sarah C. Martin. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay the civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Sarah C. Martin as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this

[21] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Martin. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***Respondent Sarah C. Martin understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 17, 2021

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

1666 K Street NW
Washington, DC 20006

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Alison G. Yablonowitz, CPA, and Shawn C. Rogers, CPA,

Respondents.

PCAOB Release No. 105-2021-010

September 22, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) suspending Alison G. Yablonowitz, CPA, from being associated with a registered public accounting firm for one year, imposing on her a $25,000 civil money penalty, and requiring her to complete 20 additional hours of continuing professional education (CPE) within one year of the date of this Order; and

(2) censuring Shawn C. Rogers, CPA, imposing on him a $10,000 civil money penalty, and requiring him to complete 20 additional hours of CPE within one year of the date of this Order.

The Board is imposing these sanctions on the basis of its findings that Yablonowitz and Rogers (collectively, "Respondents") violated PCAOB rules and auditing standards by failing to perform adequate procedures and obtain sufficient evidence concerning certain significant unusual transactions.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **Alison G. Yablonowitz** is a certified public accountant licensed by the New Jersey State Board of Accountancy (license number 20CC03376200) and registered with the New York State Education Department (license number 081347). At all relevant times, she was a partner of Ernst & Young LLP ("EY") in its Iselin, New Jersey office. Yablonowitz is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

2. **Shawn C. Rogers** is a certified public accountant licensed by the New Jersey State Board of Accountancy (license number 20CC02392800) and registered with the New York State Education Department (license number 092690). Rogers is, and at all relevant times was, a partner of EY in its Iselin, New Jersey office and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities

3. **Ernst & Young LLP** is a public accounting firm organized as a Delaware limited liability partnership and headquartered in New York, New York. EY is licensed in multiple

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

[2] The Board finds that Yablonowitz's conduct described in this Order meets the conditions set out in Section 105(c)(5)(B) of the Act, 15 U.S.C. § 7215(c)(5)(B), which provides that certain sanctions may be imposed in the event of repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

jurisdictions, including New Jersey (license number 20CB00262400). EY at all relevant times was registered with the Board pursuant to Section 102 of the Act and PCAOB Rules.

4. **Synchronoss Technologies, Inc.** ("Synchronoss" or "Company") is a Delaware corporation headquartered in New Jersey. Its public filings disclose that, during the relevant period, Synchronoss was a software company that provided technologies and services including cloud solutions and software-based activation for mobile carriers, enterprises, retailers, and original equipment manufacturers. At all relevant times, its common stock was registered under Section 12(b) of the Securities Exchange Act of 1934. At all relevant times, Synchronoss was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Respondents' failures to comply with PCAOB rules and auditing standards in connection with EY's audits of Synchronoss's financial statements as of and for the years ended December 31, 2014 ("2014 Audit"), December 31, 2015 ("2015 Audit"), and December 31, 2016 ("2016 Audit").

6. Synchronoss reported progressively increasing net revenues from approximately $349 million for the year ended December 31, 2013 to $622 million[3] for the year ended December 31, 2016—an increase of more than 78%.

7. Yablonowitz served as the engagement partner on the 2014 and 2015 Audits, and her violations took place in connection with audit procedures to test the accounting for three software license transactions. Rogers served as the engagement partner on the 2016 Audit, and his violations took place in connection with audit procedures to test the accounting for two software license transactions.

Audit Year	Engagement Partner	Transaction Counterparty	License Fee
2014	Yablonowitz	(1) Counterparty A	$6 million
2015	Yablonowitz	(2) Counterparty B (3) Counterparty C	$10 million $23 million
2016	Rogers	(4) Counterparty D (5) Counterparty E	$10 million $9.2 million

[3] This amount includes net revenues that Synchronoss reflected as income from discontinued operations, net of tax, in its Consolidated Statement of Income for the year ended December 31, 2016.

8. In each of the transactions, Synchronoss licensed software technology to an entity—in exchange for a license fee—around the same time it was negotiating a strategic transaction (i.e., an acquisition, business venture, or divestiture) with that same entity or one or more of its affiliates. In each instance, Synchronoss incorrectly accounted for the license transaction as separate from the strategic transaction and improperly recognized the license payment as revenue.

9. With respect to these transactions, Respondents failed to adequately evaluate (a) Synchronoss's accounting treatment of the license transaction as separate from the related strategic transaction and (b) the factors specified in the PCAOB's fraud consideration standard with respect to significant unusual transactions. Moreover, Respondents failed to adequately resolve inconsistencies in audit evidence and investigate instances in which evidence contradicted management representations, and instead relied on uncorroborated management representations. In doing so, Respondents failed, among other things, to exercise due care and professional skepticism, and to obtain sufficient appropriate audit evidence to support EY's audit opinions for the 2014-2016 Audits.

10. In July 2018, after an audit committee-led investigation into accounting issues that revealed information previously withheld from EY engagement teams, Synchronoss filed a Form 10-K restating its financial statements for the years ended December 31, 2015 and 2016, as well as selected financial data for the year ended December 31, 2014, and other periods. EY conducted an audit of those restated financial statements. Rogers authorized the issuance of EY's audit report. Synchronoss's restatement reversed revenue from all five software license transactions at issue.

D. Respondents Violated PCAOB Rules and Standards

11. In connection with the preparation or issuance of an audit report, PCAOB rules require that the associated persons of a registered public accounting firm comply with the Board's auditing and related professional practice standards.[4] An auditor may express an

[4] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards* (applicable to audits for the fiscal years ending on or after December 31, 2016); PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for the fiscal years ending before December 31, 2016). As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules,* PCAOB Release No. 2015-002 (March 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (January 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondents' conduct occurred both

unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[5]

12. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit.[6] Due professional care requires that the auditor exercise professional skepticism—an attitude that includes a questioning mind and a critical assessment of audit evidence—throughout the audit process.[7] Professional skepticism requires "an ongoing questioning of whether the information and evidence obtained suggests that a material misstatement due to fraud has occurred."[8]

13. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report, including obtaining reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud.[9] The higher the risk of material misstatement, the more evidence the auditor should obtain, and the more persuasive that evidence should be.[10]

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before and after the reorganization, the reorganized standards, where applicable, are cited herein for purposes of clarity.

[5] *See* AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending before December 15, 2017) ("The auditor's standard report states that the financial statements present fairly, in all material respects, an entity's financial position, results of operations, and cash flows in conformity with generally accepted accounting principles. This conclusion may be expressed only when the auditor has formed such an opinion on the basis of an audit performed in accordance with the standards of the PCAOB.").

[6] AS 1015.02, *Due Professional Care in the Performance of Work*.

[7] *See* AS 1015.07, .08; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 2401.13, *Consideration of Fraud in a Financial Statement Audit*.

[8] AS 2401.13.

[9] AS 1001.02, *Responsibilities and Functions of the Independent Auditor*; AS 1105.04, *Audit Evidence*; AS 2401.01; AS 2810.33, *Evaluating Audit Results*.

[10] AS 1105.05; *see also* AS 2301.09 ("In designing the audit procedures to be performed, the auditor should: a. Obtain more persuasive audit evidence the higher the auditor's assessment of risk . . . ."); *id.* at .37 ("As the assessed risk of material misstatement increases, the evidence from substantive procedures that the auditor should obtain also increases.").

14. Audit evidence "consists of both information that supports and corroborates management's assertions regarding the financial statements" and "information that contradicts such assertions."[11] While an auditor may use inquiry to obtain information, "[i]nquiry alone does not provide sufficient appropriate evidence to support a conclusion about a relevant assertion."[12] Management representations "are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[13] The auditor "should obtain corroboration for management's explanations regarding significant unusual or unexpected transactions."[14]

15. If audit evidence obtained from one source is inconsistent with audit evidence obtained from another source, "the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit."[15] Moreover, if "a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances," "consider the reliability of the representation made," and "consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified."[16] In addition, if management's responses to the auditor's inquiries appear to be "inconsistent with other audit evidence, imprecise, or not at a sufficient level of detail to be useful, the auditor should perform procedures to address the matter."[17]

16. Auditors who have identified significant unusual transactions are required to comply with certain provisions in the PCAOB's auditing standard governing the auditor's consideration of fraud. During the 2014 Audit, that standard was AU § 316, *Consideration of Fraud in a Financial Statement Audit*. Paragraphs 66 and 67 of AU § 316 required an auditor to (a) understand the business rationale for such a transaction, (b) understand whether that

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[11] AS 1105.02.

[12] AS 2301.39; *see also* AS 1105.17, Note ("Inquiry of company personnel, by itself, does not provide sufficient audit evidence to reduce audit risk to an appropriately low level for a relevant assertion . . . .").

[13] AS 2805.02, *Management Representations*.

[14] AS 2810.08. PCAOB standards describe significant unusual transactions as "[s]ignificant transactions that are outside the normal course of business for the company or that otherwise appear to be unusual due to their timing, size, or nature." AS 2401.66.

[15] AS 1105.29.

[16] AS 2805.04.

[17] AS 2810.08.

rationale or lack thereof suggested the transaction may have been entered into to engage in fraudulent financial reporting, and (c) consider certain factors including (i) whether the form of the transaction was overly complex and (ii) whether management was placing more emphasis on the need for a particular accounting treatment than on the transaction's underlying economics.[18]

17. By the time of the 2015 Audit, the PCAOB's fraud consideration standard—AU § 316—had been amended. By the time of the 2016 Audit, that amended standard had also been reorganized as AS 2401, *Consideration of Fraud in a Financial Statement Audit*. Paragraphs 66A, 67, and 67A of amended AU § 316 and AS 2401 require an auditor to (a) evaluate the business purpose of a significant unusual transaction, (b) evaluate whether that business purpose (or lack thereof) indicates the transaction may have been entered into to engage in fraudulent financial reporting, (c) take into account the potential misstatements that could result from significant unusual transactions in designing and performing further audit procedures, and (d) evaluate certain factors. Those factors include whether the form of the transaction is overly complex; whether the transaction involves other parties that do not appear to have the financial capability to support the transaction without assistance from the company; whether the transaction is part of a larger series of connected, linked, or otherwise interdependent arrangements that lack commercial or economic substance individually or in the aggregate; whether the transaction enables the company to achieve certain financial targets; and whether management is placing more emphasis on the need for a particular accounting treatment than on the underlying economic substance of the transaction (e.g., accounting-motivated structured transaction).[19]

18. An auditor at the time of the 2015-2016 Audits was also required to "evaluate whether significant unusual transactions that the auditor has identified have been properly accounted for and disclosed in the financial statements."[20]

19. PCAOB standards require an auditor to consider whether the substance of transactions or events differs materially from their form,[21] and to evaluate the results of the

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[18] AU § 316.66, .67 (effective for audits of fiscal years beginning before December 15, 2014).

[19] AU § 316.66A, .67, .67A (effective for audits of fiscal years beginning on or after December 15, 2014); AS 2401.66A, .67, .67A (reorganized, effective for audits of fiscal years beginning on or after December 15, 2014).

[20] AU § 316.67A; AS 2401.67A.

[21] AS 2815.06, *The Meaning of "Present Fairly in Conformity with Generally Accepted Accounting Principles*."

audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[22] PCAOB standards also require an auditor to evaluate whether the financial statements are presented fairly, in all material respects, in conformity with GAAP.[23]

i. Yablonowitz Violated PCAOB Rules and Standards in the 2014 Audit with Respect to Counterparty A Transactions

a. Background

20. Synchronoss sued Counterparty A, an affiliate of Counterparty A, and Counterparty A's parent company in 2011, alleging that these entities were infringing certain Synchronoss software patents. In late January 2014, while the infringement lawsuit was pending, Synchronoss signed a letter of intent to acquire Counterparty A.

21. By the end of March 2014, and while the acquisition discussions were ongoing, Synchronoss and Counterparty A substantially completed negotiations to settle the infringement lawsuit through a software licensing arrangement. That negotiation culminated in the execution of two software license agreements. In the first, entered into by Synchronoss, Counterparty A and its parent, and a Counterparty A affiliate on March 28, 2014 ("First Counterparty A License Agreement"), Synchronoss dismissed its patent infringement lawsuit and granted Counterparty A a perpetual license to use the software at issue in exchange for $3 million. Synchronoss recorded the $3 million fee as revenue on March 31, 2014, the last day of Q1 2014.

22. Three weeks later, on April 18, 2014, Synchronoss and Counterparty A, along with its parent and its affiliates, entered into a second software license agreement ("Second Counterparty A License Agreement" and, collectively with the First Counterparty A License Agreement, "Counterparty A License Agreements") by which Synchronoss granted Counterparty A's parent and affiliates a license for a second $3 million fee—but due only if within 135 days Counterparty A's stock or assets were acquired by another company, referred to as a "change in control." If there was no such change in control, Counterparty A's parent would not have to pay the second $3 million but would keep the software license.

23. Two weeks later, on May 3, 2014, Synchronoss and Counterparty A along with Counterparty A's parent entered into a third agreement, whereby Synchronoss acquired all of Counterparty A's stock for approximately $26.6 million ("Share Purchase Agreement"). That

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[22] *See* AS 2810.33-.35.

[23] AS 2810.30; AS 2815.01.

acquisition closed on July 11, 2014. As a result of the acquisition and upon receipt of the second license fee, Synchronoss recorded $3 million in revenue during Q3 2014.

24. Yablonowitz and the 2014 Audit engagement team identified the acquisition of Counterparty A as a significant unusual transaction.

25. In addition, Yablonowitz and the 2014 Audit engagement team identified revenue recognition and purchase accounting as "areas of audit emphasis." EY defined "areas of audit emphasis" as "those processes, accounts, contracts or transactions where we believe there is the greatest risk of material misstatement to the consolidated financial statements, whether due to error or fraud." Under PCAOB auditing standards, that increased risk required Yablonowitz to obtain greater and more persuasive audit evidence to support her conclusions.[24]

b. Yablonowitz Failed to Adequately Perform Procedures Concerning Counterparty A Transactions

26. GAAP includes ASC 805, *Business Combinations*. ASC 805 provides guidance to determine what is part of a business combination and requires the acquirer to identify any amounts that are not part of what the acquirer and acquiree exchanged in the business combination. ASC 805-10-25-20 ("25-20") states:

> The acquirer and the acquiree may have a preexisting relationship or other arrangement before negotiations for the business combination began, or they may enter into an arrangement during the negotiations that is separate from the business combination. In either situation, the acquirer shall identify any amounts that are not part of what the acquirer and the acquiree (or its former owners) exchanged in the business combinations, that is, amounts that are not part of the exchange for the acquiree. The acquirer shall recognize as part of applying the acquisition method only the consideration transferred for the acquiree and the assets acquired, and liabilities assumed in the exchange for the acquiree.

[24] *See* AS 1105.05 ("Sufficiency is the measure of the quantity of audit evidence. The quantity of audit evidence needed is affected by the following: Risk of material misstatement (in the audit of financial statements) . . . . As the risk increases, the amount of evidence that the auditor should obtain also increases."); AS 2301.09.a ("In designing the audit procedures to be performed, the auditor should: . . . Obtain more persuasive audit evidence the higher the auditor's assessment of risk . . . ."); *id.* at .37 ("As the assessed risk of material misstatement increases, the evidence from substantive procedures that the auditor should obtain also increases.").

> Separate transactions shall be accounted for in accordance with the relevant generally accepted accounting principles (GAAP).

27. Yablonowitz understood that the Counterparty A License Agreements and business combination were entered into around the same time, and that Synchronoss had to consider, and she had to evaluate, whether those license agreements were separate transactions from the acquisition within the meaning of 25-20. If they were not separate transactions under GAAP, then the license fees could not be appropriately recorded as revenue and, instead, the $6 million in payments would need to be deducted from the cost to acquire Counterparty A.

28. In addition, to determine whether the Counterparty A transactions were "separate," Synchronoss had to consider the criteria set out in ASC 805's implementation guidance, specifically ASC 805-10-55-18 ("55-18"). 55-18 sets out three factors for determining "whether a transaction is part of the exchange for the acquiree or whether the transaction is separate from the business combination." Those factors are: the reasons for the transaction, who initiated the transaction, and the timing of the transaction.[25] Yablonowitz neither received nor reviewed any documentation of Synchronoss's consideration of 25-20 or 55-18 related to the Counterparty A transactions during the 2014 Audit.

29. Further, Synchronoss routinely documented its selection and application of accounting principles—such as the provisions in ASC 805—in accounting memoranda prepared by its Finance personnel. For the First Counterparty A License Agreement, the engagement team obtained, and Yablonowitz reviewed, a draft of such an accounting memorandum. However, that memorandum did not refer to 25-20 or 55-18, and contained no analysis of why Synchronoss had concluded the first license agreement was separate from the acquisition under 25-20. Nor was there any documentation that management considered the factors in 55-18.

30. Discussing the Second Counterparty A License Agreement, Yablonowitz observed in an email to her audit manager, "I don't think it's that straight forward [sic] given they acquired [Counterparty A], subsidiary of [Counterparty A's parent] at the same time. One could challenge whether it should be reduction in purchase price." Despite her observation, neither Yablonowitz nor others on the engagement team obtained an accounting memorandum, draft or otherwise, from Synchronoss in connection with the second license agreement.

31. Moreover, the 2014 Audit work papers do not reflect that Yablonowitz or the engagement team evaluated under 25-20 and 55-18 Synchronoss's treatment of the

[25] *See* ASC 805-10-55-18.a, .b, .c.

Counterparty A License Agreements as separate. For example, though the second factor in 55-18 is "who initiated the transaction," Yablonowitz did not know during the 2014 Audit, and failed to take steps to find out, which party (a) approached the other about settling the patent litigation between Synchronoss and Counterparty A or (b) raised with the other, or with any intermediary banker or broker, the possibility of an acquisition.

32. Yablonowitz also failed to perform an adequate evaluation of separateness during the 2014 Audit even though she was aware of evidence suggesting the Counterparty A License Agreements were not separate transactions from the acquisition of Counterparty A under 25-20 and 55-18 and indicating the need to exercise heightened professional skepticism in evaluating whether they were. For example, Yablonowitz was aware that the minutes of a January 2014 Synchronoss board meeting reflected that management told the board that Synchronoss would enter into the Counterparty A License Agreements "as part of" the acquisition, and that the 135-day change-in-control provision directly linked the Second Counterparty A License Agreement to the acquisition and was not "usual" for Synchronoss.

33. Moreover, the identification of the Counterparty A acquisition as a significant unusual transaction required Yablonowitz, among other things, to obtain an understanding of whether the business rationale for the acquisition or lack of rationale suggested the transaction may have been entered into to engage in fraudulent financial reporting[26] and to consider the factors specified in paragraph 67 of the PCAOB's fraud consideration standard with respect to significant unusual transactions ("SUT factors").[27]

34. However, there is no documentation, in the 2014 Audit work papers or elsewhere, indicating that Yablonowitz performed that evaluation or obtained evidence for the purpose of performing that evaluation.

35. In particular, Yablonowitz failed to adequately: (a) gain an understanding of the business rationale for entering into the Counterparty A acquisition separately from the Counterparty A License Agreements; (b) gain an understanding of whether the rationale for the Counterparty A acquisition suggested the Share Purchase Agreement was entered into separately from the license agreements in order to engage in fraudulent financial reporting; (c) consider whether the form of the Counterparty A acquisition as one of multiple transactions between Synchronoss and Counterparty A and its parent was "overly complex"; and (d) consider whether, by entering into the license agreements separate from the acquisition,

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[26] AU § 316.66.

[27] AU § 316.*67*; *see supra* ¶ 16.

management was placing more emphasis on the need for revenue treatment than on the underlying economics of the transaction.

36. Furthermore, though the evidence described above in paragraph 32 contradicted a representation by Synchronoss's chief financial officer (CFO) to Yablonowitz that the Counterparty A License Agreements and the acquisition were not negotiated together, Yablonowitz failed to adequately investigate the circumstances of those contradictions[28] or otherwise perform procedures to resolve those inconsistencies.[29]

ii. Yablonowitz Violated PCAOB Rules and Standards in the 2015 Audit with Respect to Counterparty B Transactions

a. Background

37. Synchronoss sued Counterparty B in October 2014, alleging that Counterparty B was infringing certain of its software patents. At some point in 2014, Counterparty B approached Synchronoss to discuss a potential acquisition of Counterparty B's cloud business.

38. In November 2014, Counterparty B's chief executive officer ("CEO") met with Synchronoss's CEO to discuss both the settlement of the lawsuit and the sale of Counterparty B's cloud business to Synchronoss. Minutes of a December 2014 board meeting reviewed by Yablonowitz state that the two CEOs met "to discuss the patent litigation, the potential acquisition and a strategic partnership to cross-sell and market each other's products" and that the "Board agreed that the Company should continue negotiations with" Counterparty B.

39. On February 4, 2015, Synchronoss entered into an asset purchase agreement with Counterparty B to acquire its cloud assets for $60 million. The acquisition closed on February 23, 2015. That same day, Synchronoss entered into another agreement with Counterparty B to dismiss its patent infringement lawsuit and grant Counterparty B a perpetual license ("Counterparty B License Agreement") to use the patented software at issue in exchange for a $10 million license fee. Synchronoss accounted for the software license agreement with Counterparty B separately from the acquisition and recorded the $10 million license fee as revenue in Q1 2015.

40. In addition to identifying both the license agreement and acquisition agreement with Counterparty B (collectively, "Counterparty B Transactions") as significant unusual

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[28] AS 2805.04.

[29] AS 1105.29.

transactions, Yablonowitz and the 2015 Audit engagement team identified revenue recognition and business combinations, as well as significant unusual transactions in general, as areas of audit emphasis that presented the greatest risk of material misstatement to the financial statements. Yablonowitz and the engagement team thus were required to obtain greater and more persuasive audit evidence to support their conclusions.[30]

b. Yablonowitz Failed to Adequately Perform Procedures Concerning Counterparty B Transactions

41. Yablonowitz understood that the Counterparty B License Agreement and business combination were entered into around the same time, and that Synchronoss had to consider, and she had to evaluate, whether the license agreement was a separate transaction from the acquisition within the meaning of 25-20. If it was not a separate transaction, the $10 million payment would need to be deducted from the cost to acquire Counterparty B's cloud business.

42. In addition, Yablonowitz understood that, to determine whether the Counterparty B Transactions were "separate," Synchronoss had to consider the criteria set out in the implementation guidance at 55-18. Yet Synchronoss's accounting memoranda reviewed by Yablonowitz for the Counterparty B Transactions contained no reference to 55-18 nor any analysis of why Synchronoss had concluded the license agreement with Counterparty B was separate from the acquisition. The accounting memoranda stated that the "settlement was not a negotiating factor" during the acquisition discussions, but that assertion constituted neither sufficient appropriate audit evidence nor an analysis of the factors in 55-18.

43. Yablonowitz also failed to perform an adequate evaluation of the Counterparty B License Agreement during the 2015 Audit even though she was aware of evidence suggesting the license agreement with Counterparty B was not a separate transaction from the acquisition under 25-20 and 55-18 and indicating the need to exercise heightened professional skepticism in evaluating whether it was. For example, among other things, Yablonowitz was aware that management had communicated to the engagement team that the Counterparty B Transactions were negotiated in connection with each other.

44. Moreover, identification of the Counterparty B Transactions as significant unusual transactions required Yablonowitz, among other things, to evaluate whether the business purpose or lack of business purpose indicated that the transactions may have been

[30] *See* AS 1105.05; AS 2301.09, .37.

entered into to engage in fraudulent financial reporting[31] and to evaluate the SUT factors[32] presented by the transactions.[33] However, there is no documentation in EY's work papers reflecting an adequate evaluation.

45. Furthermore, though the evidence described above in paragraph 43 was inconsistent with and contradicted management's statements in accounting memoranda that the purchase consideration was "unrelated to the license agreement settlement" and that the "settlement agreement was separate and distinct from the asset purchase agreement," Yablonowitz failed to adequately investigate the circumstances of those contradictions[34] or otherwise perform procedures to resolve those inconsistencies.[35]

iii. Yablonowitz Violated PCAOB Rules and Standards in the 2015 Audit with Respect to Counterparty C Transactions

a. Background

46. On December 31, 2015, Synchronoss executed two agreements and recognized $20 million of revenue on the last day of its fiscal year. One agreement provided for the formation of a business venture ("Business Venture") in which Synchronoss and two companies affiliated with each other (collectively, "Counterparty C") were investors ("BV Transaction"). The purpose of the Business Venture was to develop and market a new version of Counterparty C's then-existing software platform.

47. Pursuant to the BV Transaction, Synchronoss contributed $48 million of cash to the Business Venture in exchange for a two-thirds ownership interest in it. Counterparty C contributed to the Business Venture its ownership of its software platform and related assets (altogether valued at $72 million), in exchange for an immediate payout of $48 million of cash from the Business Venture and a one-third ownership interest in it. As a result of the BV Transaction (1) the Business Venture owned Counterparty C's software platform, including the related software; (2) Counterparty C had the $48 million of cash that Synchronoss initially contributed to the Business Venture; and (3) Counterparty C no longer had the right to use the software platform or the related software.

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31 *See* AU § 316.67.

32 *See supra* ¶ 17.

33 *See* AU § 316.67.

34 *See* AS 2805.04.

35 *See* AS 1105.29.

48. However, Counterparty C needed to continue using the software. Consequently, on the same day that the BV Transaction was entered into, December 31, 2015, the Business Venture and an affiliate of Counterparty C entered into a license agreement ("Counterparty C License Agreement") by which the Business Venture granted Counterparty C and its affiliates a license to use the software for a $23 million fee and agreed to provide maintenance services for $1 million.

49. Synchronoss concluded that the Business Venture's financial statements should be consolidated with Synchronoss's consolidated financial statements. Thus, Synchronoss consolidated the Business Venture's 2015 financial statements (which included only one day of operations) into its 2015 financial statements, accounted for the license agreement relating to Counterparty C separately from the BV Transaction, and recorded approximately $20 million of the license fee as revenue on December 31, 2015, deferring revenue recognition for the remaining fee, approximately $4 million, to later periods.

50. Yablonowitz and the engagement team identified the BV Transaction and the license agreement (collectively, "Counterparty C Transactions") as significant unusual transactions in the 2015 Audit. Yablonowitz and her team also identified significant unusual transactions, revenue recognition, business combinations, and investments in other affiliates as areas of audit emphasis with increased risk, and thus were required to obtain greater and more persuasive audit evidence to support their conclusions.[36]

b. Yablonowitz Failed to Adequately Perform Procedures Concerning Counterparty C Transactions

51. The Company's draft accounting memorandum for the license agreement obtained by the engagement team and reviewed by Yablonowitz was incorrect in two respects. First, it incorrectly concluded that 25-20 did not apply. Second, it incorrectly stated that, in order for Synchronoss to account for the license fee separately from the BV Transaction under ASC 805, Synchronoss needed to "show that the consideration exchanged for the license was at fair value and was not a bargain purchase resulting in a substantial benefit for either party." Although Yablonowitz knew that 25-20 and 55-18 should have been considered by Synchronoss in its accounting for the license agreement and BV Transaction and that assessing fair value alone was not a proper basis for determining that the license agreement was a separate

[36] *See* AS 1105.05; AS 2301.09, .37; *see also* AS 2310.27, *The Confirmation Process* ("[T]here may be circumstances (such as for significant, unusual year-end transactions that have a material effect on the financial statements . . .) in which the auditor should exercise a heightened degree of professional skepticism . . . .").

transaction, Yablonowitz did not inquire about or challenge these statements nor request that the memorandum be revised or supplemented.

52. Moreover, notwithstanding that Yablonowitz had to evaluate Synchronoss's treatment of the license agreement as separate under 25-20 and 55-18, EY's work papers do not reference such an evaluation.

53. Yablonowitz failed to perform an adequate evaluation of the Counterparty C License Agreement during the 2015 Audit even though she was aware of evidence suggesting the license agreement was not a separate transaction from the BV Transaction under 25-20 and 55-18 and indicating the need to exercise heightened professional skepticism in evaluating whether it was. For example, Yablonowitz understood that the Counterparty C Transactions involved round trip transfers of cash and software rights, and that Counterparty C needed to retain a right to continue using the software for its business. Moreover, Yablonowitz was aware that the Counterparty C Transactions were originally structured without a license agreement—that is, as an acquisition by Synchronoss with Counterparty C retaining software rights.

54. Instead of performing an adequate evaluation, Yablonowitz relied on management representations, including a statement in Synchronoss's draft revenue recognition memorandum that "[t]his license agreement was not a negotiating factor in the [B]V agreement and has a stand-alone value" and a verbal representation by the CFO that the license agreement was being "separately negotiated" from the BV Transaction. Those assertions, however, did not constitute sufficient appropriate audit evidence.

55. Moreover, Yablonowitz understood that the identification of the Counterparty C Transactions as significant unusual transactions required her, among other things, to evaluate whether the business purpose or lack of business purpose indicated that the transactions may have been entered into to engage in fraudulent financial reporting[37] and to evaluate the SUT factors[38] presented by the transactions.[39]

56. However, there is no documentation reflecting such an evaluation even though Yablonowitz was aware of evidence indicating that the license agreement was not a separate transaction, and did not have separate economic substance, from the BV Transaction, and

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37 AU § 316.67.

38 *See supra* ¶ 17.

39 *See* AU § 316.67.

might have been entered into separately in order to allow Synchronoss to improperly record revenue and potentially engage in fraudulent financial reporting.

iv. Rogers Violated PCAOB Rules and Standards in the 2016 Audit with Respect to Counterparty D Transactions

a. Background

57. In February 2016, shortly after Rogers had taken on responsibilities as engagement partner for the 2016 Audit, he received an email from Synchronoss's controller concerning a potential acquisition of and license agreement with Counterparty D and attaching a draft of that license agreement. The draft agreement released software patent infringement claims Synchronoss purportedly had against Counterparty D and granted a perpetual license to use the patented software to Counterparty D.

58. On March 1, 2016, Synchronoss entered into an agreement to acquire for approximately $125 million all of the stock of Counterparty D from its parent company.

59. On the same day, March 1, 2016, Synchronoss entered into a license agreement with both Counterparty D and its affiliate ("Counterparty D License Agreement") to release software patent infringement claims Synchronoss purportedly had against Counterparty D and to grant, for a $10 million license fee, a perpetual license to use the patented software at issue to Counterparty D and its affiliate.

60. Synchronoss accounted for the license agreement separately from the acquisition of Counterparty D and recorded the $10 million as revenue during Q1 2016.

61. Rogers and the 2016 Audit engagement team identified the Counterparty D acquisition and the license agreement with Counterparty D (collectively, "Counterparty D Transactions") as significant unusual transactions. Rogers and the team also identified revenue recognition and business combinations as areas of audit emphasis and thus were required to obtain greater and more persuasive evidence.[40]

b. Rogers Failed to Adequately Perform Procedures Concerning Counterparty D Transactions

62. Rogers understood that the Counterparty D License Agreement and business combination were entered into around the same time, and that Synchronoss had to consider, and he had to evaluate, whether the license agreement with Counterparty D was a separate

[40] *See* AS 1105.05; AS 2301.09, .37.

transaction under 25-20. Rogers also understood that if it was not a separate transaction under GAAP, then the license fee could not be appropriately recorded as revenue and instead the $10 million payment would need to be deducted from the cost to acquire Counterparty D from its parent company.

63. To determine whether the Counterparty D License Agreement was "separate" under 25-20, Synchronoss had to consider the implementation guidance under 55-18 to assert that the $10 million license fee was properly recorded as revenue, and Rogers had to evaluate whether Synchronoss had properly implemented 55-18 to the license agreement.

64. The engagement team obtained from Synchronoss, and Rogers reviewed, two accounting memoranda for the Counterparty D Transactions. Neither specifically mentioned 55-18 nor contained an analysis of why Synchronoss had concluded the license agreement was separate from the acquisition. Rogers failed to obtain an understanding of why the Company accounting memoranda omitted discussion of the factors in 55-18 or to request that the Company accounting memoranda be revised or supplemented.

65. Moreover, the 2016 Audit work papers do not reflect an analysis of 25-20 or 55-18. Rogers failed to perform an adequate evaluation of separateness during the 2016 Audit even though he was aware of evidence suggesting the license agreement was not a separate transaction from the acquisition of Counterparty D under 25-20 and 55-18 and indicating the need to exercise heightened professional skepticism in evaluating whether it was. For example, Synchronoss's controller communicated to Rogers that the Company intended to sue Counterparty D for patent infringement if the acquisition fell through. In addition, Rogers reviewed the engagement team's purchase accounting memorandum for the Counterparty D acquisition, which concluded that Synchronoss was able to pay a higher price for Counterparty D than any other potential buyer because, unlike any other buyer, Synchronoss would not be impacted by the intellectual property infringement of its own patents.

66. In evaluating separateness, Rogers and the engagement team relied on statements in the Company's accounting memoranda that the "settlement was not a negotiating factor" in the acquisition of Counterparty D and that "[n]one of the two transactional amounts were negotiated together and the acquisition was not contingent on entering into the license agreement." They also relied on oral representations from the CFO and the Company's general counsel that the license agreement and Counterparty D acquisition were negotiated separately and not on a net basis. That reliance on written and oral representations was insufficient to properly evaluate separateness.

67. In addition, Rogers failed to obtain sufficient evidence that Synchronoss and Counterparty D had a preexisting relationship—that is, "a relationship that existed before they

contemplated the business combination."[41] Rogers understood that Synchronoss first contemplated the business combination when it was initially contacted by an investment banker about a potential acquisition of Counterparty D. But Rogers also knew that Synchronoss had never filed a patent infringement lawsuit against Counterparty D. Rogers never otherwise obtained an understanding of what facts Synchronoss was relying on to determine that a "relationship" had existed before the investment banker's contact, nor came to any conclusion himself of what, in the absence of a lawsuit, that "relationship" was.

68. Though Rogers had conversations with the Company's CFO and general counsel about Synchronoss's potential patent infringement claims, he failed to obtain evidence that Synchronoss communicated potential claims to Counterparty D before the investment banker contact. Moreover, he failed to corroborate the representations made during those conversations.

69. Furthermore, though Rogers knew the identification of the Counterparty D Transactions as significant unusual transactions required him to perform the procedures specified in AS 2401.66A and .67, the 2016 Audit work papers do not reflect an evaluation of SUT factors[42] beyond the conclusory statement: "There are no indications that the transaction was entered into to engage in fraud."

70. Rogers failed to adequately perform that evaluation even though he was aware of evidence indicating that the license agreement was not a separate transaction, and did not have separate economic substance, from the acquisition of Counterparty D, and might have been entered into separately in order to allow Synchronoss to improperly record revenue and potentially engage in fraudulent financial reporting.

71. Moreover, though the evidence described above in paragraph 65 was inconsistent with the management representation that the license agreement and Counterparty D acquisition were negotiated separately, Rogers failed to investigate the circumstances of those contradictions[43] or otherwise perform procedures to resolve those inconsistencies.[44]

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41 ASC 805-10-55-20.

42 *See supra* ¶ 17.

43 *See* AS 2805.04.

44 *See* AS 1105.29.

v. Rogers Violated PCAOB Rules and Standards in the 2016 Audit with Respect to Counterparty E Transactions

a. Background

72. On December 16, 2016, Synchronoss sold to Counterparty E a 70% ownership interest in the business process outsourcing ("BPO") segment of its carrier activation business for $146 million ("BPO Sale"). The BPO Sale was documented in an operating agreement ("Operating Agreement").

73. In order to help finance the BPO Sale, Synchronoss loaned Counterparty E $83 million through a subordinated seller's promissory note, and guaranteed $30 million of a total of $40 million in unsubordinated debt that Counterparty E owed a third party. As a result of the BPO Sale, Synchronoss and Counterparty E jointly owned the BPO business and became related parties.

74. Synchronoss accounted for the BPO Sale as part of net income from discontinued operations net of taxes in the Consolidated Statement of Income.

75. Six days after the BPO Sale, on December 22, 2016, Synchronoss entered into a license agreement with Counterparty E, which allowed Counterparty E to use Synchronoss's Razorsight software in connection with operating the BPO business. Counterparty E paid Synchronoss a $10 million fee in connection with the license agreement.

76. Synchronoss accounted for the license agreement separately from the BPO Sale and recorded $9.2 million of the $10 million license fee as revenue in Q4 2016, because $9.2 million was the Company's fair value estimate of the license agreement. Rogers testified that Synchronoss treated the remaining $800,000 as additional consideration paid by Counterparty E to purchase the BPO business, and recorded the $800,000 as an element of the gain on the sale of the discontinued operations.

77. Rogers and the 2016 Audit engagement team identified the BPO Sale and the license agreement with Counterparty E (collectively, "Counterparty E Transactions") as significant unusual transactions. Rogers and the team also identified revenue recognition and business combination as areas of audit emphasis, and identified the Counterparty E Transactions as part of two other areas of audit emphasis—discontinued operations including

divestiture and related parties—and thus were required to obtain greater and more persuasive evidence.[45]

b. Rogers Failed to Adequately Perform Procedures Concerning Counterparty E Transactions

78. The Company's accounting memorandum, which Rogers reviewed, identified ASC 805 as the authoritative guidance for accounting for the license agreement with Counterparty E. Rogers understood that ASC 805 applied by analogy to the accounting for the license agreement with Counterparty E and the BPO Sale, which was a divestiture.[46]

79. Rogers understood that Synchronoss had to evaluate the license agreement and divestiture under 25-20 and 55-18 to determine whether it was proper to record $9.2 million of the license fee as revenue. The Company's accounting memorandum reviewed by Rogers during the 2016 Audit incorrectly stated that Synchronoss needed to "show that the consideration exchanged for the license was at fair value and was not a bargain purchase resulting in a substantial benefit for either party" in order to treat the license fee as separate. Yet Rogers never understood the basis for that statement, inquired why it had been included, or asked that the memorandum be revised.

80. Rogers failed to perform an adequate evaluation of the Counterparty E License Agreement during the 2016 Audit even though he was aware of evidence suggesting the license agreement with Counterparty E was not a separate transaction from the BPO Sale and indicating the need to exercise heightened professional skepticism. For example, Rogers reviewed minutes of a November 5, 2016 Synchronoss board meeting indicating that a draft of the Operating Agreement included the license agreement as one of its ancillary agreements.

81. Instead, Rogers relied on representations from the CFO and other members of management that the two agreements with Counterparty E were separately negotiated and the negotiations were led by separate members of management. However, Rogers failed to corroborate those representations. The statement in Synchronoss's accounting memorandum

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[45] *See* AS 1105.05; AS 2301.09, .37; *see also* AS 2310.27 ("[T]here may be circumstances (such as for significant, unusual year-end transactions that have a material effect on the financial statements . . .) in which the auditor should exercise a heightened degree of professional skepticism . . . .").

[46] *See* ASC 105-10-05-2 ("If the guidance for a transaction or event is not specified within a source of authoritative GAAP for that entity, an entity shall first consider accounting principles for similar transactions or events within a source of authoritative GAAP for that entity and then consider nonauthoritative guidance from other sources.").

for the license agreement—that the "license agreement was not a negotiating factor in the divestiture"—did not provide sufficient evidence as to whether management's representations were true.

82. Furthermore, though the identification of the Counterparty E Transactions as significant unusual transactions required Rogers to perform the procedures specified in AS 2401.66A and .67, the 2016 Audit work papers do not reflect an evaluation of SUT factors[47] beyond the conclusory statement: "There are no indications that the transaction was entered into to engage in fraud."

83. Rogers failed to adequately perform that evaluation even though he was aware of evidence indicating that the license agreement with Counterparty E was not a separate transaction, and did not have separate economic substance, from the BPO Sale, and might have been entered into separately in order to allow Synchronoss to improperly record revenue and potentially engage in fraudulent financial reporting.

84. Moreover, though the evidence described above in paragraph 80 contradicted, and was inconsistent with, the management representation that the license agreement and BPO Sale were negotiated separately, Rogers failed to sufficiently investigate the circumstances of those contradictions[48] or otherwise perform procedures to resolve those inconsistencies.[49]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.[50] Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Alison G. Yablonowitz is suspended for a period of one year from the date of this Order

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47 *See supra* ¶ 17.

48 *See* AS 2805.04.

49 *See* AS 1105.29.

50 In determining to accept Rogers's Offer, the Board considered efforts undertaken by Rogers in relation to the audit committee-led investigation and restatement.

from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[51]

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

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

1. Alison G. Yablonowitz, $25,000; and

2. Shawn C. Rogers, $10,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay these civil money penalties within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (c) submitted under a cover letter which identifies Yablonowitz or Rogers as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***Respondents understand that failure to pay the civil money penalty described above may alone be grounds for a summary suspension or bar pursuant to PCAOB Rule 5304.***

[51] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Yablonowitz. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Yablonowitz and Rogers are each required to complete, within one year of the date of this Order, 20 hours of professional education and training directly related to the audits of issuer financial statements under PCAOB standards, covering, among other topics, significant unusual transactions and management representations. Such hours shall be in addition to, and shall not be counted in, the continuing professional education Yablonowitz and Rogers are each required to obtain in connection with any professional license.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 22, 2021

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Yichien Yeh, CPA and Yichien Yeh,

Respondents.

PCAOB Release No. 105-2021-011

September 29, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) Revoking the registration of Yichien Yeh, CPA (the "Firm"), a registered public accounting firm;[1]

(2) Barring Yichien Yeh ("Yeh") (with the Firm collectively, "Respondents") from being associated with a registered public accounting firm;[2] and

(3) Imposing a $10,000 civil money penalty jointly and severally upon Respondents.

The Board is imposing these sanctions on the basis of its findings that Respondents violated PCAOB rules and standards in connection with the Firm's audit of the financial statements of AmericaTowne Holdings, Inc. ("AmericaTowne" or the "Company") for the year ended December 31, 2018 (the "2018 Audit").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c)

[1] The Firm may reapply for registration after two years from the date of this Order.

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

of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents each have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **Yichien Yeh, CPA** is a sole proprietorship headquartered in Oakland Gardens, New York. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Yichien Yeh** is a certified public accountant licensed by the New York State Board for Public Accountancy (License No. 096015). At all relevant times, Yeh was the sole owner of the Firm and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Yeh was the engagement partner on the 2018 Audit.

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

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Issuer

3. AmericaTowne[5] was, at all relevant times, a Nevada corporation headquartered in Raleigh, North Carolina, and an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Its public filings disclose that AmericaTowne is an emerging growth company that provides "Made in the USA" goods and services to China and African countries, and engages in the development and exporting of modular energy efficient technology and processes to China and elsewhere.

C. Summary

4. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the 2018 Audit.[6] As detailed below, Respondents failed to exercise due professional care, including professional skepticism; failed to evaluate whether revenue was recognized in accordance with the applicable financial reporting framework; and failed to obtain sufficient appropriate audit evidence concerning service fee revenues, related party relationships and transactions, accounts receivable, and the allowance for doubtful accounts.

D. Respondents Violated PCAOB Rules and Standards in Connection with the 2018 Audit

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7] An auditor may express an unqualified opinion on an issuer's financial statements when the auditor has conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[8] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit

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[5] Effective on August 1, 2018, AmericaTowne, f/k/a ATI Modular Technology Corp. ("ATI"), became the surviving entity following a merger with its subsidiary, AmericaTowne, Inc.

[6] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audit discussed herein.

[7] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[8] *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[9]

6. PCAOB standards state that the auditor must evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[10] As part of the evaluation of the presentation of the financial statements, the auditor should evaluate whether the financial statements contain the information essential for a fair presentation of the financial statements in conformity with the applicable financial reporting framework.[11]

i. Respondents Failed to Evaluate Whether AmericaTowne's Revenue Was Recognized in Conformity With the Applicable Financial Reporting Framework

7. In FY 2018, AmericaTowne reported total revenue of $377,000. The Company recognized $262,000 in revenue from four service provider agreements with related parties, and $110,000 in revenue from two agreements with unrelated parties (collectively, the "Agreements"). The Agreements were entered into during FY 2018.

8. Approximately 99% of the Company's FY 2018 revenue was from nonrefundable service fees charged by AmericaTowne pursuant to the Agreements. The service fees were fixed and payable over a period in excess of five years, with approximately 4% of the total fee due upon signing, 44% due in monthly installments over a period of 60 months, and 52% due in equal parts in months 61 and 62. AmericaTowne recognized the total amount of service fees in FY 2018, even though approximately 92% of the fees were not due for payment as of year-end.

9. AmericaTowne's public filings disclosed that revenue was recognized when the following criteria have been met: (i) persuasive evidence of an arrangement exists, (ii) delivery has occurred or services have been rendered, (iii) the price is fixed or determinable, and (iv) collectability is reasonably assured.[12]

10. During the 2018 Audit, Respondents failed to evaluate whether AmericaTowne appropriately recognized revenue in conformity with U.S. Generally Accepted Accounting Principles (GAAP). While they obtained the Agreements, Respondents failed to perform any procedures to evaluate whether the revenue recognition criteria had been met prior to

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9 *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*.

10 *See* AS 2810.30, *Evaluating Audit Results*.

11 *Id.* at .31.

12 *See* FASB Topic ASC 605, *Revenue Recognition*.

AmericaTowne's recognition of the total amount of service fees as revenue. As a result, Respondents failed to evaluate whether AmericaTowne's revenue was presented fairly, in all material respects, in conformity with U.S. GAAP.[13]

ii. Respondents Failed to Obtain Sufficient Appropriate Audit Evidence Concerning AmericaTowne's Service Fee Revenue

11. During the 2018 Audit, Respondents identified a fraud risk related to improper revenue recognition. To test revenue, Respondents agreed the service fee revenue amounts recorded in the FY 2018 financial statements to the amounts reflected in the Agreements, but failed to perform any other procedures regarding revenue. As a result, they failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence to determine whether the services were provided to a customer, recorded in the proper period, and properly valued in the FY 2018 financial statements.[14]

iii. Respondents Failed to Obtain Sufficient Appropriate Audit Evidence Related to AmericaTowne's Related Party Relationships and Transactions

12. As noted above, AmericaTowne disclosed related party transactions of $262,000 in service provider agreement revenue in its FY 2018 financial statements, and also disclosed associated related party receivables owed to the company of $1.3 million. Respondents identified related party transactions as a significant risk during the 2018 Audit.

13. PCAOB standards require that an auditor obtain sufficient appropriate audit evidence to determine whether related parties and relationships and transactions with related parties have been properly, identified, accounted for, and disclosed in the financial statements.[15] For each related party transaction that is either required to be disclosed in the financial statements or determined to be a significant risk, the auditor should, among other things, evaluate whether the terms and other information about the transaction are consistent with explanations from inquiries and other audit evidence about the business purpose (or lack thereof) of the transaction, and evaluate the financial capability of the related parties.[16] The auditor must also evaluate whether the financial statements contain the information regarding

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13 *See id.*; AS 2810.30.

14 *See* AS 1015.01 and .07; AS 1105.04.

15 *See* AS 2410.02, *Related Parties.*

16 *See id.* at .12.

relationships and transactions with related parties essential for a fair presentation in conformity with the applicable financial reporting framework.[17]

14. During the 2018 Audit, Respondents identified related party sales transactions from the service provider agreements and proposed an entry to reclassify those amounts as related party revenue. Respondents, nevertheless, performed no other procedures to evaluate whether AmericaTowne's revenue and receivables from related party transactions were properly identified, accounted for, and disclosed in the financial statements.[18] Specifically, Respondents failed to perform any procedures to: (i) obtain an understanding of the business purpose of the related party transactions; (ii) evaluate the financial capability of the related parties with respect to significant uncollected accounts receivable balances; and (iii) evaluate whether AmericaTowne had properly disclosed the nature of each material relationship in accordance with U.S. GAAP.[19]

15. As a result of these deficiencies, Respondents failed to obtain sufficient appropriate audit evidence to determine whether related parties and relationships and transactions with related parties had been properly identified, accounted for, and disclosed in the financial statements.[20]

iv. Respondents Failed to Obtain Sufficient Appropriate Audit Evidence Related to AmericaTowne's Sales and Support Services Agreement with Yilaime

16. AmericaTowne's FY 2018 financial statements disclosed that in 2016, ATI, AmericaTowne's predecessor entity, entered into a sales and support services agreement with Yilaime Corporation ("Yilaime"). Yilaime, a Nevada corporation, was a related party entity, AmericaTowne's majority shareholder, and was controlled by AmericaTowne's sole officer and director. Under the 2016 agreement, Yilaime agreed to provide ATI with marketing, sales, and support services related to ATI's business in China in exchange for a commission equal to 10% of the gross amount of monies procured for ATI through Yilaime's services. In consideration of the right to receive the commission, Yilaime agreed to pay ATI a quarterly fee of $250,000 starting on July 1, 2016.

17. Related to the agreement with Yilaime, AmericaTowne's FY 2018 financial statements disclosed a receivable of approximately $2 million (42% of total assets) and a corresponding deferred revenue balance of approximately $2.2 million (89% of total liabilities),

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17 *See id.* at .17.

18 *See id.* at .02.

19 *See id*. at .12 and .17.

20 *See id.* at .02, .12, .14 and .17.

and recorded $950,000 in quarterly fees as "accounts receivable, net-related parties" and as deferred revenue.

18. AmericaTowne's financial statements also disclosed that: (1) AmericaTowne's sole officer and director previously entered felony *nolo contendere* pleas for fraudulent misappropriation; and (2) as a result of his failure to disclose the pleas, he received a desist and refrain order from the California Department of Corporations relating to the offer and sale of securities.

19. To test the related party transactions with Yilaime, Respondents obtained written representations from AmericaTowne's sole officer and director regarding the gross outstanding receivable balance, and traced the quarterly fees due from Yilaime to invoices. Despite knowledge of the sole officer and director's prior convictions, Respondents performed no other procedures to evaluate AmericaTowne's relationship and transactions with Yilaime. Respondents failed to evaluate the business purpose (or lack thereof) of the transactions with Yilaime, and the financial capability of Yilaime to make payments with respect to the $2 million outstanding receivable.[21] As a result, Respondents failed to obtain sufficient appropriate audit evidence to determine whether AmericaTowne's relationship and transactions with Yilaime had been properly identified, accounted for, and disclosed in the financial statements.[22]

v. Respondents Failed to Evaluate AmericaTowne's Accounts Receivable and Allowance for Doubtful Accounts

20. At year-end, AmericaTowne's accounts receivable for service fees from the Agreements was $2.58 million (54% of total assets), with a corresponding allowance for doubtful accounts of $800,000.

21. To test the allowance for doubtful accounts, Respondents obtained AmericaTowne's accounts receivable aging schedule by customer, including the allowance for bad debt. Respondents understood that AmericaTowne estimated its allowance for doubtful accounts by applying an uncollectable percentage based on past collection experience to each aged receivable group.

22. Respondents failed, however, to perform any procedures to test AmericaTowne's allowance for doubtful accounts to determine whether it was properly valued in the financial statements.[23] More specifically, Respondents failed to perform any procedures

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21 *See id.* at .12.

22 *See id.* at .02, .12, .14 and .17.

23 *See* AS 2501.04, .07, and .09-.14, *Auditing Accounting Estimates*.

to evaluate AmericaTowne's collection history or the reasonableness of the estimated uncollectable percentages applied to accounts receivable to obtain the estimated allowance for bad debt and the bad debt expense.[24]

23. Furthermore, Respondents failed to perform procedures to evaluate whether AmericaTowne's accounts receivable was properly presented and disclosed on the consolidated balance sheet in accordance with U.S. GAAP.[25] For example, Respondents failed to perform procedures to evaluate AmericaTowne's classification of accounts receivable from service fees as a current asset, even though amounts due for payment extended beyond 12 months.

24. As a result, Respondents failed to perform sufficient procedures to obtain sufficient appropriate audit evidence to determine whether AmericaTowne's allowance for doubtful accounts was properly valued and to determine whether AmericaTowne's accounts receivable was properly presented and disclosed.[26]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

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

B. After two years from the date of this Order, Yichien Yeh, CPA may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Yichien Yeh is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[27]

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[24] *See id.*

[25] *See* AS 2810.31.

[26] *See id.*; AS 2501.04, .07, and .09-.14.

[27] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Yeh. Section 105(c)(7)(B) of the Act provides that "[i]t shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this

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

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed jointly and severally upon Yichien Yeh, CPA and Yichien Yeh. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Yichien Yeh, CPA and Yichien Yeh as Respondents in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***Respondents understand that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm, or any reapplication for registration pursuant to PCAOB Rule 2101***.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 29, 2021

subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Donald R. Burke, CPA,

Respondent.

PCAOB Release No. 105-2021-012

September 29, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) suspending Donald R. Burke, CPA ("Burke") from being an associated person of a registered public accounting firm for a period of one year; and

(2) imposing a $10,000 civil money penalty upon Burke.

The Board is imposing these sanctions on the basis of its findings that Burke violated PCAOB rules and standards in connection with Rehmann Robson LLP's audits of the financial statements of Issuer A, for the years ended December 31, 2014 ("FY 2014"), and December 31, 2015 ("FY 2015") (each an "Audit" and, collectively, the "Audits").[1]

I.

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

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[1] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015).

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Burke has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Burke and the subject matter of these proceedings, which is admitted, Burke consents to the entry of this Order as set forth below.[2]

III.

On the basis of Burke's Offer, the Board finds[3] that:

A. Respondent

1. **Donald R. Burke** was, at all relevant times, a certified public accountant licensed by the Michigan Department of Licensing and Regulatory Affairs (License No. 1101011461) and by Florida's Department of Business and Professional Regulation, Division of Certified Public Accounting (License No. AC45199). He served as the engagement quality review ("EQR") partner on both Audits. At all relevant times, Burke was a principal at Rehmann Robson LLC (the "Firm") and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer

2. Issuer A was, at all relevant times, a Nevada corporation headquartered in Grand Rapids, Michigan, and Golden, Colorado. Issuer A's public filings indicate that it was in the business of marketing and distributing vaping products and e-cigarettes. Its common stock was registered, at all relevant times, under Section 12(g) of the Securities Exchange Act of 1934. It

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

[3] The Board finds that Burke's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Issuer A filed for bankruptcy on March 16, 2017.

C. Summary

3. This matter concerns Burke's violations of PCAOB rules and standards in connection with the Audits.[4] As detailed below, Burke, in performing EQRs for both Audits, failed to comply with Auditing Standard ("AS") No. 7, *Engagement Quality Review* ("AS No. 7"), and failed to exercise due professional care, including professional skepticism.

4. Specifically, Burke failed to evaluate properly the significant judgments made by the engagement teams relating to engagement planning concerning revenue. In addition, Burke failed to evaluate properly the engagement teams' assessment of, and audit responses to, significant risks identified by the engagement team, including fraud risks. As a result of his failure to perform the EQRs with due professional care and in conformity with PCAOB standards, Burke lacked an appropriate basis to provide his concurring approvals of issuance of the Firm's audit reports regarding Issuer A's financial statements in each of the Audits.

D. Burke Violated PCAOB Rules and Standards in Connection with the Audits

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] AS No. 7 requires that an EQR be performed on all audit engagements conducted pursuant to PCAOB standards.[6]

6. In conducting the EQR, the EQR reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[7] To evaluate those judgments and conclusions, the EQR reviewer should evaluate the engagement team's significant judgments that relate to engagement planning, including consideration of the company's business, and related financial reporting issues and risks.[8] In addition, the EQR

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[4] *See In the Matter of Glenn Alan Zubryd, CPA*, PCAOB Release No. 105-2021-013 (September 29, 2021).

[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

[6] *See* AS No. 7 ¶ 1.

[7] *See id*. ¶ 9.

[8] *See id*. ¶ 10.a.

reviewer should evaluate, among other things, the engagement team's assessment of, and audit responses to, significant risks identified by the engagement team, including fraud risks.[9] In connection with an audit, the EQR reviewer should evaluate whether the engagement documentation that he or she reviewed indicates that the engagement team responded appropriately to significant risks and supports the conclusions reached by the engagement team with respect to the matters reviewed.[10] The EQR reviewer may provide concurring approval of issuance of an audit report only if, after performing his or her responsibilities with due professional care, he or she is not aware of a significant engagement deficiency.[11] To perform an EQR with due professional care, the EQR reviewer must exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[12]

i. Background

7. The Firm served as Issuer A's external auditor for the 2014 and 2015 financial statements. It issued an audit report containing an unqualified opinion, dated March 31, 2015, on Issuer A's FY 2014 financial statements. The Firm also issued an audit report containing an unqualified opinion, dated March 28, 2016, on Issuer A's FY 2015 financial statements. These reports were included with Issuer A's Forms 10-K filed with the Securities and Exchange Commission on April 1, 2015, and March 28, 2016, respectively.

8. Issuer A's public filings reported total revenue for FY 2014 of approximately $43.5 million. In its FY 2015 financial statements, Issuer A reported total revenue for FY 2015 of approximately $54.2 million. In each of the Audits, the engagement teams identified improper revenue recognition as a significant risk and a fraud risk. Notwithstanding these risks, the engagement teams failed to perform sufficient procedures to obtain sufficient appropriate audit evidence regarding revenue in connection with Issuer A's Audits.

9. For significant risks, including fraud risks, PCAOB standards require an auditor to perform substantive procedures, including tests of details, that are specifically responsive to

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[9] *See id*. ¶ 10.b.

[10] *See id*. ¶ 11.

[11] *See* AU §§ 230.07-.09, *Due Professional Care in the Performance of Work* ("AU § 230"). *See also* AS No. 7 ¶ 12.

[12] *See* AU § 230.07.

the assessed risk.[13] In addition, for significant risks of material misstatement, it is unlikely that substantive analytical procedures alone will be sufficient.[14]

10. In both Audits, Issuer A's revenue controls were not operating effectively. During the FY 2014 Audit, management identified 37 revenue key controls. The Firm concluded that 34, or 92%, of the key controls related to revenue were not operating effectively.[15] In both Audits, the engagement teams concluded that it was necessary to increase substantive testing since it was determined that the revenue controls could not be relied upon in the audit.

11. Despite this conclusion and awareness of these control issues, the engagement teams failed to perform substantive audit procedures, including testing of details, relating to revenue in both Audits.[16] In addition, the engagement teams did not design and implement responses to appropriately identify and address the risks of material misstatement relating to revenue in both Audits.[17] In both Audits, the engagement teams' procedures regarding revenue were limited to analytical procedures and were not substantive analytical procedures.[18] The engagement teams failed to perform any audit procedures to test revenue beyond a year-over-year comparison of revenue and inquiry of management. In performing these comparisons, the engagement teams failed to comply with PCAOB standards because they failed to: (1) develop an expectation precise enough to provide the desired level of assurance that differences that may be potential material misstatements, individually or when aggregated with other misstatements, would be identified for investigation;[19] (2) consider the amount of difference from the expectation that could be accepted without further investigation;[20] and (3) evaluate significant unexpected differences.[21] As a result, the year-over-year revenue comparisons were not substantive analytical procedures and the engagement teams failed to obtain sufficient

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[13] *See* AS No. 13 ¶¶ 11 and 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS No. 13").

[14] *See* AU § 329.09, *Substantive Analytical Procedures* ("AU § 329").

[15] The Firm did not audit the internal control over financial reporting of Issuer A as of December 31, 2015.

[16] *See* AS No. 13 ¶ 36.

[17] *See id*. ¶¶ 3, 11, and 13.

[18] *See* AU § 329.09.

[19] *See* AU § 329.17.

[20] *See* AU § 329.20.

[21] *See* AU § 329.21.

appropriate audit evidence to determine whether revenue was recorded in the proper period and was properly valued in each of the Audits.[22]

ii. Burke Failed to Perform an Adequate EQR in Relation to Revenue in Both Audits

12. During the Audits, Burke failed to evaluate properly the significant judgments made by the engagement teams relating to planning, including consideration of the company's business and related financial reporting issues and risks. Prior to the Audits, Burke knew that Issuer A was in a troubled financial condition, including that it had depleted its cash reserves and owed money to its service providers. Despite his knowledge of Issuer A's financial issues, Burke failed to evaluate properly the fact that the engagement teams' planned procedures related to revenue did not include substantive procedures.[23]

13. In addition, during the Audits, Burke failed to evaluate properly the significant judgments made, and the related conclusions reached, by the engagement teams with respect to revenue.[24] Specifically, Burke failed to evaluate properly the engagement teams' assessment of, and audit responses to, significant risks identified by the engagement teams, including fraud risks, related to revenue.[25] During the Audits, Burke, who knew the engagement teams had identified revenue as a significant risk and a fraud risk, failed to obtain an understanding of what, if any, procedures had been performed regarding revenue. Finally, he failed to review properly the engagement teams' work performed and documentation related to revenue testing in both Audits.[26]

14. As a result of the failures described above, Burke provided his concurring approvals of issuance without performing his reviews with the requisite due professional care.[27]

IV.

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

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22 *See* AS No. 15, *Audit Evidence*.

23 *See* AS No. 7 ¶ 10.a.

24 *See id*. ¶ 9.

25 *See id*. ¶ 10.b.

26 *See id*. ¶ 11.

27 *See* AU § 230; AS No. 7 ¶ 12.

determines it appropriate to impose the sanctions agreed to in Burke's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Donald R. Burke, CPA, is suspended for one year from the date of this Order from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[28] and

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon Burke. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Burke shall pay this civil money penalty within 10 days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies Burke as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 29, 2021

[28] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Burke. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Glenn Alan Zubryd, CPA,

Respondent.

PCAOB Release No. 105-2021-013

September 29, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) barring Glenn Alan Zubryd, CPA ("Zubryd" or "Respondent") from being associated with a registered public accounting firm;[1] and

(2) imposing a $15,000 civil money penalty upon Zubryd.

The Board is imposing these sanctions on the basis of its findings that Zubryd violated PCAOB rules and standards in connection with Rehmann Robson LLP's audits of the financial statements of Issuer A, for the years ended December 31, 2014 ("FY 2014"), and December 31, 2015 ("FY 2015") (each an "Audit" and, collectively, the "Audits").[2]

I.

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

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

[2] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015).

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Zubryd has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Zubryd and the subject matter of these proceedings, which is admitted, Zubryd consents to the entry of this Order as set forth below.[3]

III.

On the basis of Zubryd's Offer, the Board finds[4] that:

A. Respondent

1. **Glenn Alan Zubryd** was, at all relevant times, a certified public accountant licensed by the Michigan Department of Licensing and Regulatory Affairs. His Michigan registration as a Licensed Accountant (License No. 1101024804) expired on December 31, 2019. His Michigan license as a Registered Accountant (License No. 1103024804) is currently active.[5] At all relevant times, Zubryd was a principal at Rehmann Robson LLC (the "Firm"), and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer

2. Issuer A was, at all relevant times, a Nevada corporation headquartered in Grand Rapids, Michigan, and Golden, Colorado. Issuer A's public filings indicate that it was in the

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

[4] The Board finds that Zubryd's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[5] A Michigan Licensed Accountant is permitted to practice as a CPA whereas Registered Accountants in Michigan are not permitted to practice as CPAs.

business of marketing and distributing vaping products and e-cigarettes. Its common stock was registered, at all relevant times, under Section 12(g) of the Securities Exchange Act of 1934. It was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Issuer A filed for bankruptcy on March 16, 2017.

C. Summary

3. This matter concerns Zubryd's violations of PCAOB rules and standards in connection with the Audits.[6] As detailed below, Zubryd, who served as engagement partner on both Audits, failed to obtain sufficient appropriate audit evidence and to exercise due professional care, including professional skepticism, in connection with the Audits. First, with respect to revenue, which was identified as a significant risk and a fraud risk during both Audits, Zubryd failed to perform, or to ensure that the engagement teams performed, substantive audit procedures over revenue, including requisite tests of details specifically responsive to the assessed risks. Second, with respect to intangible asset valuations in both Audits, Zubryd failed to perform, or failed to ensure that the engagement teams performed, adequate procedures to evaluate the reasonableness of the assumptions and to test the underlying data used by Issuer A in its impairment analysis. Specifically, Zubryd and the engagement teams did not test the process for generating the projected amounts in Issuer A's impairment analysis, develop an independent expectation of the projected amounts, or review subsequent events or transactions to evaluate the reasonableness underlying the valuation of intangible assets, including goodwill. Third, Zubryd failed to supervise properly the work of the engagement teams during the Audits.

4. Finally, Zubryd failed to ensure that the FY 2015 Audit documentation was archived by the relevant documentation completion date as required by Auditing Standard ("AS") No. 3, *Audit Documentation* ("AS No. 3").

D. Zubryd Violated PCAOB Rules and Standards in Connection with the Audits

5. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such

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[6] *See In the Matter of Donald R. Burke, CPA*, PCAOB Release No. 105-2021-012 (September 29, 2021).

[7] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards*.

an opinion on the basis of an audit performed in accordance with PCAOB standards.[8] PCAOB standards require an auditor to plan and perform the audit with due professional care, to exercise professional skepticism, and to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[9] PCAOB standards further require the auditor to identify and appropriately assess the risks of material misstatement at the financial statement level and the assertion level.[10] The auditor should perform risk assessment procedures that are sufficient to provide a reasonable basis for identifying and assessing risks of material misstatement and designing further audit procedures.[11]

6. PCAOB standards state that the engagement partner is responsible for the engagement and its performance.[12] The engagement partner and other engagement team members performing supervisory activities are also responsible for proper supervision of the work of the engagement team members and compliance with PCAOB standards.[13] The engagement partner is required to review the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[14]

7. As further detailed below, Zubryd violated PCAOB rules and standards in connection with revenue as well as intangible asset valuations in both Audits, and the archiving of audit documentation in the FY 2015 Audit.

i. Failure to Perform Substantive Procedures related to Revenue in Both Audits

8. The Firm served as Issuer A's external auditor for the 2014 and 2015 financial statements. It issued an audit report containing an unqualified opinion, dated March 31, 2015, on Issuer A's FY 2014 financial statements. The Firm also issued an audit report containing an unqualified opinion, dated March 28, 2016, on Issuer A's FY 2015 financial statements. These

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8 *See* AU § 508.07.

9 *See* AU § 230.01-.02, .07, *Due Professional Care in the Performance of Work* ("AU § 230"); AS No. 15 ¶ 4, *Audit Evidence* ("AS No. 15").

10 *See* AS No. 12 ¶¶ 3 and 59, *Identifying and Assessing Risks of Material Misstatement* ("AS No. 12").

11 *Id.* at ¶ 4.

12 *See* AS No. 10 ¶ 3, *Supervision of the Audit Engagement* ("AS No. 10").

13 *Id*. at ¶¶ 3-4.

14 *Id.* at ¶ 5c.

reports were included with Issuer A's Forms 10-K filed with the Securities and Exchange Commission on April 1, 2015, and March 28, 2016, respectively. Zubryd, the engagement partner on both Audits, authorized the issuance of both audit reports.

9. Issuer A's public filings reported total revenue for FY 2014 of approximately $43.5 million. In its FY 2015 financial statements, Issuer A reported total revenue for FY 2015 of approximately $54.2 million. In each of the Audits, Zubryd and the engagement teams identified improper revenue recognition as a significant risk and a fraud risk. Notwithstanding these risks, Zubryd failed to perform, or ensure that the engagement teams performed, sufficient procedures to obtain appropriate audit evidence regarding revenue in connection with Issuer A's Audits.

10. For significant risks, including fraud risks, PCAOB standards require an auditor to perform substantive procedures, including tests of details, that are specifically responsive to the assessed risk.[15] In addition, for significant risks of material misstatement, it is unlikely that substantive analytical procedures alone will be sufficient.[16]

11. In both Audits, Issuer A's revenue controls were not operating effectively. During the FY 2014 Audit, management identified 37 revenue key controls. The Firm concluded that 34, or 92%, of the key controls related to revenue were not operating effectively.[17] In both Audits, Zubryd and the engagement teams concluded that it was necessary to increase substantive testing since it was determined that the revenue controls could not be relied upon in the audit.

12. Despite this conclusion and his awareness of these control issues, Zubryd failed to perform, or ensure that the engagement teams performed, substantive audit procedures, including testing of details, relating to revenue in both Audits.[18] In addition, Zubryd failed to ensure that the engagement teams designed and implemented responses to appropriately identify and address the risks of material misstatement relating to revenue in both Audits.[19] In both Audits, the engagement teams' procedures regarding revenue were limited to analytical

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[15] *See* AS No. 13 ¶¶ 11 and 13, *The Auditor's Responses to the Risks of Material Misstatement* ("AS No. 13").

[16] *See* AU § 329.09, *Substantive Analytical Procedures* ("AU § 329").

[17] The Firm did not audit the internal control over financial reporting of Issuer A as of December 31, 2015.

[18] *See* AS No. 13 ¶ 36.

[19] *See id.* ¶¶ 3, 11, and 13.

procedures and were not substantive analytical procedures.[20] Zubryd failed to perform, or ensure the engagement teams performed, any audit procedures to test revenue beyond a year-over-year comparison of revenue and inquiry of management. In performing these comparisons, Zubryd failed to comply with PCAOB standards because he and the engagement teams failed to: (1) develop an expectation precise enough to provide the desired level of assurance that differences that may be potential material misstatements, individually or when aggregated with other misstatements, would be identified for investigation;[21] (2) consider the amount of difference from the expectation that could be accepted without further investigation; [22] and (3) evaluate significant unexpected differences.[23] As a result, the year-over-year revenue comparisons were not substantive analytical procedures and Zubryd failed to obtain sufficient appropriate audit evidence to determine whether revenue was recorded in the proper period and was properly valued in each of the Audits.[24]

13. As engagement partner, Zubryd was responsible for supervising the engagement and its performance.[25] However, despite revenue being identified as a significant risk and fraud risk, Zubryd failed to supervise adequately the engagement teams' work during both Audits. Specifically, Zubryd, who had limited involvement in the engagement teams' work in this area, failed to review sufficiently the work of the engagement team members regarding revenue and failed to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[26]

14. In addition to the failures noted above, Zubryd failed to exercise the requisite due professional care, including professional skepticism, relating to revenue in both Audits.[27]

ii. Failure to Perform Adequate Intangible Assets Valuation Testing in Both Audits

15. As of December 31, 2014, Issuer A's public filings reported total assets were $126.8 million, of which approximately $106.4 million consisted of intangible assets including

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20 *See* AU § 329.09.

21 *See* AU § 329.17.

22 *See* AU § 329.20.

23 *See* AU § 329.21.

24 *See* AS No. 15, *Audit Evidence*.

25 *See* AS No. 10 ¶ 3.

26 *See* AS No. 10 ¶ 5.

27 *See* AU § 230.

goodwill. As of December 31, 2015, Issuer A's public filings reported total assets of $95.3 million, of which approximately $81.9 million consisted of intangible assets including goodwill. The intangible assets were primarily associated with certain of Issuer A's recently completed acquisitions. Goodwill was reported as being $51.7 million as of December 31, 2014, and $47.7 million as of December 31, 2015.

16. The FY 2014 Audit was the Firm's first audit of Issuer A and intangible asset valuations were Issuer A's most significant estimates during the Audits. Valuation of intangible assets was identified as an area of significant audit emphasis and as a significant accounting estimate during both Audits.

17. PCAOB standards require the auditor to evaluate the reasonableness of accounting estimates made by management in the context of the financial statements taken as a whole.[28] The auditor's objective when evaluating accounting estimates is to obtain sufficient appropriate evidential matter to provide reasonable assurance that all accounting estimates that could be material to the financial statements have been developed, those estimates are reasonable in the circumstances, and those estimates are presented in conformity with applicable accounting principles and are properly disclosed.[29]

18. To determine whether goodwill is properly valued, it should be tested for impairment at least annually, and whenever there is an indication that it may be impaired.[30] Issuer A disclosed that the amounts of its intangible asset impairments were determined by assessing the recoverable amount, as compared to its carrying amount. Zubryd and the engagement teams understood that Issuer A's management used certain estimates of projected amounts—such as future net sales, the associated projected cost of sales, and projected operating expenses—as key assumptions in formulating the cash flow projections on which it based its impairment analysis.

19. During both Audits, Zubryd failed to gather, or failed to ensure that the engagement teams gathered, sufficient appropriate evidence concerning the intangible asset valuations. Zubryd and the engagement teams failed to perform any audit procedures to

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[28] *See* AU § 342.04, *Auditing Accounting Estimates* ("AU § 342").

[29] *See* AU § 342.07.

[30] Goodwill is periodically tested for impairment—the condition that exists when the carrying amount of goodwill on a company's books exceeds its implied fair value. *See* ASC 350, *Intangibles – Goodwill and Other*. Such testing must occur annually, or more frequently if there is an indication of impairment. If the testing results in an impairment, the carrying amount of the goodwill must be reduced by the amount of the impairment.

evaluate the reasonableness of the key factors and assumptions in Issuer A's impairment analysis, or to test the underlying data used by Issuer A in its impairment analysis. Specifically, the engagement teams failed to test the process for generating the projected amounts, develop an independent expectation of the projected amounts, or review subsequent events or transactions to evaluate the reasonableness of the projected amounts.[31]

20. Zubryd and the engagement teams also failed, in both Audits, to corroborate Issuer A management's representations regarding key factors and assumptions used in the valuation of intangible assets. While evidential matter can include management representations, such representations "are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[32] Zubryd and the engagement teams failed in this regard despite knowing financial information, including Issuer A's historical results, that should have caused them to exercise greater skepticism. For example, Zubryd and engagement team members knew that management assumptions included in the projections to test the valuation of intangible assets predicted increases in net sales and gross profit of approximately 154% and 174%, respectively, in a period of three years (*i.e.*, from 2015 to 2018). These optimistic projections were inconsistent with Issuer A's then-current operations and historical results. In this regard, Issuer A's net sales and gross profit actually increased only 18% and 57%, respectively, during 2015.

21. Zubryd also failed to supervise adequately the engagement teams' work relating to intangible asset valuations.[33] Zubryd failed to review the work of the engagement team members regarding intangible assets and failed to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[34] Specifically, Zubryd failed to review the engagement team's work to ensure they tested the underlying data and evaluated the reasonableness of the significant assumptions used in Issuer A's projections to test sufficiently the valuation of the intangible assets.

iii. Failure to Archive Audit Documentation for the FY 2015 Audit

22. AS No. 3 requires that a complete and final set of audit documentation should be assembled for retention by the "documentation completion date," a date not more than 45

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31 *See* AU § 342.10.

32 *See* AU § 333.02, *Management Representations*.

33 *See* AS No. 10 ¶¶ 3 and 5.

34 *See* AS No. 10 ¶ 5c.

days from the date on which the auditor grants permission to use its report ("report release date").[35] In the FY 2015 Audit, the report release date was March 28, 2016, resulting in a documentation completion date of May 12, 2016.

23. The Firm's records indicate that the audit work papers were not archived by the documentation completion date in the FY 2015 Audit. Zubryd and the engagement team used a date 60 days after the report release date—May 27, 2016—as the documentation completion date for the FY 2015 Audit. As a result, Zubryd violated AS No. 3 by failing to assemble a complete and final set of audit documentation for the FY 2015 Audit for retention as of a date no later than 45 days after the report release date.

IV.

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

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Glenn Alan Zubryd, CPA, is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[36]

B. Pursuant to PCAOB Rule 5302(b), Glenn Alan Zubryd, CPA, may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order; and

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon Zubryd. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Zubryd shall pay this

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[35] AS No. 3 ¶ 15.

[36] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Zubryd. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

civil money penalty within 10 days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies Zubryd as a Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. **Zubryd understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.**

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

September 29, 2021

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Deloitte LLP,

Respondent.

PCAOB Release No. 105-2021-014

September 29, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring Deloitte LLP ("Deloitte Canada," the "Firm," or "Respondent");

(2) imposing a civil money penalty of $350,000 on the Firm;

(3) requiring the Firm to establish, revise, or supplement, as necessary, its quality control policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that personnel comply with PCAOB audit documentation requirements, including those concerning the dating of the completion of work performed and the dating of the review of work papers; and

(4) requiring the Firm to ensure that all Firm professionals involved in any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), have received four (4) hours of additional training concerning compliance with PCAOB audit documentation standards.

The Board is imposing these sanctions on the basis of its findings that, from November 2016 through early March 2018, Deloitte Canada's system of quality control failed to provide reasonable assurance that Firm personnel appropriately dated their preparation and review of audit work papers. As a result, during that period, the Firm failed to comply with PCAOB audit documentation standards in connection with certain audits and quarterly reviews.

In ordering these sanctions, the Board took into account the Firm's extraordinary cooperation in this matter, including self-reporting, substantial assistance, and personnel and policy actions, as described in more detail below.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Deloitte LLP** is a public accounting firm organized as a limited liability partnership under the laws of Ontario, Canada, and headquartered in Toronto, Ontario. It is a member firm of the Deloitte Touche Tohmatsu Limited ("DTTL") global network of firms. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm served as the auditor for issuer audit clients and performed audit work that other PCAOB-registered firms, including member firms of DTTL, used or relied on in issuing audit reports for their issuer clients ("referred work").

B. Summary

2. This matter concerns Deloitte Canada's failure to establish, implement, and communicate appropriate quality control policies and procedures to provide the Firm with reasonable assurance that the work performed by engagement personnel complied with

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

applicable professional standards, regulatory requirements, and the Firm's standards of quality. These failures resulted in violations of PCAOB audit documentation standards concerning the dating of work papers over a 16-month period.

3. PCAOB standards require auditors to prepare audit documentation that accurately reflects when audit work was completed and reviewed. Prior to November 2016, Deloitte Canada's electronic work paper system ("system" or "work paper system") allowed Firm personnel to document their performance and review of work by manually selecting preparer and reviewer sign-off dates for each work paper. In November 2016, the Firm updated its work paper system and removed Firm personnel's ability to manually select sign-off dates. Under the new system, when an auditor entered a sign-off, the current date was automatically generated. At the time the Firm adopted its new system, personnel from the Firm's National Office were aware of a risk that individuals could override the new system by changing their computer date settings to backdate work paper sign-offs. Despite that awareness, the Firm did not take sufficient steps—through written policies, guidance, training, or otherwise—to address that risk.

4. During the 16 month-period following the adoption of the new work paper system, Firm personnel overrode the system and backdated their work paper sign-offs in at least six issuer audits and two quarterly reviews subject to PCAOB standards. This conduct occurred while teams were assembling a complete and final set of work papers for retention, or earlier, in these engagements. Additionally, some auditors on these engagements deleted and replaced sign-offs in order to ensure that reviewer sign-offs were dated after preparer sign-offs. Collectively, this conduct obscured the dates on which work had actually been completed and reviewed.

5. In light of the above-described conduct, the Firm violated PCAOB quality control and audit documentation standards.

C. The Firm Violated PCAOB Quality Control and Audit Documentation Standards

i. Applicable Standards

6. PCAOB rules require a registered public accounting firm to comply with all applicable auditing and related professional practice standards, including the Board's quality

control standards.[2]

7. PCAOB quality control standards require a registered firm to have a system of quality control for its accounting and auditing practice.[3] The system should include policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[4] Among other areas, a firm's policies and procedures should address the documentation of each engagement in accordance with applicable professional standards.[5] PCAOB quality control standards also provide that a firm should communicate its quality control policies and procedures to its personnel in a manner that provides reasonable assurance that those policies and procedures are understood and complied with.[6]

8. PCAOB auditing standards require an auditor to document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[7] This audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to determine who performed the work and the date such work was completed, as well as who reviewed the work and the date of such review.[8]

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[2] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Auditing Standards* (applicable to audits for fiscal years ending before December 31, 2016); PCAOB Rule 3200, *Auditing Standards* (applicable to audits for fiscal years ending on or after December 31, 2016); and PCAOB Rule 3400T, *Interim Quality Control Standards*.

[3] *See* QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[4] *See* QC § 20.17.

[5] *See* QC § 20.18.

[6] *See* QC § 20.23.

[7] *See* AS 1215.06, *Audit Documentation*. As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondent's conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

[8] *See* AS 1215.06.

ii. Firm Personnel Backdated Work Paper Sign-offs in Multiple Engagements

9. Until November 2016, Deloitte Canada's work paper system allowed Firm personnel to select the date of their sign-off when documenting their preparation or review of each work paper. In November 2016, the Firm implemented an update to its work paper system, which restricted personnel from selecting sign-off dates. Under the updated system, when an auditor entered a sign-off, the system automatically generated the current date, as reflected on the auditor's computer, and prevented the auditor from manually entering a different date.

10. At the time the Firm was preparing to implement the update, certain personnel in the Firm's National Office were aware of the possibility of circumventing the new system's restriction on selecting sign-off dates. Specifically, the National Office personnel were aware of a risk that, although the updated system automatically generated sign-off dates based on a computer's settings, auditors could change the date settings on their computers and thereby alter sign-off dates.

11. Based on that awareness, National Office personnel responsible for implementing the new system considered issuing guidance instructing Firm auditors not to circumvent the new system's sign-off restrictions by changing their computer settings. Ultimately, they chose not to do so based on their understanding at the time that such changes could not be systematically prevented or detected.

12. Shortly after the Firm's implementation of the updated system, Firm personnel in certain engagements began changing the date setting on their computers to backdate work paper sign-offs. Specifically, from November 2016 through early March 2018, in connection with at least six issuer audits and two quarterly reviews subject to PCAOB standards, Firm personnel changed the settings on their individual computers to backdate numerous work paper sign-offs.

13. This backdating of sign-offs occurred in connection with engagement teams' assembling a complete and final set of work papers for retention,[9] or earlier, in the engagements. It often resulted from an engagement team member running a Deloitte software program to detect work papers with missing sign-offs or inconsistencies, such as a preparer sign-off that post-dated a reviewer sign-off. After running the program, the engagement team member would direct other team members, including partners, to insert missing sign-offs and

[9] *See* AS 1215.15 (requiring the auditor to assemble a complete and final set of audit documentation for retention "as of a date not more than 45 days after the report release date (*documentation completion date*)"; *see also* AS 1215.14 (defining "report release date").

backdate them to earlier dates. Additionally, in certain instances, Firm personnel were instructed to delete existing work paper sign-offs, change the date settings on their computer clocks, and substitute new sign-offs, in order to indicate the sequential preparation and review of the work papers.

14. In February 2018, a Deloitte Canada auditor raised a concern with senior Firm personnel about auditors altering the dates on their computers to backdate work paper sign-offs. In response, the Firm identified and implemented in early March 2018 a method to remove personnel's ability to change the date settings on their computers, which prevented further backdating of work paper sign-offs. The Firm also promptly instructed personnel to "[a]lways use the actual date on when the physical sign-off occurs."

iii. Violations of PCAOB Quality Control and Audit Documentation Standards

15. As a result of the conduct described above, Deloitte Canada violated PCAOB quality control standards. From November 2016 through early March 2018, the Firm failed to establish and communicate policies and procedures to provide reasonable assurance that the work performed by engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality with respect to documenting the dating of work paper sign-offs.[10]

16. Specifically, when the Firm upgraded its work paper system to eliminate personnel's ability to manually select sign-off dates, it failed to establish and communicate appropriate and effective written policies and guidance and failed to provide sufficient training to personnel about the upgrade and its purpose. The Firm failed to do so, despite the fact that National Office personnel were aware of the risk that the new system's restrictions could be overridden to backdate work paper sign-offs.

17. The Firm's quality control violations, in turn, resulted in, or contributed to, violations of PCAOB audit documentation standards concerning the dating of work papers for audit, referred work, and quarterly review engagements. The practices in which Firm personnel engaged—changing their computer settings to backdate sign-offs, and deleting and re-ordering sign-offs—had the effect of obscuring the date when work was actually performed and reviewed, in violation of PCAOB standards.[11]

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[10] *See* QC §§ 20.17-.18, .23.

[11] *See* AS 1215.06.

IV.

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

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation in this matter.[12] Specifically, the Firm: (a) voluntarily self-reported the conduct described in this Order; (b) provided substantial assistance to the PCAOB's investigation, including by conducting its own extensive internal investigation and sharing the results of that internal investigation with Board staff; (c) disciplined personnel identified by the Firm as involved in the conduct; and (d) implemented enhancements to its quality control policies and procedures in relevant areas, including by providing training to its personnel concerning PCAOB documentation standards. Absent that extraordinary cooperation, the civil money penalty imposed would have been significantly larger, and the Board may have charged the Firm with additional violations of PCAOB rules and standards.

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4),a civil money penalty in the amount of $350,000 is imposed upon Deloitte LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Deloitte LLP shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, certified check, bank cashier's check, or bank money order (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (c) submitted under a cover letter which identifies Deloitte LLP as the Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public

[12] *See Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations,* PCAOB Rel. No. 2013-003 (Apr. 24, 2013).

Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

C. Pursuant to Sections 105(c)(4)(F) and (G) of the Act and PCAOB Rules 5300(a)(6) and (9), Deloitte LLP is required:

1. within 120 days from the date of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that personnel comply with applicable audit documentation requirements, including those concerning the dating of the completion of work performed and the dating of the review of audit documentation;

2. within 120 days from the date of this Order, to ensure that all Firm professionals involved in any "audit," as that term is defined in Section 110(1) of the Act, have received four (4) hours of additional training concerning compliance with PCAOB auditing standard AS 1215;[13] and

3. to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall submit such certification within 150 days from the date of this Order. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 29, 2021

[13] This training is in addition to training the Firm provided prior to the date of this Order.

PCAOB
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Order Making Findings and Imposing Sanctions

In the Matter of Thomas P. Donovan, CPA,

Respondent.

PCAOB Release No. 105-2021-015

September 30, 2021

By this Order Making Findings and Imposing Sanctions, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Thomas P. Donovan, CPA ("Donovan" or "Respondent");

(2) imposing a civil money penalty in the amount of $15,000 on Donovan;

(3) limiting Donovan's activities in connection with any audit of an issuer, for two years from the date of this Order, by prohibiting Donovan from serving in certain capacities in any issuer audit, as described in Section III.B. herein; and

(4) requiring that Donovan complete forty hours of continuing professional education ("CPE") within two years from the date of this Order in addition to any CPE required in connection with any professional license.

The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB rules and standards in connection with the audits of the financial statements of two issuers.

I.

On September 1, 2020, the Board instituted non-public disciplinary proceedings against Respondent.[1] Pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement

[1] Section 105(c)(2) of the Sarbanes-Oxley Act of 2002, as amended, 15 U.S.C. § 7215 (c)(5) ("Act"), provides that litigated disciplinary proceedings shall not be public, "unless otherwise ordered by the Board for good cause shown, with the consent of the parties . . . ." Although the Board found good cause

("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over him and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[2]

II.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Thomas P. Donovan** is a certified public accountant licensed by the State of Texas (License No. 040410). Donovan is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). At all relevant times, Donovan was the engagement partner in charge of the Issuer A Audit, and he was the engagement quality review ("EQR") reviewer for the Issuer B Audit.

B. Other Relevant Entity and Individual

2. PMB Helin Donovan, LLP was, at all relevant times, a limited liability partnership organized under the laws of the State of Texas, licensed in the State of Texas (License No. P05374), and headquartered in Austin, Texas. The Firm also was, at all relevant times, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. On December 17, 2019, the Board entered an Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions against PMB Helin Donovan, LLP, Christie J. Cardwell, CPA,

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for making the proceedings public, Respondent did not consent, as permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203.

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

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

and Donald K. McPhee, CPA ("December 2019 OIP").[4] In the December 2019 OIP, the Board stated that the Firm had filed a Form 1-WD seeking leave to withdraw from registration with the Board, which the Board had determined to grant as of December 17, 2019.

3. Christie J. Cardwell was, at all relevant times, a partner of the Firm. Cardwell was, at all relevant times, a certified public accountant licensed by the State of Washington and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Cardwell served as the engagement partner for the Issuer B Audit. In the December 2019 OIP, the Board sanctioned Cardwell in connection with the audits of two issuers for which she was the engagement partner, including the Issuer B Audit.[5]

C. Issuers

4. Issuer A is, and at all relevant times was, a Bermuda corporation headquartered in Addison, Texas. Its public filings disclose that, at the time of the Issuer A Audit, it was an international oil and natural gas company engaged in acquisition, exploration, development and production. At all relevant times, its common stock was registered under Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act"). At all relevant times, Issuer A was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. Issuer B was, at all relevant times, a Wyoming corporation headquartered in Folsom, California. Its public filings disclose that, at the time of the Issuer B Audit, Issuer B was a payments and banking software developer, licensor, and services provider. Its common stock was registered under Section 12(g) of the Exchange Act. At all relevant times, Issuer B was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

D. Summary

6. This matter concerns Donovan's failure to comply with PCAOB rules and auditing standards in connection with PMB Helin Donovan LLP's ("PMB" or the "Firm") audit of the financial statements of Issuer A for the fiscal year ending December 31, 2016 ("Issuer A Audit"). While serving as the engagement partner on the Issuer A Audit, Donovan failed to exercise due care and professional skepticism, failed to obtain sufficient appropriate audit evidence, and failed to properly supervise his engagement team members.

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[4] *In the Matter of PMB Helin Donovan, LLP, Christie J. Cardwell, CPA, and Donald K. McPhee, CPA*, PCAOB Rel. No. 105-2019-031 (Dec. 17, 2019).

[5] *Id*.

7. Specifically, during the Issuer A Audit, Donovan improperly used the report of a specialist engaged by Issuer A to evaluate relevant financial statement assertions for oil and natural gas properties. Donovan failed to make appropriate tests of the data provided by Issuer A to the specialist. Oil and natural gas properties, net of accumulated amortization, constituted approximately one-half of the value of Issuer A's total assets.

8. Additionally, this matter concerns Donovan's failure to exercise due professional care, including professional skepticism, and to maintain objectivity, while serving as the EQR reviewer for PMB's audit of the financial statements of Issuer B for the year ending December 31, 2015 ("Issuer B Audit"). Donovan failed to maintain objectivity in performing his EQR by assuming responsibilities of the engagement team. Further, Donovan violated the EQR standard by providing his concurring approval of issuance for PMB's audit report when he was aware of a significant engagement deficiency in the Issuer B Audit.

E. Donovan Violated PCAOB Rules and Standards in Two Issuer Audits

9. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[7] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[8] PCAOB standards

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[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200*, Auditing Standards* (applicable to audits for fiscal years ending on or after December 31, 2016); PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for fiscal years ending before December 31, 2016). As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Release No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondent's conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

[7] *See* AS 3101.07, *Reports on Audited Financial Statements.*

[8] *See* AS 1015, *Due Professional Care in the Performance of Work*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 1105.04, *Audit Evidence*.

further require that auditors evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[9]

10. PCAOB standards provide that the engagement partner is responsible for proper supervision of the work of engagement team members and for compliance with PCAOB standards, including standards regarding using the work of specialists.[10] Among other things, the engagement partner should review the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work support the conclusions reached.[11]

11. As described below, Donovan failed to comply with PCAOB rules and standards in connection with the Issuer A Audit and the Issuer B Audit.

i. Donovan and His Engagement Team Failed to Make Appropriate Tests of Data Provided to a Specialist in the Issuer A Audit

12. The Firm served as the external auditor for the Issuer A Audit. The Firm's audit report for Issuer A's 2016 financial statements, dated March 22, 2017, was included in Issuer A's Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") on March 22, 2017. The Firm expressed an unqualified opinion that Issuer A's 2016 financial statements presented fairly, in all material respects, Issuer A's financial position, results of operations, and cash flows in conformity with U.S. generally accepted accounting principles ("GAAP"). Donovan served as the engagement partner and authorized the issuance of the Firm's audit report for the Issuer A Audit.

13. When using the findings of a specialist, PCAOB standards require an auditor, among other things, to make appropriate tests of data provided to the specialist, taking into account the auditor's assessment of control risk.[12]

14. During the Issuer A Audit, Donovan understood that oil and natural gas properties, net of accumulated amortization, constituted approximately one-half of Issuer A's total assets. The work papers Donovan reviewed included a report on reserves and revenues that was prepared by a specialist engaged by Issuer A (the "Specialist Report"). This report provided estimates, as of December 31, 2016, of the extent and value of the proved, probable,

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9 *See* AS 2810.30, *Evaluating Audit Results*.

10 *See* AS 1201.03, *Supervision of the Audit Engagement*.

11 *Id*. at .05.c.

12 AS 1210.12, *Using the Work of a Specialist*.

and possible oil, condensate, and sales gas reserves of certain properties in which Issuer A represented that it owned an interest.

15. The Specialist Report states that the specialist relied, without independent verification, on information furnished by Issuer A with respect to its property interests, production from such properties, current costs of operation and development, current prices for production, agreements relating to current and future operations and sale of production, estimation of taxes, and various other information and data that the specialist accepted as represented.

16. Donovan relied on the Specialist Report as audit evidence to support his evaluation of components of Issuer A's depletion expense and any required impairment of Issuer A's oil and gas properties at year-end.[13] However, despite relying on these findings, Donovan and the engagement team failed to perform any audit procedures to test the data Issuer A provided to the specialist. Accordingly, Donovan failed to "make appropriate tests of data provided to the specialist," and failed to direct the engagement team to make such tests, when he used the specialist's findings in the audit.[14]

17. In addition, Donovan failed to review with due care the work of engagement team members regarding the use of the Specialist Report, and failed to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[15]

ii. Donovan Violated PCAOB Standards in Conducting His Engagement Quality Review for the Issuer B Audit

18. An EQR is required for all audits conducted pursuant to PCAOB standards.[16] An EQR reviewer must be independent of the company, the EQR must be performed with integrity, and the EQR reviewer must maintain objectivity in performing the review.[17] In order to maintain objectivity, the EQR reviewer and others who assist the reviewer should not make

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13 Issuer A recognized $4.5 million in impairment to oil and gas properties in 2016. In 2015, Issuer A had recognized $16 million in impairment.

14 *See* AS 1210.12.

15 *See* AS 1201.05.c; AS 1210.12.

16 *See* AS 1220.01, *Engagement Quality Review*.

17 *Id*. at .06.

decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team.[18]

19. The standards provide that a firm may grant permission to an audit client to use the firm's audit report only after an EQR reviewer provides concurring approval of issuance of the report.[19] The EQR reviewer may provide concurring approval of issuance for an audit report only if, after performing with due professional care the review required, he or she is not aware of a significant engagement deficiency.[20]

20. An EQR reviewer should evaluate whether the engagement documentation reviewed indicates that the engagement team responded appropriately to the significant risks and supports the conclusions reached with respect to the matters reviewed.[21] Furthermore, documentation of an EQR, which is required to be included in the engagement documentation, should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the reviewer.[22]

21. The Firm served as the external auditor for the Issuer B Audit. The Firm's audit report, dated June 3, 2016, for Issuer B's financial statements for the year ended December 31, 2015, was included in Issuer B's Form 10-K filed with the Commission on June 6, 2016.

22. Christie Cardwell, as engagement partner, authorized the issuance of the Firm's audit report for the Issuer B Audit. Donovan served as the EQR reviewer for the audit and, prior to the start of his EQR, was aware that Cardwell had recent negative internal inspection results, including findings of poor audit documentation. At the time he started working on the Issuer B Audit, Donovan was also aware that Cardwell might leave the Firm. And before the conclusion of the audit, he further learned she was in the process of leaving the Firm. Knowing these facts, Donovan, throughout the audit, reviewed the work papers for all significant accounts.

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[18] *Id*. at .07.

[19] *Id*. at .13.

[20] *See id*. at Note to .12 ("A *significant engagement deficiency* in an audit exists when (1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client.").

[21] *Id*. at .11.

[22] *Id*. at .19 and .20.

a. Donovan Failed to Maintain His Objectivity in Conducting His EQR of Issuer B

23. As part of the acquisition of an overseas company in 2015, Issuer B obtained, among other things, a computer application developed by that company that purportedly enabled customers to complete banking transactions on mobile telephones (the "Mobile App IP"). As a result, the engagement team needed to audit Issuer B's measurement of the fair value of the assets and liabilities of the acquired company as of the acquisition date, including the Mobile App IP intangible asset, which would comprise almost all of Issuer B's post-acquisition assets.

24. Although he served as the EQR reviewer on the audit, Donovan performed audit procedures and prepared two work papers for the engagement team in connection with the Firm's evaluation of Issuer B's measurement of the fair value, at acquisition, of the Mobile App IP intangible asset.[23] These work papers documented his tests of Issuer B's significant assumptions, the valuation model, and underlying data used in its measurement of the acquisition date fair value.[24] Donovan also communicated directly with Issuer B's CEO about the revenue projections drafted by the CEO that were used to determine year-end impairment of the intangible asset, and suggested revisions thereto.

25. As a result of these actions, Donovan assumed responsibilities of the engagement team with regard to the assessment of management's determination of the fair value of the Mobile App IP intangible asset as of the acquisition date. Because Donovan failed to maintain his objectivity in performing his EQR for the Issuer B Audit, he violated AS 1220.06 and .07.

b. Donovan Failed to Exercise Due Care and Provided His Concurring Approval of Issuance in the Issuer B Audit While Aware of a Significant Engagement Deficiency

26. The Mobile App IP intangible asset constituted over 90% of Issuer B's total assets. Notwithstanding that this asset had been acquired during the year, Donovan knew that the engagement team had identified a significant risk of material misstatement from the identification and recording of impairment to the value of this intangible asset. As of year-end, Issuer B had noted events or changes in circumstances indicating that the carrying amount of the Mobile App IP may not have been recoverable. Accordingly, the engagement team needed to evaluate the reasonableness of Issuer B's estimate of any potential year-end impairment of

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[23] *See* AS 2502.23, *Auditing Fair Value Measurements and Disclosures*.

[24] *See id*. at .26.

the Mobile App IP intangible asset,[25] and Donovan was required to evaluate, with due professional care, the engagement team's assessment of, and audit responses to, this significant risk.[26]

27. Donovan understood that the determination of whether or not the Mobile App IP intangible asset was impaired was a significant accounting estimate. Yet, based on his review of the audit documentation, he was aware that the engagement team had failed to evaluate the reasonableness of Issuer B's estimate indicating there was no impairment of the Mobile App IP intangible asset, because, among other things, the engagement team failed to: (a) adequately review and test the process used by management to develop the estimate and/or develop an independent expectation of the estimate, (b) perform the necessary procedures to resolve inconsistencies and contradictions in the audit evidence obtained, and (c) evaluate the estimate for bias and whether the effect of that bias resulted in a material misstatement.[27] As a result, Donovan was aware that the engagement team failed to obtain sufficient appropriate audit evidence, which constituted a significant engagement deficiency.[28]

28. Donovan reviewed work papers and other documents containing audit evidence that was inconsistent and contradicted Issuer B's ultimate conclusion not to impair the Mobile App IP intangible asset. In an Impairment Analysis Memo shared with the engagement team, Issuer B's Controller indicated that, "[u]ntil the Company has contracts in place[,] it is hard to justify the current balance of the intangible asset . . ., and therefore [the Company] must impair the entire balance of the intangible asset related to the [Mobile App IP]." Although he did not know the exact source of this impairment determination, Donovan understood that Issuer B's Controller had initially proposed to fully impair the intangible asset. And he reviewed an audit work paper about Issuer B's significant estimates that indicated there was no significant revenue from the Mobile App IP to support the carrying value, and noted agreement with management's assessment that this IP was fully impaired. The Mobile App IP value, however, remained unchanged on Issuer B's books, while the CEO, contradicting his Controller's proposed impairment adjustment, drafted a revenue forecast to support no impairment as of year-end. Donovan was aware that, at the time the CEO was drafting his projections, Issuer B was in default of certain loan covenants and under threat of being delisted, which increased the risk for management bias in that estimate, yet the work papers do not evaluate this potential

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[25] *See* ASC 350-30-35 and 360-10-35.

[26] *See* AS 1220.09, .10b, and .12; AS 1015.

[27] *See* AS 2501.10, *Auditing Accounting Estimates*; AS 1105.29; AS 2810.03 and .24 – .27.

[28] AS 1105.04-.06; AS 2501.07; AS 1220.12.

management bias.[29] Finally, Donovan reviewed the engagement team's inadequate evaluation of the reasonableness of Issuer B's ultimate conclusion of no impairment, which used the CEO's projections.[30]

29. Donovan provided his concurring approval of issuance in the Issuer B Audit engagement, despite being aware of a significant engagement deficiency related to the audit testing for impairment of the Mobile App IP. Further, he failed to evaluate with due care whether the audit documentation indicated that the engagement team responded appropriately to significant risks and supported the conclusions reached by the engagement team. As a result, Donovan failed to perform the engagement quality review with due professional care in violation of AS 1220.

III.

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

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

B. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two years from the date of this Order, Thomas P. Donovan's role in any audit of an "issuer," as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), shall be restricted as follows: Thomas P. Donovan shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit

[29] *See* AS 2810.24-.27.

[30] *See* AS 2501.09 and .10.

report; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon Thomas P. Donovan. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Thomas P. Donovan shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter which identifies Thomas P. Donovan as a respondent in these proceedings, sets forth the title and PCAOB Release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Thomas P. Donovan is required to complete, within two years from the date of this Order, forty hours of CPE in subjects that are directly related to the audits of issuer financial statements under PCAOB standards, including audits of ICFR (such hours shall be in addition to, and shall not be counted in, the CPE that he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 30, 2021

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of WDM Chartered Professional Accountants and Mike Kao,

Respondents.

PCAOB Release No. 105-2021-016

September 30, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) revoking the registration of WDM Chartered Professional Accountants ("WDM" or the "Firm"), a registered public accounting firm;[1]

(2) barring Mike Kao ("Kao") from being associated with a registered public accounting firm;[2] and

(3) imposing a $10,000 civil money penalty jointly and severally upon WDM and Kao (collectively, "Respondents").

The Board is imposing these sanctions on the basis of its findings that: (a) WDM violated PCAOB rules and quality control standards by failing to take sufficient steps to ensure that its system of quality control provided reasonable assurance that its personnel complied with applicable professional standards and the Firm's standards of quality, despite being made aware repeatedly of quality control concerns by PCAOB inspections; (b) Kao violated PCAOB Rule 3502 by directly and substantially contributing to WDM's violations of PCAOB quality control standards; and (c) WDM and Kao violated PCAOB rules and auditing standards in connection with the audit of an issuer.

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[1] WDM may reapply for registration after five years from the date of this Order.

[2] Kao may file a petition for Board consent to associate with a registered public accounting firm after five years from the date of this Order.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **WDM Chartered Professional Accountants** is a chartered accounting firm in Vancouver, British Columbia. The Firm is currently licensed by the Chartered Professional Accountants of British Columbia. WDM registered with the Board on June 21, 2005, and has been subject to PCAOB inspection five times. WDM first registered with the Board as Watson Dauphinee & Masuch, Chartered Accountants. In 2013, the Firm changed its name to WDM Chartered Accountants and, in 2015, the Firm became WDM Chartered Professional

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

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

Accountants.[5] At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Mike Kao** is the sole and Managing Partner of the Firm. He is a Chartered Professional Accountant, Certified General Accountant (CPA, CGA) licensed by the Chartered Professional Accountants of British Columbia. At all relevant times, Kao was an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Prior to becoming the Managing Partner in 2020, Kao served as the Firm's Engagement Quality and Professional Standards leader. He was the engagement partner for the fiscal year ended December 31, 2019 audit of Issuer A.

B. Issuer A

3. Issuer A is a British Columbia corporation with its principal offices located in Vancouver, British Columbia. Issuer A's public filings disclosed that it is a financial technology services company. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. This matter primarily concerns WDM's violations of PCAOB rules and standards in connection with its failure to properly design and implement, and monitor the effectiveness of, a system of quality control, and Kao's direct and substantial contribution to certain of those violations.[6] Specifically, the Firm failed to: (1) use an audit methodology designed to comply with PCAOB standards and rules; (2) provide technical training; and (3) perform internal monitoring procedures. The Firm's system of quality control, therefore, did not (1) provide reasonable assurance that the work performed by engagement personnel would meet applicable professional standards and regulatory requirements, (2) provide reasonable assurance that personnel participated in continuing professional education that enabled them to fulfill responsibilities assigned, or (3) ensure performance of adequate monitoring procedures, including internal inspections.

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[5] The Firm was previously sanctioned by the Board for failing to timely file required Forms AP. *See WDM Chartered Professional Accountants*, PCAOB Rel. No. 105-2019-007 (Mar. 19, 2019).

[6] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

5. During the period from 2009 through 2017, PCAOB inspectors conducted four inspections of the Firm and raised concerns about several significant deficiencies in its system of quality control including in the areas noted above.

6. The Firm was given the opportunity to submit a remediation response to demonstrate that it had satisfactorily addressed the quality control criticisms, and yet each time, the Firm chose not to do so.[7] The Firm also failed to undertake actions to improve its system of quality control. As of late 2020, the significant historical quality control defects were still present and the Firm's system of quality control was not effective.

7. In addition, the Firm and Kao violated numerous PCAOB rules and standards in conducting the Firm's 2019 audit of Issuer A, by failing to: (1) properly evaluate the accounting for a significant transaction, (2) obtain pre-approval for non-audit services, and (3) properly communicate matters related to the audit to Issuer A's audit committee equivalent. Many of these audit violations are directly linked to the defects in the Firm's quality controls.

D. WDM Violated PCAOB Rules and Quality Control Standards

8. Beginning with the inspection conducted in December 2009, PCAOB inspectors identified, and communicated to WDM, deficiencies in the Firm's system of quality control including, among others, its failure to (1) implement an audit methodology designed to comply with PCAOB standards and rules; (2) provide training to its personnel on PCAOB and SEC requirements; and (3) perform sufficient and appropriate monitoring of its issuer audit practice.[8] PCAOB inspectors also noted defects in the Firm's performance of issuer audits, including, among others, the failure to (1) perform sufficient audit procedures over material accounts or transactions; (2) perform audit procedures to evaluate material disclosures; and (3)

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[7] As a result, the quality control sections of the PCAOB's inspection reports on WDM were made public. *See* *WDM Chartered Professional Accountants - Firm Summary*.

Under the Act and Board rules, portions of an inspection report that deal with criticisms of or potential defects in the quality control system of the firm must remain nonpublic if the firm addresses those criticisms or defects to the Board's satisfaction within 12 months of the report's issuance. If the firm fails to satisfactorily address a quality control criticism within 12 months, the PCAOB expands the publicly available version of the firm's inspection report to reveal those quality control criticisms. *See* Section 104(g)(2) of the Act; PCAOB Rule 4009.

[8] *See* Inspection of Watson Dauphinee & Masuch, at 7-8 (Jan. 28, 2011) ("2009 Inspection Report"); Report on 2012 Inspection of Watson Dauphinee & Masuch, Chartered Accountants, at 6-8 (May 2, 2013) ("2012 Inspection Report"); Report on 2015 Inspection of WDM Chartered Accountants, at 11-12 (Dec. 21, 2015) ("2015 Inspection Report"); Report on 2017 Inspection of WDM Chartered Professional Accountants, at 11-12 (Sept. 20, 2018) ("2017 Inspection Report").

identify and address departures from U.S. generally accepted accounting principles.[9] Despite the Firm's awareness of these deficiencies and concerns, the Firm's internal monitoring procedures failed to provide reasonable assurance that its system of quality control was effective, and the Firm failed to take and implement timely corrective action to improve quality control. Each of the above quality control defects contributed to the audit deficiencies above, as well as the Firm's and Kao's violations of auditing standards during the audit of the 2019 financial statements of Issuer A.

i. WDM's Quality Control Policies and Procedures Failed to Provide the Firm with Reasonable Assurance that the Work Performed by Engagement Personnel Met Professional Standards

9. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[10] These standards require that a registered firm have a system of quality control for its accounting and auditing practice.[11] PCAOB quality control standards provide that a registered firm should establish policies and procedures "to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[12] Such policies should "encompass all phases of the design and execution of the engagement."[13] In addition, "[t]o the extent appropriate and as required by applicable professional standards, these policies and procedures should cover planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement."[14]

10. At all relevant times, WDM failed to establish policies and procedures to provide reasonable assurance that the Firm used an audit methodology on issuer audit work that was designed to comply with applicable PCAOB auditing standards and other regulatory

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[9] *See* Inspection of Watson Dauphinee & Masuch, at 4 (Jan. 28, 2011); Report on 2015 Inspection of WDM Chartered Accountants, at 4 (Dec. 21, 2015); Report on 2017 Inspection of WDM Chartered Professional Accountants, at 4 (Sept. 20, 2018).

[10] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[11] *See* Quality Control Standard 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20"), .01.

[12] QC § 20.17.

[13] QC § 20.18.

[14] *Id*.

requirements. WDM used an external service provider and its associated practice aids as the Firm's audit methodology for purposes of performing audits of issuers' financial statements that were designed to be conducted in accordance with Canadian Auditing Standards ("CAS") and not PCAOB and SEC requirements. As early as 2009, WDM understood that use of its audit methodology on issuer audits did not meet PCAOB requirements.

11. Despite being aware for more than a decade that its audit methodology was not designed for work in accordance with PCAOB standards, WDM failed to implement a system to ensure that issuer audits were conducted in accordance with PCAOB standards. Indeed, during 2015, WDM obtained third-party prepared forms for use on issuer audits, but in the years that followed, the Firm failed to implement a system to ensure that firm personnel were using those forms during issuer audit work. As a result, WDM continued to use CAS methodology and practice aids on its issuer audits rather than the forms designed to assist the Firm in complying with PCAOB standards. Thus, WDM failed to implement a system to provide reasonable assurance that the work performed by engagement personnel complied with professional standards and regulatory requirements in violation of QC § 20.17.

ii. WDM Quality Control Policies and Procedures Failed to Provide the Firm with Reasonable Assurance that Personnel Participated in Training on PCAOB and SEC Requirements

12. PCAOB quality control standards provide that firms should establish policies and procedures to provide the firm with reasonable assurance that "[w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances" and "[p]ersonnel participate in general and industry-specific continuing professional education . . . that enable them to fulfill responsibilities assigned."[15]

13. Despite these requirements, WDM repeatedly failed to establish policies and procedures to require those assigned to PCAOB audits to participate in continuing professional education to ensure that such individuals received periodic technical training related to PCAOB standards and SEC reporting requirements, rules, and regulations. Instead, the Firm relied upon an informal "hands-on" approach to training where senior staff, including Kao, would inform junior staff of what the audit entails and train them on the use of WDM's audit program. This approach assumed that Kao had the requisite knowledge of PCAOB and SEC requirements to appropriately teach the more junior staff; however, the Firm failed to take any actions to ensure that Kao had that knowledge and failed to require that Kao obtain formal training in such requirements. In fact, although Kao reviewed PCAOB update newsletters, he did not

[15] *See* QC § 20.13.

attend any continuing professional education courses related to PCAOB and SEC requirements. Accordingly, the Firm's reliance on Kao to train junior staff on PCAOB and SEC requirements was misplaced and did not provide reasonable assurance that personnel participated in continuing professional education to enable them to fulfill responsibilities assigned or that work was being assigned to personnel having the degree of technical training and proficiency required to perform audits under PCAOB standards.

14. The Firm was also on notice that in prior years its approach to training had failed to provide reasonable assurance that its staff could fulfill assigned responsibilities. The Firm's 2009 and 2012 PCAOB inspection reports included quality control findings on that issue. Significantly, the Firm's 2012 Inspection Report emphasized the Firm's failure to take "meaningful steps to address" the Firm's prior failure to implement procedures "to provide sufficient assurance that individuals assigned to issuer clients receive periodic technical training related to PCAOB standards and SEC reporting requirements, rules, and regulations."[16]

15. Despite the Firm's Quality Assurance Manual's ("QAM") requirement that staff understand and comply with all relevant professional standards, defects in the Firm's training-related quality controls continued in 2020 because the staff had not received training on PCAOB and SEC requirements. The defects were attributable to the Firm's continued failure to implement a system that ensured its personnel received periodic training on PCAOB and SEC requirements from appropriate sources.[17] As a result, the Firm violated QC § 20.[18]

16. Because the Firm failed to ensure that its staff received appropriate training on SEC and PCAOB requirements, it was unable to ensure that work was assigned to personnel having the degree of technical training and proficiency required in the circumstances and that personnel participated in general and industry-specific continuing professional education that enabled them to fulfill their assigned responsibilities. Accordingly, the Firm violated QC § 20.[19]

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[16] *See* Report on 2012 Inspection of Watson Dauphinee & Masuch, Chartered Accountants, at 8 (May 2, 2013).

[17] Although the Firm's QAM required personnel to understand and comply with relevant professional requirements, its QAM did not require personnel to participate in continuing professional education on PCAOB and SEC requirements. The Firm's policies and procedures do not specify how the Firm expected its personnel to develop the required understanding.

[18] *See* QC § 20.13.

[19] *Id*.

iii. WDM Failed to Perform Internal Monitoring to Ensure Its System of Quality Control Was Operating Effectively

17. Pursuant to PCAOB standards, firms should also establish policies and procedures to provide reasonable assurance that: (a) "the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality,"[20] including with respect to "planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement"[21] and (b) the firm's quality control policies and procedures "are suitably designed and are being effectively applied."[22]

18. PCAOB quality control standards further provide that one required element of a quality control system is monitoring.[23] Monitoring involves an ongoing consideration and evaluation of: (a) the relevance and adequacy of the firm's policies and procedures; (b) the appropriateness of the firm's guidance materials and any practice aids; (c) the effectiveness of professional development activities; and (d) compliance with the firm's policies and procedures.[24] Monitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective.[25]

19. To satisfy its PCAOB practice monitoring requirements, WDM's QAM required that the Firm perform triennial internal inspections; however, the Firm has not performed a cyclical inspection of completed audit files since 2016. Moreover, when the Firm conducted an internal inspection in 2016, Issuer A, the Firm's only issuer audit client at the time, was not included in the internal inspection. As a result, over the course of at least five years, the Firm did not perform an internal inspection to assess whether the work performed by its engagement personnel on PCAOB audits meets the applicable professional standards, regulatory requirements, and the Firm's standards of quality.

20. Significantly, the Firm failed to perform appropriate monitoring procedures even after receiving repeat criticisms from PCAOB inspectors. Specifically, the 2009 Inspection Report noted that "the Firm's engagement performance monitoring program [did] not include procedures to evaluate whether audits of issuers are being conducted in accordance with

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20 QC § 20.17.

21 QC § 20.18.

22 QC § 20.20; *see also* QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

23 QC § 20.07.

24 QC § 30.02; *see also* QC § 20.20.

25 QC § 30.03.

PCAOB standards."[26] In the 2015 Report, PCAOB inspectors noted that the Firm had not performed any monitoring procedures since 2011.[27]

21. Despite these quality control criticisms and the engagement-level deficiencies noted by PCAOB inspectors during prior inspections, the Firm repeatedly failed to follow the monitoring requirements set forth in its QAM in violation of QC § 30.[28] Therefore, with respect to its PCAOB issuer audits, since 2016 the Firm did not undertake monitoring procedures to enable the firm to obtain reasonable assurance that its system of quality control was effective. Accordingly, the Firm violated QC §§ 20 and 30.

E. Kao Directly and Substantially Contributed to WDM's QC Violations

22. PCAOB Rule 3502 states that "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[29]

23. At the time of the 2015 PCAOB inspection, Kao served as the Firm's Engagement Quality and Professional Standards leader. He also served as the engagement partner on the Firm's issuer audits that were reviewed during each of the Firm's PCAOB inspections. After a Firm restructuring in February 2020, Kao assumed the role of Managing Partner. In these management roles, Kao was responsible, at least in part, for the Firm's system of quality control, was on notice of the PCAOB inspection findings identifying deficiencies in the Firm's system of quality control discussed above, and was in a position to remediate those deficiencies. Yet Kao knowingly failed to take appropriate actions to provide reasonable assurance that the Firm's quality controls were suitably designed and being effectively applied. Specifically, Kao, as engagement partner on issuer audits, was in a position to ensure that forms purchased by the Firm to ensure compliance with PCAOB and SEC requirements were actually used on the audits. Instead, Kao relied on the Firm's CAS audit methodology, which contributed

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[26] *See* Report on 2012 Inspection of Watson, Dauphinee & Masuch, Chartered Accountants, at 7 (May 2, 2013).

[27] *See* Report on 2015 Inspection WDM Chartered Accountants, at 11 (Dec. 12, 2015).

[28] *See* QC § 30.02.

[29] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

to the Firm's violation of auditing standards on its issuer audits. In his Firm leadership roles, Kao also was in a position to ensure that the Firm performed its cyclical inspection of completed audits, yet again Kao failed to do so.

24. As a result, Kao directly and substantially contributed to the Firm's ongoing violations of audit methodology and practice monitoring-related PCAOB quality control standards in violation of Rule 3502.

F. In Part Due to WDM's Quality Control Failures, WDM and Kao Violated PCAOB Rules and Auditing Standards in the 2019 Audit of Issuer A

25. For the year ended December 31, 2019, WDM served as the auditor for Issuer A and issued an audit report stating it was independent and had conducted its audit in accordance with the requirements of Canadian Generally Accepted Auditing Standards and the standards of the PCAOB.

i. WDM and Kao Failed to Evaluate Whether Issuer A Accounted for a Business Combination in Conformity with International Financial Reporting Standards

26. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[30] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[31] In addition, AS 1015, *Due Professional Care in the Performance of Work*, requires "[d]ue professional care … to be exercised in the planning and performance of the audit and the preparation of the report."[32]

27. Under AS 2810, *Evaluating Audit Results*, "[a]s part of the overall review, the auditor should evaluate whether … [t]he evidence gathered in response to unusual or unexpected transactions… is sufficient; and … [u]nusual or unexpected transactions… indicate risks of material misstatement that were not identified previously, including, in particular, fraud

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30 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

31 AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

32 AS 1015.01.

risks."[33] The auditor should also "obtain corroboration for management's explanations regarding significant unusual or unexpected transactions[.]"[34] The auditor is also required to evaluate whether the financial statements are presented fairly and in conformity with the applicable financial reporting framework.[35]

28. Issuer A entered into an agreement ("Acquisition Agreement") in 2019 to acquire all the assets and liabilities of a third party, ("Company X"). Under the terms of the Acquisition Agreement, a newly formed corporation, ("Company Y"), acquired all the assets and liabilities of Company X. As a result of this acquisition agreement transaction, Issuer A obtained control of Company Y and consolidated it, using Company Y's book value, into Issuer A's consolidated financial statements as of December 31, 2019.

29. Despite designating this transaction a "significant event" in the audit work papers, WDM and Kao failed to evaluate or instruct the engagement team to evaluate the appropriateness of the issuer's accounting for the acquisition, including the initial recognition and measurement of the assets and liabilities assumed and consideration paid. Rather, WDM and Kao simply accepted management's accounting determination and measurement without any evaluation including whether the transaction should be accounted for as a business combination or an asset acquisition. As a result, WDM and Kao violated AS 1015 and AS 2810 because they failed to (a) exercise professional skepticism, (b) evaluate whether the engagement team had obtained sufficient appropriate evidence to support the appropriateness of the accounting for the significant unusual transaction, and (c) evaluate whether the financial statements were presented fairly and in conformity with International Financial Reporting Standards.

ii. WDM and Kao Failed to Obtain Pre-Approval for Tax Services

30. In addition to complying with PCAOB rules and standards with respect to independence, an auditor has an obligation to satisfy all other independence criteria applicable to the engagement.[36] This obligation includes independence criteria set out in the rules and

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[33] AS 2810.06.

[34] AS 2810.08; *see also* AS 1015.07-.09 ("The auditor neither assumes that management is dishonest nor assumes unquestioned honesty. In exercising professional skepticism, the auditor should not be satisfied with less than persuasive evidence because of a belief that management is honest.").

[35] AS 2810.30.

[36] *See* Note 1 to Rule 3520, *Auditor Independence.*

regulations of the Commission under federal securities laws.[37] SEC independence rules specify that audit and non-audit services are required to be pre-approved by an issuer's audit committee or audit committee equivalent, and PCAOB Rule 3524, *Audit Committee Pre-approval of Certain Tax Services*, sets forth additional requirements relating to audit committee pre-approval of tax services.[38]

31. For the year ended December 31, 2019, WDM provided tax services to Issuer A that consisted of preparation and filing of Corporate Income Tax and Goods and Services Tax returns. Both the Firm and Kao were aware of the requirement to obtain pre-approval for such services as both U.S. and Canadian regulators require such pre-approval and the Firm and Kao had obtained pre-approval for similar services provided to Issuer A during previous years. Despite being aware of the requirement, the Firm and Kao, as engagement partner on the audit of Issuer A, failed to obtain pre-approval for such services from Issuer A's Board of Directors.[39]

32. Therefore, WDM violated PCAOB Rules 3520 and 3524, and Kao directly and substantially contributed to the Firm's violation, in violation of Rule 3502, by knowingly or recklessly failing to obtain the necessary pre-approvals for tax services provided to Issuer A.

iii. WDM and Kao Failed to Communicate All Required Matters to Audit Committee

33. AS 1301, *Communications with Audit Committees,* requires the auditor to communicate certain matters related to the conduct of an audit to the issuer's Audit Committee.[40] In connection with its audit of Issuer A's December 31, 2019 financial statements, WDM issued letters to the Audit Committee, dated February 19, 2020, and June 4, 2020.

34. Despite issuing the two letters, WDM and Kao failed to address certain required communications, including: (a) whether there were any significant issues discussed with management in connection with the retention of the auditor; (b) critical accounting policies and practices, critical accounting estimates, qualitative aspects of significant accounting policies and practices, assessment of critical accounting policies and practices, and conclusions regarding critical accounting estimates; and (c) matters that are difficult or contentious for which the auditor consulted outside the engagement team and that the auditor reasonably determined

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37 *See id.*

38 *See* Rule 2-01(c)(7) of Regulation S-X; PCAOB Rule 3524.

39 The Issuer's Board of Directors is the Audit Committee equivalent as defined by PCAOB Rule 3501(a)(v), *Definitions of Terms Employed in Section 3, Part 5 of the Rules*.

40 *See* AS 1301.01.

are relevant to the audit committee's oversight of the financial reporting process.[41] WDM and Kao were aware of the requirements of AS 1301, as the Firm's 2017 PCAOB Inspection Report included an observation related to the Firm's failure to comply with the requirements of AS 1301 on its 2016 audit of Issuer A.

35. Therefore, WDM and Kao violated AS 1301.

IV.

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

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

B. After five years from the date of this Order, WDM Chartered Professional Accountants may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Mike Kao is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[42]

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

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed jointly and severally upon

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[41] *See* AS 1301.04, .12, .13, .15.

[42] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Kao. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

WDM and Kao. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies WDM or Kao as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***By consenting to this Order, Respondents acknowledge that a failure to pay the civil money penalty described above may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b) or a reapplication for registration pursuant to PCAOB Rule 2101***.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 30, 2021

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Slack & Company LLC,

Respondent.

PCAOB Release No. 105-2021-017

December 14, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is imposing sanctions upon Slack & Company LLC (the "Firm" or "Respondent"), a registered public accounting firm. The Board is:

(1) censuring the Firm; and

(2) imposing a civil money penalty in the amount of $15,000 upon the Firm.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

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

these proceedings, which are admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Slack and Company LLC** is a limited liability corporation located in South Carolina. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs are due by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm audited the financial statements of Alfi, Inc. as of and for the year ended December 31, 2019. The Firm issued an audit report dated February 9, 2021, which was included in Alfi, Inc.'s Form S-1/A filed with the SEC on February 10, 2021.

4. The Firm audited the financial statements of Green Stream Holdings, Inc. as of and for the fiscal year ended April 30, 2020. The Firm issued an audit report dated August 16, 2020, which was included in Green Stream Holdings, Inc.'s Form 10-K filed with the SEC on August 19, 2020.

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

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

5. The Firm audited the financial statements of ABCO Energy, Inc. as of and for the years ended December 31, 2019 and December 31, 2020. The Firm issued audit reports dated August 6, 2020 and April 15, 2021, which were included in ABCO Energy, Inc.'s Form 10-K/A filed with the SEC on September 16, 2020, and Form 10-K filed with the SEC on April 15, 2021, respectively.

6. The Firm audited the financial statements of GEX Management, Inc. as of and for the years ended December 31, 2018, December 31, 2019 and December 31, 2020. The Firm issued audit reports dated August 26, 2019, May 14, 2020, and April 15, 2021, which were included in GEX Management's Form 10-K/A filed with the SEC on August 26, 2019, and Forms 10-K filed with the SEC on May 14, 2020, and April 15, 2021, respectively.

7. The Firm audited the financial statements for Quad M Solutions, Inc. as of and for the fiscal years ended September 30, 2019 and September 30, 2020. The Firm issued audit reports dated January 15, 2020 and January 8, 2021, which were included in Quad M Solutions, Inc.'s Form 10-K/A filed with the SEC on January 16, 2020, and Form 10-K filed with the SEC on January 12, 2021, respectively.

8. The Firm failed to file the required Form APs for the above filings by the 35th day after the date the audit reports were first included with the filings made with the SEC, in violation of PCAOB Rule 3211.

9. The Firm belatedly filed the aforementioned Form APs on August 5, 2021.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank

cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 14, 2021

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Harbourside CPA LLP

Respondent.

PCAOB Release No. 105-2021-018

December 14, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is imposing sanctions upon Harbourside CPA LLP (the "Firm" or "Respondent"), a registered public accounting firm. The Board is:

(1) censuring the Firm;

(2) imposing a civil money penalty in the amount of $10,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Harbourside CPA LLP** is a limited liability partnership located in British Columbia. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs are due by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm audited the financial statements of Tego Cyber, Inc. as of and for the fiscal year ended June 30, 2020. The Firm issued an audit report dated October 20, 2020, which was included in Tego Cyber, Inc.'s Forms S-1/A filed with the SEC on October 27, 2020 and November 9, 2020.

4. The Firm audited the financial statements of DSG Global Inc. as of and for the years ended December 31, 2019 and December 31, 2020. The Firm issued audit reports dated

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

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

May 14, 2020, and March 4, 2021, which were included in DSG Global Inc.'s Forms 10-K filed with the SEC on May 15, 2020 and March 5, 2021, respectively.

5. The Firm audited the financial statements of Trillion Energy International Inc. as of and for the years ended December 31, 2019 and December 31, 2020. The Firm issued audit reports dated May 14, 2020, and March 31, 2021, which were included in Trillion Energy International Inc.'s Forms 10-K filed May 15, 2020, and April 1, 2021, respectively.

6. The Firm failed to file the required Form APs for the above filings by the 35th day after the date the audit reports were first included with the filings made with the SEC, in violation of PCAOB Rule 3211.

7. The Firm belatedly filed the aforementioned Form APs on August 4, 2021.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including PCAOB Rule 3211 and that Form APs are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 2006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 14, 2021

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of SS Accounting and Auditing Inc.,

Respondent.

PCAOB Release No. 105-2021-019

December 14, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is imposing sanctions upon SS Accounting and Auditing Inc. (the "Firm" or "Respondent"), a registered public accounting firm. The Board is:

(1) censuring the Firm;

(2) imposing a civil money penalty in the amount of $5,000 upon the Firm, and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file a required Form AP, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **SS Accounting and Auditing Inc.** is a corporation located in Texas. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File a Form AP in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs are due by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm audited the financial statements for China Green Agriculture, Inc. as of and for the year ended June 30, 2020. The Firm issued an audit report dated November 25, 2020, which was included in China Green Agricultural, Inc.'s Form 10-K filed with the SEC on December 7, 2020.

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

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the 10th day after the date the audit report is first included in a document filed with the SEC. *See* Rule 3211(b)(2).

4. The Firm failed to file the required Form AP for the above filing by the 35th day after the date the audit report was first included with the filing made with the SEC, in violation of PCAOB Rule 3211.

5. The Firm belatedly filed the aforementioned Form AP on July 14, 2021.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $5,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

   1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including

PCAOB Rule 3211 and that Form APs are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 2006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 14, 2021

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Cheryl L. Gore, CPA and Stanley R. Langston, CPA,

Respondents.

PCAOB Release No. 105-2021-020

December 14, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) barring Cheryl L. Gore, CPA ("Gore") from being associated with a registered public accounting firm;[1] if the Board later consents to Gore's association with a registered firm, limiting Gore's activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act") for an additional period of one year following the termination of the bar; requiring that Gore complete forty hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license; imposing a $20,000 civil money penalty on Gore; and

(2) limiting Stanley R. Langston, CPA's ("Langston") activities in connection with any "audit," as that term is defined in Section 110(1) of the Act for a period of one year from the date of this Order, and imposing a $10,000 civil money penalty on Langston.

The Board is imposing these sanctions on the basis of its findings that Gore and Langston (collectively, "Respondents") violated PCAOB rules and standards in connection with the audits by Turner, Stone & Company, L.L.P. (the "Firm") of the financial statements of Issuer

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

A for the year ended December 31, 2016 ("2016 Audit") and the restated financial statements for the same period ("Restatement Audit") (collectively, the "Audits").

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[2]

III.

On the basis of Respondents' Offers, the Board finds[3] that:

A. Respondents

1. **Cheryl L. Gore, CPA** is a certified public accountant licensed by the Texas State Board of Accountancy (License No. 063764). Gore is a partner at the Firm and served as the engagement partner on each of the Audits. At all relevant times, Gore was an associated person

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

[3] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

2. **Stanley R. Langston, CPA** was, at all relevant times, a certified public accountant licensed by the Texas State Board of Accountancy (License No. 042545). Langston was not a partner, principal, or employee of the Firm. Langston served as the engagement quality reviewer ("EQR reviewer") on each of the Audits. At all relevant times, Langston was an associated person of a registered public accounting firm (the Firm) as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities

3. Issuer A was, at all relevant times, a Colorado corporation headquartered in Irvine, California. Issuer A's public filings disclose that, at all relevant times, it was a development-stage company engaged in the development, production, and commercialization of cannabis-based pharmaceutical products. Issuer A was, at all relevant times, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. Corporation A was identified in Issuer A's fiscal year ended December 31, 2016 ("FY 2016") Form 10-K/A filed with the Securities and Exchange Commission ("Commission") on August 11, 2017, as an entity that had made payments on Issuer A's behalf during 2016 and part of 2017. In a second amended Form 10-K/A for FY 2016 filed with the Commission on April 15, 2019, Issuer A further disclosed that Corporation A was owned by Issuer A's CEO's adult son.

C. Summary

5. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Audits. As detailed below, during the Audits, Gore failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence in connection with Issuer A's identification, accounting, and disclosure of related party relationships and transactions.

6. In addition, in connection with the Audits, Langston violated AS 1220, *Engagement Quality Review*, by providing his concurring approval of issuance of the Firm's audit reports without performing the required engagement quality reviews with due professional care.

D. Gore Violated PCAOB Rules and Standards During the Audits

7. In connection with the preparation and issuance of an audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[4] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[5] PCAOB standards also provide that due professional care be exercised in the planning and performance of the audit and the preparation of the report.[6] Due professional care requires the auditor to exercise professional skepticism.[7]

8. PCAOB standards require the auditor to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.[8] Inquiry of company personnel, by itself, does not provide sufficient audit evidence.[9] Management representations are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit.[10]

9. PCAOB standards require the auditor's responses to the assessed risks of material misstatement, particularly fraud risks, to involve the application of professional skepticism in gathering and evaluating audit evidence.[11]

10. In the case of significant transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual given the auditor's understanding of the entity and its environment, PCAOB standards require the auditor to gain an understanding of the business purpose for such transactions and whether that purpose (or

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[4] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[5] *See* AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending before December 15, 2017).

[6] AS 1015.01, *Due Professional Care in the Performance of Work.*

[7] AS 1015.07.

[8] AS 1105.04, *Audit Evidence*.

[9] *See* Note to AS 1105.17.

[10] AS 2805.02, *Management Representations.*

[11] AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*.

lack thereof) suggests that the transactions may have been entered into to engage in fraudulent financial reporting or to conceal misappropriation of assets.[12] In addition, where a risk of fraud is identified, the auditor is required by PCAOB standards to perform substantive procedures, including tests of details, that are specifically responsive to the assessed fraud risks.[13]

11. PCAOB standards further require the auditor to evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework and evaluate whether the financial statements contain the information essential for a fair presentation of the financial statements in conformity with the applicable financial reporting framework.[14] Generally accepted accounting principles recognize the importance of reporting transactions and events in accordance with their substance. The auditor should consider whether the substance of transactions or events differs materially from their form.[15]

12. As described below, Gore failed to comply with PCAOB rules and standards during the Audits.

i. The 2016 Issuer A Audit

13. The Firm served as Issuer A's external auditor for the FY 2016 financial statements. The Firm issued an audit report containing an unqualified opinion, dated April 13, 2017, regarding Issuer A's FY 2016 financial statements. The report was included with Issuer A's Form 10-K filed with the Commission on April 17, 2017. Gore, the engagement partner on the 2016 Audit, authorized the release of the report. Langston, as the EQR reviewer on the engagement, provided concurring approval of issuance of that audit report.

14. Issuer A disclosed in its Form 10-K revenue of approximately $9,000 and stock-based payments to related parties of approximately $1.4 million in FY 2016. These related party transactions comprised 16% of Issuer A's reported net loss before taxes.

15. The objective of the auditor under the PCAOB's standard on related parties is to obtain sufficient appropriate audit evidence to determine whether related parties and

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[12] *See* AS 2401.66, .66A & .67, *Consideration of Fraud in a Financial Statement Audit*.

[13] AS 2301.13.

[14] AS 2810.30 & .31, *Evaluating Audit Results*.

[15] AS 2815.06, *The Meaning of "Present Fairly in Conformity with Generally Accepted Accounting Principles."*

relationships and transactions with related parties have been properly identified, accounted for, and disclosed in the financial statements.[16] PCAOB standards also require an auditor to perform procedures to obtain an understanding of the company's relationships and transactions with its related parties that might reasonably be expected to affect the risks of material misstatement of the financial statements in conjunction with performing risk assessment procedures in accordance with AS 2110, *Identifying and Assessing Risks of Material Misstatement*.[17] The procedures performed to obtain an understanding of the company's relationships and transactions with related parties include: obtaining an understanding of the company's process; performing inquiries; and communicating with the audit engagement team and other auditors.[18]

16. Gore was required to obtain an understanding of Issuer A management's process for: identifying related parties and relationships and transactions with related parties; authorizing and approving transactions with related parties; and accounting for and disclosing relationships and transactions with related parties in its financial statements.[19] Specifically, as part of her risk assessment procedures, she was required to obtain an understanding of the design and implementation of Issuer A's internal control over financial reporting ("ICFR") in connection with related parties,[20] to evaluate the design of those controls that were relevant to the audit, and to determine whether those controls had been implemented.[21] Gore failed to perform any of these procedures during the 2016 Audit.

17. Moreover, Gore assessed unrecorded and/or undisclosed related party transactions as a fraud risk.[22] She also determined that unrecorded and/or undisclosed related party transactions were the types of disclosure errors that posed the greatest risk of material

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[16] AS 2410.02, *Related Parties.*

[17] AS 2410.03.

[18] *Id*.

[19] AS 2410.04.

[20] *See id.*; AS 2110.20.

[21] *See* AS 2110.20. *See also* AS 2110.18 ("The auditor should obtain a sufficient understanding of each component of internal control over financial reporting ('understanding of internal control') to (a) identify the types of potential misstatements, (b) assess the factors that affect the risks of material misstatement, and (c) design further audit procedures.").

[22] Gore also understood during the Audits that Issuer A's CEO had previously been disciplined for violating the securities laws by the Commission and by a Canadian regulator, in both instances for conduct intended to defraud investors.

misstatement to Issuer A's financial statements. However, Gore failed to apply professional skepticism in gathering and evaluating audit evidence in response to this assessed fraud risk.[23]

18. Indeed, other than creating a list of Issuer A's related parties based upon inquiries of Issuer A's CFO and obtaining uncorroborated representations from Issuer A's CEO and CFO regarding the completeness and accuracy of that list, Gore failed to perform any other procedures to obtain an understanding of the company's relationships and transactions with its related parties that might reasonably be expected to affect the risks of material misstatement of the financial statements.[24]

19. In addition, Gore failed to obtain a sufficient understanding of Issuer A's process for identifying related parties and relationships and transactions with related parties.[25] Other than obtaining representations from Issuer A's CFO about the process for identifying, authorizing, and accounting for and disclosing related party relationships and transactions, she failed to perform any other procedures to obtain an understanding of the company's process. For example, Issuer A's CFO represented that Issuer A required the Board of Directors' approval for authorizing significant related party transactions, but Gore failed to inquire of management regarding, among other things, what constituted a significant related party transaction under the company's policies and procedures and how many, if any, significant related party transactions were authorized and approved by the Board of Directors (or were granted exceptions from the company's policies and procedures) during the 2016 Audit.[26]

20. Further, during the 2016 Audit, Gore became aware of certain information indicating management might not have disclosed a complete and accurate listing of its related parties and relationships and transactions with related parties. Among other things, while performing substantive procedures, Gore reviewed numerous recorded transactions with individuals bearing the CEO's surname. These transactions, none of which were disclosed as being with related parties, totaled approximately $2.5 million. They took the form of stock issuances and other payments, and were purportedly made in exchange for various consulting services.

21. Despite the fact that these payments were made to individuals with the CEO's surname, Gore failed to perform any procedures to resolve the inconsistencies in the audit

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[23] *See* AS 2301.07.

[24] *See* AS 2410.03. *See also* AS 2805.02.

[25] *See* AS 2410.04.

[26] *See* AS 2410.05f & .05g.

evidence concerning related parties and relationships and transactions with related parties.[27] She also failed to perform procedures to test the accuracy and completeness of the related parties and relationships and transactions with related parties identified by the company, taking into account the information gathered during the audit.[28]

22. In addition, Gore failed to perform certain required inquiries of management about related parties. For example, she failed to inquire of management about, among other things: background information concerning related parties (for example, physical location, industry, size, and extent of operations); the nature of any relationships, including ownership structure, between the company and its related parties; the transactions entered into, modified, or terminated, with its related parties during the period under audit and the terms and business purposes (or the lack thereof) of such transactions; and the business purpose for entering into a transaction with a related party versus an unrelated party.[29] Gore, therefore, failed to obtain sufficient appropriate audit evidence and failed to perform sufficient procedures concerning related parties and relationships and transactions with related parties.[30]

ii. The Issuer A Restatement Audit

23. Several weeks after the issuance of the Firm's audit report, Issuer A informed Gore of material errors in its previously issued FY 2016 financial statements. In particular, Gore learned that Issuer A had failed to record or disclose material transactions entered into on Issuer A's behalf during FY 2016 by an entity identified by the CEO as Corporation A. The unrecorded transactions caused Issuer A's total assets to be understated by approximately $1.3 million (107%), and total liabilities by approximately $630,000 (17%).

24. The Firm issued an audit report containing an unqualified opinion, dated August 10, 2017, regarding Issuer A's restated FY 2016 financial statements. The report was included with Issuer A's Form 10-K/A filed with the Commission on August 11, 2017. Gore authorized the release of the audit report. Langston provided concurring approval of issuance of that audit report. This restatement of Issuer A's FY 2016 financial statements amended the FY 2016 financial statements to include the previously unrecorded transactions with Corporation A.

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27 *See* AS 1105.29.

28 AS 2410.14.

29 *See* AS 2410.05.

30 *See* AS 1105.04.

25. Through discussions with Issuer A management during the Restatement Audit, Gore learned that Corporation A was controlled by the adult son of Issuer A's CEO. Issuer A's CEO asserted, however, that Corporation A should not be disclosed as a related party in the restated financial statements based on his view that adult immediate family members were not related parties unless they shared a common household.

26. Based on her understanding of U. S. generally accepted accounting principles and Regulation S-X, Gore understood that Corporation A appeared to be a related party and should be disclosed in Issuer A's financial statements.[31] However, despite being aware of this, she failed prior to authorizing the audit report to recognize that Issuer A was not disclosing Corporation A as a related party. As a result, Gore failed to act with due professional care and professional skepticism and failed to perform sufficient procedures to determine whether related parties and relationships and transactions with related parties were properly identified, accounted for, and disclosed in the restated financial statements.

27. Indeed, although she knew Corporation A was "a related party or relationship or transaction with a related party previously undisclosed to the auditor,"[32] Gore failed to evaluate why the related parties or relationships or transactions with related parties were previously undisclosed to the auditor and to assess the need to perform additional procedures to identify other undisclosed relationships or transactions with Corporation A.[33] In addition, Gore failed to perform the required procedures concerning the implications on her assessment of Issuer A's ICFR for the Restatement Audit.[34]

28. During the Restatement Audit, Issuer A provided Gore with supporting documentation for a second service agreement between Issuer A and Corporation A allowing Corporation A to enter into transactions on Issuer A's behalf, which had been in force during FY

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[31] Rule 4-08(k) of Regulation S-X, *Related party transactions that affect the financial statements* (17 C.F.R. 210.4-08(k)), states that amounts of related party transactions should be stated on the face of the balance sheet, statement of comprehensive income, or statement of cash flows. The term "related parties" includes, among other things, principal owners of the entity and members of their immediate families and management of the entity and members of their immediate families. *See* Footnote 1 of AS 2410; 17 C.F.R. 210.1-02(u); FASB ASC Master Glossary. "Immediate Family" means family members who might control or influence a principal owner or a member of management, or who might be controlled or influenced by a principal owner or a member of management, because of the family relationship. *See* FASB ASC 850-10-20, *Related Party Disclosures.*

[32] AS 2410.16.

[33] AS 2410.16b & .16d.

[34] *See* AS 2110.18 & .20.

2016 but had not been disclosed to Gore and the engagement team during the 2016 Audit. Despite understanding from discussions with Issuer A management that Issuer A's ICFR was based on a definition of "related party" that did not conform with her understanding of U.S. generally accepted accounting principles or Regulation S-X, Gore failed to perform any procedures to evaluate the implications of that information and support her and the engagement team's continued reliance on management's processes to properly identify, approve, and disclose related party relationships and transactions.

29. When evaluating the results of the Restatement Audit, Gore was required to evaluate whether the accumulated results of the auditing procedures and other observations affected the assessment of the fraud risks made throughout the audit and whether the audit procedures needed to be modified to respond to those risks.[35] Gore concluded, without any basis, that the unrecorded, undisclosed Corporation A transactions were an isolated error, despite PCAOB standards stating that Gore could not assume that an instance of error or fraud was an isolated occurrence, and requiring Gore to evaluate the nature and effects of the individual misstatements accumulated during the audit on the assessed risks of material misstatement—an evaluation important in determining whether the risk assessments remained appropriate.[36]

30. In addition, during the Restatement Audit, Gore did not ask for, or obtain, an updated list of related parties from Issuer A, and instead relied on the audit work that she performed in the area of related parties during the 2016 Audit. Gore thus failed to inquire of management or others within the company regarding the names of the company's related parties, and to perform any procedures to test the accuracy and completeness of the related parties and relationships and transactions with related parties identified by the company, taking into account the information she gathered during the audit concerning Corporation A's ownership and potential related party stock transactions.[37] Moreover, the related party list she relied on during the Restatement Audit was still incomplete, as it did not include Corporation A, the CEO's son, or the other individuals that shared the CEO's surname and received large amounts of Issuer A stock in FY 2016.

31. During the Restatement Audit, Gore failed to obtain an understanding of the company's process for identifying, authorizing, and accounting for and disclosing relationships

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35 AS 2810.28.

36 *See* AS 2810.19.

37 *See* AS 2410.05a, .06 & .14.

and transactions with related parties,[38] and to apply professional skepticism in gathering and evaluating the audit evidence in response to the assessed fraud risk concerning related parties and relationships and transactions.[39] After learning that Issuer A's interpretation of related parties did not appear to comply with U.S. generally accepted accounting principles and Regulation S-X, Gore failed to obtain the required understanding of the company's process and failed to identify as related party transactions the transactions and stock issuances during FY 2016 that were with and to other individuals that shared the CEO's surname.

32. Gore was also required during the Restatement Audit to obtain an understanding of the design and implementation of Issuer A's ICFR in connection with related parties.[40] She was also required to evaluate the design of these controls, which were relevant to the audit, and to determine whether the controls had been implemented.[41] She failed to perform any of these procedures.

33. Gore also failed to exercise due professional care in connection with her review of the financial statements during the final days of the Restatement Audit.[42] Indeed, despite her discussions with Issuer A management concerning the definition of related parties, and her review of several Form 10-K/A drafts of potential language concerning the Corporation A transactions, Gore failed to evaluate the final Form 10-K/A that was to be filed with the Commission on August 11, 2017, to determine whether it did, in fact, disclose that Corporation A was a related party.[43] As a result, Gore failed to obtain sufficient appropriate audit evidence and to perform sufficient procedures concerning whether Issuer A's financial statements accurately disclosed its related party transactions.[44]

E. Langston Violated PCAOB Rules and Standards in Connection with the Engagement Quality Reviews During the Audits

34. As noted above, PCAOB rules provide that associated persons of registered public accounting firms shall comply with all applicable auditing and related professional

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38 *See* AS 2410.04.

39 *See* AS 2301.07.

40 *See* AS 2110.20.

41 *See id*.

42 *See* AS 1015.

43 *See* AS 2410.17.

44 *See* AS 1105.04.

practice standards.[45] PCAOB standards also require that an engagement quality review be performed on all audit engagements conducted pursuant to PCAOB standards.[46] In conducting the engagement quality review, the EQR reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[47]

35. PCAOB standards also require the EQR reviewer to evaluate the assessment of, and audit responses to, among other things, significant risks identified by the engagement team, including fraud risks.[48] In addition, the EQR reviewer is required to evaluate whether the engagement documentation that he or she reviewed when performing the procedures required by paragraph AS 1220.10 indicates that the engagement team responded appropriately to significant risks, and supports the conclusions reached by the engagement team with respect to the matters reviewed.[49]

36. PCAOB standards further require the EQR reviewer to review the engagement completion document and confirm with the engagement partner that there are no significant unresolved matters.[50] PCAOB standards also require engagement quality review documentation to contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the EQR reviewer to comply with the provisions of AS 1220, including information that identifies, among other things, the documents reviewed by the EQR reviewer.[51]

37. During both Audits, Langston failed to evaluate properly the significant judgments made by Gore and the engagement teams with respect to unrecorded and/or undisclosed related party transactions that were identified as fraud risks. As noted above, Issuer A disclosed approximately $1.4 million in stock-based payments to related parties and failed to disclose an additional $2.5 million in such payments. Although he had telephone discussions with Gore during both Audits, and reviewed certain drafts of Issuer A's Form 10-K and 10-K/A during the 2016 Audit and Restatement Audit, respectively, he failed during the

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45 *See* PCAOB Rule 3100.

46 *See* 1220.01.

47 AS 1220.09.

48 AS 1220.10b.

49 AS 1220.11.

50 AS 1220.10e.

51 AS 1220.19.

Audits to review any audit work papers in the significant risk areas of the audit, including related parties, and failed to evaluate the engagement teams' assessment of and audit response to these risk areas,[52] as well as the significant judgments made by the engagement teams and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the respective engagement reports.[53] Langston also failed to review the engagement completion documents during both Audits, as required by AS 1220.[54] Because of these failures, Langston failed to evaluate whether the documentation prepared by the engagement teams responded appropriately to significant risks, and supported the conclusions reached by the engagement teams with respect to the matters reviewed.[55]

38. Finally, the documentation Langston prepared did not contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand which documents Langston reviewed.[56]

39. As a result of the failures described above, Langston provided his concurring approvals of issuance without performing his reviews with the requisite due professional care.[57]

IV.

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

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Cheryl L. Gore is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[58]

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[52] AS 1220.10b.

[53] AS 1220.09

[54] AS 1220.10e.

[55] AS 1220.11.

[56] *See* AS 1220.19; AS 1215.06, *Audit Documentation*.

[57] *See* AS 1220.12; AS 1015.01.

[58] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Gore. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or

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

C. If Gore is permitted to associate again with a registered public accounting firm, pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date her bar is terminated, Gore's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Gore shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, to either sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) assist the engagement partner in fulfilling his or her responsibilities under paragraph 4 of AS 1201, *Supervision of the Audit Engagement*; or (6) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Gore is required to complete, before filing a petition for Board consent to associate with a registered firm, forty hours of continuing professional education ("CPE") and training relating to PCAOB auditing standards (such hours shall be in addition to, and shall not be counted in, the CPE she is required to obtain in connection with any professional license);

E. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date of this Order, Stanley R. Langston's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule

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barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

1001(a)(v), shall be restricted as follows: Langston shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) assist the engagement partner in fulfilling his or her responsibilities under paragraph 4 of AS 1201, *Supervision of the Audit Engagement*; or (6) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

1. Cheryl L. Gore, $20,000; and,

2. Stanley R. Langston, $10,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay these civil money penalties within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, certified check, bank cashier's check, or bank money order (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***Respondent Gore understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm. Respondents also understand that failure to pay the civil***

money penalty described above may alone be grounds for a summary suspension or bar pursuant to PCAOB Rule 5304(b).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 14, 2021

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Dale Matheson Carr-Hilton LaBonte LLP,

Respondent.

PCAOB Release No. 105-2021-021

December 14, 2021

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Dale Matheson Carr-Hilton LaBonte LLP (the "Firm," or "Respondent"), a registered public accounting firm;

(2) imposing a $50,000 civil money penalty on the Firm; and

(3) requiring the Firm to undertake certain remedial measures.

The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB rules and standards in connection with two issuer audits and also violated PCAOB quality control standards concerning client acceptance and continuance and engagement performance.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Dale Matheson Carr-Hilton LaBonte LLP** is, and at all relevant times was, a Canadian limited liability partnership headquartered in Vancouver, British Columbia, Canada. The Firm currently has a total of four offices, each in Canada. The Firm is associated with Moore Global Network Limited, and is licensed to practice public accounting by the Chartered Professional Accountants of British Columbia (License No. 100002080). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Issuers

2. Issuer A was, at all relevant times, a Canadian corporation incorporated in British Columbia, Canada, and headquartered in Vancouver, British Columbia, Canada. Issuer A's public filings disclose that, at all relevant times, it was engaged in the business of mineral exploration and development. Issuer A filed a Form F-4 registration statement with the Commission on April 10, 2017. From the time that it filed its Form F-4, and at all relevant times thereafter, Issuer A was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

3. Issuer B was, at all relevant times, a Canadian corporation incorporated in British Columbia, Canada, and headquartered in Vancouver, British Columbia, Canada. Issuer B's public filings disclose that, at all relevant times, it was engaged in the business of developing and

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

manufacturing electric vehicles. Issuer B was, at all relevant times, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. This matter concerns Respondent's violations of PCAOB rules and standards in connection with its audit of the financial statements of Issuer A for the fiscal year ended October 31, 2016 ("2016 Issuer A Audit"), and its audit of the financial statements of Issuer B for the fiscal year ended December 31, 2017 ("2017 Issuer B Audit") (collectively, the "Audits"), as well as violations of PCAOB quality control standards in the areas of client acceptance and continuance and engagement performance.[2]

5. Despite information available to the Firm that the Audits were required to be performed in accordance with PCAOB standards, the Firm planned and performed the Audits in accordance with Canadian Generally Accepted Auditing Standards ("CGAAS"). In each instance, the Firm initially issued an audit report stating the audit had been performed in accordance with CGAAS, and its report did not refer to PCAOB standards.

6. In both cases, the staff of the U.S. Securities and Exchange Commission ("Commission") notified the relevant issuer that its filing required an audit report stating the audit had been performed in accordance with PCAOB standards. The Firm amended each of its initial audit reports to indicate that the audit had been performed in accordance with PCAOB standards, and consented to the inclusion of the amended audit reports in the issuers' amended filings when, in fact, the Audits had not been performed in accordance with PCAOB standards. Indeed, the Firm failed to plan or perform any additional procedures to support the assertions in the amended reports that the audits were conducted in accordance with PCAOB standards.

D. The Firm Violated PCAOB Rules and Standards

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

[2] As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules*, PCAOB Rel. No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or substantively change the requirements of PCAOB standards. While Respondent's conduct occurred both before and after the reorganization, the reorganized standards are cited herein for clarity.

PCAOB's auditing and related professional practice standards.[3] PCAOB standards also provide that due professional care be exercised in the planning and performance of the audit and the preparation of the report.[4]

8. PCAOB auditing standards state that the auditor should perform certain activities at the beginning of the audit, including procedures regarding the continuance of a client relationship and the specific audit engagement.[5]

9. As part of planning activities, PCAOB auditing standards also require that the auditor evaluate whether certain matters are important to the company's financial statements and internal control over financial reporting, and if so, how they will affect the auditor's procedures, including, but not limited to: matters affecting the industry in which the company operates, such as financial reporting practices, economic conditions, laws and regulations; matters relating to the company's business, including its organization, operating characteristics, and capital structure; and legal or regulatory matters of which the company is aware.[6]

10. PCAOB standards also require that the auditor plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report.[7] An auditor's standard report stating that the financial statements present fairly, in all material respects, an entity's financial position, results of operations, and cash flows in conformity with generally accepted accounting principles may be expressed only when the auditor has formed such an opinion on the basis of an audit performed in accordance with the standards of the PCAOB.[8]

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[3] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards* (applicable before December 31, 2016); PCAOB Rule 3200, *Auditing Standards* (applicable as of December 31, 2016).

[4] *See* AS 1015.01, *Due Professional Care in the Performance of Work.*

[5] AS 2101.06, *Audit Planning*.

[6] AS 2101.07.

[7] AS 1105.04, *Audit Evidence*.

[8] *See* AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending on or before December 14, 2017); AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion* (applicable to audits for fiscal years ending on or after December 15, 2017).

11. As described below, the Firm failed to comply with PCAOB rules and standards during the Firm's 2016 Issuer A Audit and the Firm's 2017 Issuer B Audit.

i. The Firm's 2016 Issuer A Audit

12. In September 2016, Issuer A engaged the Firm to audit Issuer A's financial statements for the fiscal year ended October 31, 2016. Issuer A was a new audit client. However, the Firm failed to exercise due professional care and professional skepticism in planning and performing the audit.[9]

13. Specifically, the Firm was aware prior to its consent to the inclusion of its audit report that Issuer A was in the process of becoming a U.S. public company, and knew that audits of U.S. public companies were required to be performed in accordance with PCAOB standards.[10] Indeed, the Firm's work papers contained a summary of press releases indicating that Issuer A was in the process of becoming a U.S. public company—including announcements in February 2017 that Issuer A's securities were trading in the U.S. on an over-the-counter market and that Issuer A planned to file a Form F-4 registration statement with the Commission in March 2017.

14. Despite this awareness, in planning and performing the audit, the Firm failed to evaluate whether Issuer A's plan to become a U.S. public company was important to its financial statements and how it would affect the Firm's audit procedures.[11] In particular, the Firm failed to evaluate matters related to the financial reporting practices and laws and regulations concerning Issuer A's plans to include the Firm's audit report in its registration statement to be filed with the Commission. Specifically, the Firm was required to plan and perform its audit of Issuer A's financial statements in accordance with PCAOB standards and include in the audit report a statement that the audit was conducted in accordance with PCAOB standards.[12]

15. As a result of this failure, the Firm's audit documentation and its audit report reflect that the Firm planned and performed the 2016 Issuer A audit in accordance with CGAAS rather than in accordance with PCAOB standards. For example, the Firm's independence questionnaire, prepared after Issuer A's February 2017 press releases, identified Issuer A only

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[9] *See* AS 1015.01.

[10] *See* PCAOB Rule 3100.

[11] *See* AS 2101.07.

[12] *See* PCAOB Rule 3100; AS 3101.08 (applicable to audits for fiscal years ending on or before December 14, 2017).

as a Canadian public company, without acknowledging Issuer A's intent to file a registration statement with the Commission the following month. In addition, in conducting the audit, the Firm did not use its checklist and templates designed for U.S. issuer audits, and instead used documentation meant for performing audits in accordance with CGAAS.

16. The Firm's audit report dated March 29, 2017, which opined on Issuer A's financial statements for the fiscal years ended October 31, 2015 and October 31, 2016, and was included with Issuer A's Form F-4 registration statement filed with the Commission on April 10, 2017, stated that the audit was conducted in accordance with CGAAS and did not refer to PCAOB standards.

17. In a comment letter dated May 5, 2017, the Commission's Division of Corporation Finance staff informed Issuer A that it should obtain a revised independent auditor's report indicating the audit had been performed in accordance with PCAOB standards. The issuer informed the Firm of the comment letter. The Firm, in response, issued an amended audit report bearing the same March 29, 2017 date as the original audit report, but adding a statement that the audit was conducted in accordance with PCAOB standards ("Amended Issuer A Report"). The Firm then consented to the inclusion of its Amended Issuer A Report to accompany Issuer A's amended registration statement filed on May 25, 2017.

18. The Firm failed, however, to perform any additional audit procedures in connection with the Amended Issuer A Report prior to its consent to include the Amended Issuer A Report in Issuer A's amended registration statement. Instead, the Firm inappropriately relied upon the work it had performed under CGAAS, which did not sufficiently address PCAOB standards. Consequently, the Firm failed to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the audit opinion in the Amended Issuer A Report,[13] and expressed that audit opinion without having conducted an audit in accordance with PCAOB standards.[14]

ii. The Firm's 2017 Issuer B Audit

19. In February 2018, Issuer B engaged the Firm to audit Issuer B's financial statements for the fiscal year ended December 31, 2017. The Firm had served as Issuer B's auditor since 2015. From the outset of the 2017 Issuer B Audit, the Firm was aware that Issuer B was a U.S. public company, having audited Issuer B's financial statements for the previous fiscal year ended December 31, 2016 and issued an audit report filed with the Commission

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[13] *See* AS 1105.04.

[14] *See* AS 3101.07 (applicable to audits for fiscal years ending on or before December 14, 2017).

indicating the 2016 audit had been conducted in accordance with PCAOB standards. The Firm, as noted above, was also aware during the relevant time frame that audits of U.S. public companies were required to be performed in accordance with PCAOB standards.

20. However, the Firm failed to exercise due professional care and professional skepticism in conducting its client continuance procedures and in planning and performing the audit.[15] Similar to the 2016 Issuer A Audit, the Firm failed to identify that a PCAOB audit was required, and instead conducted the 2017 Issuer B Audit in accordance with CGAAS.

21. No information was brought to the Firm's attention during the 2017 Issuer B Audit suggesting the circumstances had changed with respect to Issuer B's status as a U.S. public company. Indeed, while planning the audit, the Firm was aware that Issuer B had filed an application in October 2017 to list its stock on a major U.S.-based stock exchange. Moreover, a Firm audit work paper concerning materiality noted that "[t]he company recent[ly] went public in the [U.S.] and is trying to increase the capital to fund future operations."

22. In planning and performing the audit, however, the Firm failed to evaluate whether Issuer B's status as a U.S. public company was important to the company's financial statements and how it would affect the Firm's audit procedures.[16] In particular, the Firm failed to consider that because the 2017 Issuer B audit was an audit of a U.S. public company and the audit report would accompany a Form 20-F filed with the Commission, the Firm was required to plan and perform the audit in accordance with PCAOB standards, and include in the audit report a statement that the audit was conducted in accordance with PCAOB standards.[17]

23. Despite issuing an audit report for the prior fiscal year stating that the audit was conducted in accordance with PCAOB standards and being aware of Issuer B's plans to list its stock on a U.S. based exchange, the Firm planned and performed the 2017 Issuer B Audit in accordance with CGAAS rather than in accordance with PCAOB standards. For example, during the audit, the Firm used a client continuance checklist that referred only to Canadian standards. The Firm's engagement letter and communications with Issuer B's Audit Committee indicated that the audit would be conducted in accordance with CGAAS and under the auditor independence requirements of the Code of Professional Conduct of the Chartered Professional Accountants of British Columbia. The Firm did not use its checklist or templates designed for U.S. issuer audits during the audit, and instead used audit documentation meant for performing

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[15] *See* AS 1015.01; AS 2101.06.

[16] *See* AS 2101.07.

[17] *See* PCAOB Rule 3100; AS 3101.09 (applicable to audits for fiscal years ending on or after December 15, 2017).

audits in accordance with CGAAS. The Firm's audit report for the 2017 Issuer B Audit, dated April 2, 2018, indicated that the audit was conducted in accordance with CGAAS and did not make reference to PCAOB standards. This report accompanied Issuer B's Form 20-F for the fiscal year ended December 31, 2017, filed with the Commission on April 19, 2018.

24. In failing to evaluate Issuer B's status as a U.S. public company and recognize that a PCAOB audit was required, the Firm failed to perform sufficient procedures regarding the continuance of the client relationship and the specific audit engagement.[18]

25. In the weeks following the filing of the April 19, 2018 Form 20-F, Issuer B prepared to file a Form F-1/A amended registration statement with the Commission. Because Issuer B intended to include its audited financial statements for the year ended December 31, 2017 in the Form F-1/A, members of the engagement team discussed via email whether the accompanying audit report needed to state that the audit had been performed in accordance with PCAOB standards. Following these discussions, the Firm amended its April 2, 2018 report to state that the audit was conducted in accordance with PCAOB standards ("Amended Issuer B Report"). On May 29, 2018, Issuer B filed a Form F-1/A registration statement, and the Firm consented to the inclusion of the Amended Issuer B Report to accompany the filing. The Firm, however, failed to perform any additional procedures prior to its consent to include the Amended Issuer B Report in Issuer B's amended registration statement to support the assertion in the Amended Issuer B Report that the audit was conducted in accordance with PCAOB standards.[19] Instead, the Firm inappropriately relied upon the work it had performed under CGAAS, which did not sufficiently address PCAOB standards.

26. On August 21, 2018, Issuer B received a comment letter from the Commission's Division of Corporation Finance staff requesting Issuer B to include with its April 19, 2018 Form 20-F an audit report indicating that the Firm conducted its audit in accordance with PCAOB standards. On August 29, 2018, Issuer B filed an amended Form 20-F/A, and the Firm reissued the Amended Issuer B Report stating that the audit had been conducted in accordance with PCAOB standards and consented to the inclusion of the Amended Issuer B Report in the filing. The Firm, however, failed to perform any additional procedures prior to its consent to include the reissued Amended Issuer B Report to accompany the amended Form 20-F/A. Indeed, even after being aware of the Commission's comment letter, the Firm failed to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis

[18] *See* AS 2101.06(a).

[19] *See* AS 1105.04; AS 3101.02 (applicable to audits for fiscal years ending on or after December 15, 2017).

for the audit opinion in the Amended Issuer B Report,[20] and expressed that audit opinion without having conducted an audit in accordance with PCAOB standards.[21]

iii. The Firm Violated PCAOB Rules and Standards Related to Quality Control

27. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[22] PCAOB quality control standards require that "[t]o minimize the risk of misunderstandings regarding the nature, scope, and limitations of the services to be performed," a firm's quality control policies and procedures "should provide for obtaining an understanding with the client regarding those services."[23] Throughout the relevant time period, the Firm's quality control policies and procedures concerning the acceptance and continuance of clients and engagements did not require engagement teams to obtain an understanding with the client regarding the services to be performed. Indeed, as described above, in both Audits, the engagement teams misunderstood the services to be performed, and performed audits in accordance with CGAAS rather than the required PCAOB standards.

28. PCAOB quality control standards also require that a registered public accounting firm establish policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[24] As described above, throughout the relevant time period, the Firm failed to establish and implement quality control policies and procedures to provide reasonable assurance that the work performed by the Firm met applicable PCAOB standards and regulatory requirements, and the Firm's standards of quality. Although the Firm developed audit checklists and templates, the Firm's quality control policies and procedures did not instruct engagement teams to evaluate the circumstances in which the various templates should be used. Nor did the Firm's quality control policies and procedures instruct engagement teams to evaluate whether an audit needed to be performed in accordance with PCAOB standards.

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20 *See* AS 1105.04.

21 *See* AS 3101.02 (applicable to audits for fiscal years ending on or after December 15, 2017).

22 PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

23 QC § 20.16, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice.*

24 QC § 20.17.

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Dale Matheson Carr-Hilton LaBonte LLP, is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon Dale Matheson Carr-Hilton LaBonte LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Dale Matheson Carr-Hilton LaBonte LLP shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service postal money order, certified check, bank cashier's check or bank money order; (c) made payable to the Public Company Accounting Oversight Board; (d) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (e) submitted under a cover letter which identifies Dale Matheson Carr-Hilton LaBonte LLP as the Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Dale Matheson Carr-Hilton LaBonte LLP is required:

1. within ninety (90) days from the date of this Order, to establish quality control policies and procedures, or revise and/or supplement existing quality control policies and procedures, for the purpose of providing the Firm with reasonable assurance that:

    a. The Firm's policies and procedures provide for obtaining an understanding with the client regarding services to be performed, in compliance with QC Section 20.16;

b. The work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the Firm's standards of quality, in compliance with QC Section 20.17;

c. The Firm's quality control monitoring procedures taken as a whole enable the Firm to obtain reasonable assurance that its system of quality control is effective, in compliance with QC Section 30.03;

2. within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent basis, concerning identification of audit clients subject to PCAOB auditing standards for all Firm personnel involved in audit services; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) & C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 14, 2021

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of PKF O'Connor Davies, LLP,

Respondent.

PCAOB Release No. 105-2022-001

January 25, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring PKF O'Connor Davies, LLP ("PKFOD," the "Firm," or "Respondent");

(2) imposing a civil money penalty of $40,000 on the Firm;

(3) requiring the Firm to undertake a self-assessment of its system of quality control; and

(4) requiring the Firm to retain an independent consultant to review and make recommendations concerning the Firm's system of quality control as it relates to audits performed under PCAOB standards.

The Board is imposing these sanctions on the basis of its findings that: (a) PKFOD violated PCAOB rules and auditing standards in connection with the audits of two issuers; and (b) PKFOD violated PCAOB rules and quality control standards by failing to take sufficient steps to ensure that its system of quality control provided reasonable assurance that its personnel complied with applicable professional standards and the Firm's standards of quality.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **PKF O'Connor Davies, LLP** is a limited liability partnership organized under the laws of the state of New York headquartered in New York City. PKFOD also has offices in New York, New Jersey, Connecticut, Rhode Island, Maryland, and Florida. The Firm is licensed to practice public accounting in multiple jurisdictions, including the state of New York (Partnership ID No. 069980). The Firm is, and at all relevant times was, registered with the PCAOB pursuant to Section 102 of the Act and PCAOB rules. PKFOD is a member of the PKF International Limited network of firms.

B. Issuers

2. Issuer A is a real estate investment trust ("REIT") incorporated under the laws of the state of Maryland. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

3. Issuer B is a REIT incorporated under the laws of the state of Maryland. At all relevant times, Issuer B was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. This matter concerns PKFOD's violations of PCAOB rules and standards in conducting the Firm's integrated audit of Issuer A's financial statements and internal control over financial reporting ("ICFR") for the fiscal year ended December 31, 2018 ("Issuer A Audit"), and integrated audit of Issuer B's financial statements and ICFR for fiscal year ended September 30, 2019 ("Issuer B Audit") (together, "Audits"). In the Audits, the Firm failed to: (1) test the operating effectiveness of the issuers' information technology general controls, (2) test the completeness and accuracy of certain issuer-produced reports, and (3) perform sufficient and appropriate procedures to respond to fraud risks.[3]

5. The Firm's audit violations are the direct result of its failure to properly design and implement, and monitor the effectiveness of, a system of quality control. Specifically, the Firm failed to: (1) provide and implement sufficient practice aids and tools for use on issuer audits; (2) provide sufficient technical training on auditing ICFR; and (3) perform sufficient appropriate internal monitoring procedures. The Firm's system of quality control, therefore, did not: (1) provide reasonable assurance that the work performed by engagement personnel would meet applicable professional standards and regulatory requirements; (2) provide reasonable assurance that personnel participated in continuing professional education or other professional development activities that enabled them to fulfill assigned responsibilities; (3) provide reasonable assurance that work was assigned to personnel having the degree of technical training and proficiency required in the circumstances; and (4) enable the Firm to obtain reasonable assurance that its system of quality control was suitably designed and effectively applied.

D. PKFOD Violated PCAOB Rules and Standards

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

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[3] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

[4] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

unqualified opinion on an issuer's financial statements only when the auditor has conducted an audit in accordance with PCAOB standards and the auditor concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[5] Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism in performing an audit and preparing an auditor's report.[6]

7. When an auditor is engaged to perform an audit of management's assessment of the effectiveness of ICFR, the audit of ICFR should be integrated with the audit of the financial statements.[7] The objectives of the audits are not identical, however, and the auditor must plan and perform the work to achieve the objectives of both audits.[8]

8. In an integrated audit, an auditor should design its testing of controls to accomplish the objectives of both audits simultaneously: (1) to obtain sufficient evidence to support the auditor's opinion on ICFR as of year-end; and (2) to obtain sufficient evidence to support the auditor's control risk assessments for purposes of the audit of financial statements.[9] As part of evaluating the period-end financial reporting process, the auditor should assess, among other things, the extent of information technology ("IT") involvement in the period-end financial reporting process.[10] In addition, the auditor should "understand how IT affects the company's flow of transactions."[11] The auditor's identification of IT-related risk and controls is not a separate evaluation, but instead is "an integral part of the top-down approach used to identify significant accounts and disclosures and their relevant assertions, and the controls to test, as well as to assess risk and allocate audit effort. . . ."[12]

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5 *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion.*

6 *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work.*

7 *See* AS 2201.01 and 06, *An Audit of Internal Control Over Financial Reporting That is Integrated with An Audit of Financial Statements.*

8 *See* AS 2201.06.

9 *See* AS 2201.07.

10 AS 2201.27.

11 AS 2201.36; *see also* AS 2110.29, .B1 - .B6, *Identifying and Assessing Risks of Material Misstatement.*

12 AS 2201.36, Note.

9. Under PCAOB standards, an auditor should test the controls that are important to the auditor's conclusion about whether the company's controls sufficiently address the assessed risk of misstatement to each relevant assertion.[13] That testing should assess both the design and operating effectiveness of such controls.[14] If an auditor plans to assess control risk at less than the maximum and rely on controls for purposes of the financial statement audit, the auditor must obtain evidence that such controls were designed and operating effectively during the entire period upon which the auditor plans to place reliance on these controls.[15]

10. PCAOB standards further require that the auditor should evaluate the extent to which he or she will use the work of others to reduce the work the auditor might otherwise perform. If, in an integrated audit, the auditor determines to use the work of others, including management, the auditor must comply with AS 2605, *Consideration of the Internal Audit Function*.[16] To that end, the auditor should assess the competence and objectivity of the persons whose work the auditor plans to use to determine the extent to which the auditor can rely on that work.[17]

11. PCAOB standards require the auditor to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[18] To be appropriate, audit evidence must be both relevant and reliable.[19] The reliability of evidence depends on its nature and source and the circumstances under which it is obtained.[20] Evidence obtained from inquiry of issuer personnel is not on its own sufficient audit evidence.[21]

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13 AS 2201.39.

14 *See* AS 2201.42, .44.

15 *See* AS 2201.B4; *see also* AS 2301.16, *The Auditor's Responses to the Risks of Material Misstatement.*

16 *See* AS 2201.16.

17 *See* AS 2201.18.

18 *See* AS 1105.04, *Audit Evidence*.

19 *See* AS 1105.06.

20 *See* AS 1105.08.

21 *See* AS 1105.17, Note.

i. PKFOD Failed to Properly Test and Relied Inappropriately on Information Technology General Controls

12. PKFOD issued audit reports containing unqualified opinions on the financial statements and ICFR for the Issuer A Audit on March 7, 2019, and for the Issuer B Audit on November 25, 2019. These reports were included with the issuers' Forms 10-K filed with the Securities and Exchange Commission on March 7, 2019 and November 25, 2019, respectively. On both Audits, the engagement teams included IT audit personnel from the Firm's Risk Advisory Group, who tested the design and operating effectiveness of the issuers' information technology general controls ("ITGCs").[22] That testing, however, was insufficient as the engagement teams failed to perform procedures sufficient to test design effectiveness of the ITGCs and further failed to test the operating effectiveness of those same controls.

13. The IT audit personnel for both Audits made inquiries and obtained documents management used in its evaluation of ITGCs. The IT audit personnel used these documents to assess the design effectiveness of ITGCs but failed to perform procedures to test whether the controls identified, if operating effectively, satisfied the companies' control objectives and could effectively prevent or detect errors or fraud that could result in material misstatements in the companies' financial statements.[23] Further, the engagement teams' design effectiveness test work was flawed because neither the IT audit personnel nor anyone else on the engagement teams performed any procedures to assess the competence and objectivity of the issuers' management whose work they used in violation of PCAOB standards.[24]

14. Although the IT audit personnel concluded that the ITGCs were operating effectively, there is no evidence that the IT audit personnel performed procedures to test the operating effectiveness of the ITGCs.[25] Because the engagement teams did not test the operating effectiveness of the ITGCs, the Firm lacked the foundation for its reliance on those controls for other audit procedures.[26] As a result of the engagement teams' inappropriate reliance on ITGCs, neither engagement team modified the planned nature, timing or extent of

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[22] IT general controls are broad controls over general IT activities, such as security and access, computer operations, and systems development and system changes.

[23] *See* AS 2201.42 - .43.

[24] *See* AS 2201.16, .18.

[25] *See* AS 2201.44 - .45.

[26] *See* AS 2301.16.

their substantive procedures. This resulted in the engagement teams' failure to obtain sufficient evidence to support its opinions in violation of PCAOB standards.[27]

15. Accordingly, the Firm's failure to test, or sufficiently test, the design and operating effectiveness of ITGCs violated AS 2201 and AS 2301.

ii. PKFOD Failed to Properly Test the Accuracy and Completeness of Information Produced by the Issuers

16. When using information produced by the company as audit evidence, PCAOB standards require the auditor to evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to, among other things, test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information.[28]

17. In the Audits, the Firm repeatedly relied on reports provided by the issuers, including in areas identified as significant risks or fraud risks, such as revenue, long-lived assets, and management override of controls, without performing any procedures to test the accuracy and completeness of those reports. The Firm also failed, as described above, to properly test ITGCs related to the underlying systems that generated the reports. Accordingly, the Firm's use of issuer-produced reports as evidence violated PCAOB standards.[29]

iii. PKFOD Failed to Perform Sufficient and Appropriate Fraud Procedures

18. In addressing fraud risk related to management override of controls, PCAOB standards require the auditor to test the appropriateness of journal entries and other adjustments for evidence of possible material misstatement due to fraud.[30] When identifying and selecting specific journal entries and other adjustments for testing, the auditor should consider, among other things, (1) the auditor's assessment of the fraud risk, (2) the effectiveness of controls that have been implemented over journal entries and other adjustments, (3) the entity's financial reporting process and the nature of the evidence that can be examined, (4) the characteristics of fraudulent entries of adjustments, and (5) journal entries or other adjustments processed outside the normal course of business.[31] As noted above,

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27 *See* AS 2201.07; *see also* AS 2301.16.

28 *See* AS 1105.10, *Audit Evidence*.

29 *Id*.

30 *See* AS 2401.57 - .58, *Consideration of Fraud in a Financial Statement Audit*; *see also* AS 2110.69.

31 *See* AS 2401.61.

inquiry of company personnel, by itself, does not provide sufficient audit evidence to reduce audit risk to an appropriately low level for a relevant assertion.[32]

19. In both Audits, the engagement teams identified management override of controls as a fraud risk and planned to address that risk, in part, by performing procedures to test journal entries selected based on fraud criteria determined by the engagement teams. However, the engagement teams failed to perform sufficient procedures to test the completeness of the population of journal entries provided by management or to test the controls over the completeness of that information.[33] In the Issuer A Audit, the engagement team noted numerous gaps in the journal entry sequence in the report received from management, yet the Firm relied solely on management inquiry to evaluate the reasonableness of those gaps.[34] Moreover, neither engagement team tested the parameters used to generate the reports used to select journal entries for testing. Accordingly, neither engagement team had an appropriate foundation from which to select journal entries for testing.[35]

20. In both Audits, the engagement teams identified unique characteristics that they believed indicated possible fraudulent journal entries. However, despite identifying populations of journal entries that met those characteristics, neither engagement team addressed adequately the fraud risks presented by those populations. In the Issuer A Audit, the engagement team identified 1,074 journal entries that met its fraud characteristics, yet it tested only 40 journal entries. For the Issuer B Audit, the engagement team obtained a listing from the issuer of all journal entries for the fiscal year. The engagement team then scanned the list and selected 25 entries for testing. The engagement team did not document how many other entries met the criteria, but were not tested.

21. Despite the fraud risk associated with the entries that presented the engagement teams' characteristics of being fraudulent that were not tested and the judgment involved in determining not to test those entries, neither engagement team explained why the full populations of relevant entries were not tested or how the entries that were selected provided sufficient appropriate evidence to address the risk of fraud due to management override of controls.[36] As a result, the procedures performed did not sufficiently address the risk

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[32] *See* AS 1105.17, Note.

[33] *See* AS 1105.10.

[34] *See* AS 1105.17.

[35] *See* AS 1105.10.

[36] *See* AS 2401.57-.62, .83; AS 1105.04; AS 1015.07-.09.

of material misstatement due to management override of controls.[37] Accordingly, the Firm violated AS 1015, AS 1105, and AS 2401 in both Audits.

E. PKFOD Violated PCAOB Rules and Quality Control Standards

i. PKFOD's Quality Control Policies and Procedures Failed to Provide the Firm with Reasonable Assurance that the Work Performed by Engagement Personnel Meets Professional Standards

22. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[38] These standards require that a registered firm have a system of quality control for its accounting and auditing practice.[39] PCAOB quality control standards provide that a registered firm should establish policies and procedures "to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[40] Such policies should "encompass all phases of the design and execution of the engagement."[41] In addition, "[t]o the extent appropriate and as required by applicable professional standards, these policies and procedures should cover planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement."[42]

23. PKFOD failed to establish policies and procedures sufficient to provide reasonable assurance that the work performed by its engagement personnel met applicable professional standards, regulatory requirements, and the firm's standards of quality. PKFOD supplemented a third-party audit methodology with Firm-developed practice aids but failed to adequately evaluate whether the resulting methodology and related practice aids provided Firm personnel with sufficient guidance on the requirements for testing ITGCs or whether the Firm needed to supplement its methodology with additional guidance and templates to facilitate engagement teams' compliance with auditing standards. Moreover, the Firm failed to

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37 *See* AS 2401.57, .83.

38 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

39 *See* Quality Control Standard 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20"), .01.

40 QC § 20.17.

41 QC § 20.18.

42 *Id*.

require the use and partner review of certain Firm-developed practice aids on its integrated audits, including practice aids related to testing ICFR.

24. In performing the Audits, the engagement teams relied on a combination of third-party practice aids, Firm-developed practice aids, and "unwritten policies" to provide the necessary guidance to its personnel. However, the aids used failed to provide guidance or establish procedures for testing ITGCs. In addition, the Firm's "unwritten policies" were not sufficiently communicated to Firm personnel. As a result, neither the IT audit personnel nor other engagement team members understood how to properly test ITGCs, and document such testing.

25. Moreover, the engagement partners failed to properly supervise the work of the IT audit personnel. The engagement partners on the Audits did not provide the IT audit personnel with instructions or review their work as required under AS 1201, *Supervision of an Audit Engagement*.[43] Rather, the engagement partners simply outsourced the ITGC testing to the IT audit personnel. As a result, both engagement partners failed to identify or evaluate the potential control deficiencies identified by the IT audit personnel that were documented in the work papers.

26. At the time of the Audits, the Firm relied primarily on third-party checklists without tailoring or providing supplemental guidance on how to supervise, or the importance of supervising, IT audit personnel involved in issuer audit engagements. The Firm also failed to tailor or provide supplemental guidance to engagement partners on its issuer audits, and thus failed to adequately communicate the responsibility of the engagement partner to supervise the work of IT audit personnel.[44] Therefore, the engagement partners' failures to supervise the IT audit personnel directly stemmed from defects in the Firm's system of quality control.[45]

27. In addition, a Firm worksheet created to assist engagement personnel with complying with AS 2401 was not designed effectively. Specifically, engagement teams were not required to use the worksheet and those that used the worksheet were permitted to modify the worksheet to exclude procedures necessary to satisfy the requirements of AS 2401. As such, the design and implementation of this worksheet did not provide reasonable assurance that the Firm's personnel would comply with AS 2401. Moreover, the worksheet did not: (1) provide guidance on how to identify relevant characteristics of fraudulent journal entries, (2) instruct engagement teams to test the completeness and accuracy of the population of journal entries,

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43 *See* AS 1201.05.

44 *See* QC § 20.13.

45 *See* QC § 20.18.

or (3) provide guidance on how or whether engagement teams should implement sampling on journal entry testing to address fraud risks.[46] Because of the design defects in the worksheet and the lack of sufficient guidance elsewhere in the Firm's audit methodology, use of the worksheet failed to provide the Firm with reasonable assurance that engagement teams who completed it would comply with PCAOB auditing standards.[47]

ii. PKFOD's Quality Control Policies and Procedures Failed to Provide the Firm with Reasonable Assurance that Certain Personnel Assigned to Issuer Audits Participated in Training on PCAOB and SEC Requirements

28. PCAOB quality control standards provide that firms should establish policies and procedures to provide the firm with reasonable assurance that work is assigned to personnel having the degree of technical training and proficiency required in the circumstances and personnel participate in general and industry-specific continuing professional education that enable them to fulfill responsibilities assigned.[48]

29. Despite these requirements, during the periods under audit, PKFOD's policies and procedures failed to require personnel assigned to PCAOB audits, including its IT audit personnel, to participate in continuing professional education to ensure that such individuals received periodic technical training related to relevant PCAOB standards and SEC reporting requirements, rules, and regulations. Although the Firm provided annual PCAOB updates in January of each year, the Firm's quality control policies and procedures did not require personnel assigned to issuer audits, including IT audit personnel, to attend these updates or any other trainings on PCAOB standards. Further, none of the staff assigned to the audits were required to participate in training on auditing ICFR, including ITGCs, or how to supervise the work of IT audit personnel. Accordingly, the Firm's policies and procedures did not provide reasonable assurance that personnel assigned to issuer audits participated in continuing professional education to enable them to fulfill the responsibilities assigned to them or that work was being assigned to personnel having the degree of technical training and proficiency required to perform audits under PCAOB standards.

30. Because the Firm failed to ensure that its personnel received appropriate training on PCAOB and SEC requirements, it was unable to ensure that work was assigned to personnel having the degree of technical training and proficiency required in the circumstances and that personnel participated in general and industry-specific continuing professional

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46 *See* AS 2401.61.

47 *See* QC §§ 20.17 -.18.

48 *See* QC § 20.13.

education that enabled them to fulfill their assigned responsibilities. Accordingly, the Firm violated QC §§ 20.13.

iii. PKFOD Failed to Perform Sufficient and Appropriate Internal Monitoring to Ensure Its System of Quality Control Was Operating Effectively

31. PCAOB quality control standards provide that one required element of a quality control system is monitoring.[49] Monitoring involves an ongoing consideration and evaluation of the: (a) relevance and adequacy of the firm's policies and procedures; (b) appropriateness of the firm's guidance materials and any practice aids; (c) effectiveness of professional development activities; and (d) compliance with the firm's policies and procedures.[50] Monitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective.[51]

32. During 2019, PKFOD relied on retrospective monitoring activities performed by the Firm, including inspections and post-issuance reviews (together "Internal Inspections"), as its primary monitoring activities. However, the Firm failed to effectively design and implement those procedures. PKFOD's quality control policies and procedures required that the Firm perform Internal Inspections of a sample of audits annually from a cross-section of the Firm's engagements, including PCAOB engagements. The Firm's policies and procedures required that inspectors have "adequate technical knowledge and experience." Despite this requirement, the Firm failed to perform procedures to confirm that the individual assigned had the requisite knowledge, skills, and abilities to perform the Internal Inspections of PCAOB engagements including integrated audits.[52] The Firm's policies and procedures also required the use of monitoring checklists; however, the Firm failed to design or implement procedures to ensure that the individual performing the Internal Inspections selected appropriate monitoring checklist(s).

33. During its 2019 internal monitoring process, PKFOD's Quality Control Administration committee ("QCA") selected the Issuer A Audit for Internal Inspection. The Firm contracted with a retired audit partner from PKFOD's predecessor firm ("Individual A") to perform the inspection of Issuer A. Individual A was not a licensed CPA at the time of the inspection, had not been a member of a public accounting firm in nearly 20 years, and had never served as an engagement partner on or participated in an integrated audit performed

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49 *See* QC § 20.07.

50 QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

51 QC § 30.03.

52 *See* QC § 30.08.

under PCAOB standards. Despite not having adequate technical knowledge and experience to conduct an inspection of an integrated audit, Individual A was assigned to conduct the Internal Inspection of the Issuer A Audit.

34. At the outset, Individual A failed to identify that the inspection checklist used was for audits not subject to PCAOB jurisdiction. Individual A also incorrectly indicated on the checklist that the Issuer A Audit was a financial statement audit only. Moreover, Individual A's inspection was cursory at best. Out of the 190 substantive questions on the checklist, Individual A responded to only five and selected "N/A" to a question asking whether the auditor complied with the applicable independence and quality controls standards of the PCAOB. Significantly, Individual A did not identify any of the deficiencies in the Issuer A Audit discussed in this Order, including the engagement team's failure to: (1) test appropriately the design and operating effectiveness of ITGCs, (2) test the accuracy and completeness of company-produced information, and (3) perform sufficient and appropriate procedures to respond to fraud risks.

35. While the deficiencies in Individual A's inspection may have resulted from a lack of technical knowledge or experience in auditing under PCAOB standards, the Firm's quality control policies and procedures contributed to the deficiencies. For example, the third-party checklist the Firm required and used for all internal inspections noted in bold italics on the first page that it was intended for reviews of audits that were not subject to PCAOB standards. The checklist also provided a list of the types of audits that would fall within that category, which excluded issuer audits. Furthermore, the checklist mentioned a general audit engagement checklist and financial reporting and disclosure checklist that should be completed on all audits, as well as checklists for specialized industries and areas that should be completed if applicable; however, the Firm did not require Individual A to, nor did he, complete any additional checklists.

36. Moreover, the Firm's required checklist was deficient because it did not include questions addressing certain of the determinations the Firm's quality control policies and procedures identified as within the scope of an inspection, including whether the "[t]he Firm's guidance materials and practice aids are appropriate and checklists, forms, programs, or other documentation required by the Firm's QC System have been properly completed."

37. Finally, in its quality control policies and procedures, the Firm described a process for accumulating the results of the inspections and reporting those to its QCA and then

ultimately to the partners and staff of the Firm. Yet that reporting process failed to note any of the deficiencies in Individual A's review.[53]

38. Because the Firm's defective internal inspections were its primary monitoring procedures, the Firm violated QC §§ 30.02-.03 and QC §20.20.

IV.

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

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation through its substantial assistance to the PCAOB's investigation and voluntary and timely remedial actions to address the violations described in this Order. Specifically, the Firm performed and provided to the PCAOB an analysis of the causes of the violations set forth in this Order; provided to the PCAOB information from a third-party consultant's review of the Firm's journal entry testing, testing of ICFR, and testing of the design and operating effectiveness of ITGCs related to certain of the Firm's issuer audits; and made initial revisions to its Quality Control Manual. In addition, the Firm provided continuing professional education to members of the Firm's PCAOB practice team and members of the Firm's IT team.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), PKF O'Connor Davies LLP is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $40,000 is imposed on the Firm. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies PKFOD as a

[53] *See* QC § 30.08.

respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

C. Pursuant to Sections 105(c)(4)(C) and (G) of the Act and PCAOB Rules 5300(a)(3), (8) and (9), the Board orders that:

1. Self-Assessment

    a. PKFOD shall undertake a self-assessment of its system of quality control to ensure its current policies and procedures are compliant with PCAOB quality control standards.

2. Independent Consultant

    a. PKFOD shall retain and pay for an independent consultant not unacceptable to the PCAOB staff who has the experience with, and is knowledgeable concerning, PCAOB quality control and auditing standards ("Independent Consultant") to review PKFOD's system of quality control applicable to audits and reviews conducted pursuant to PCAOB standards. Within thirty days after the entry of this Order, PKFOD shall submit to the PCAOB staff a proposal setting forth the identity, qualifications, and proposed terms of retention of the Independent Consultant.

    b. To ensure the independence of the Independent Consultant, PKFOD: (i) shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the PCAOB staff; (ii) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

    c. PKFOD shall cooperate fully with the Independent Consultant and shall provide reasonable access to its personnel, information, and records as the Independent Consultant may reasonably request for the Independent Consultant's review, evaluation, and reports.

d. If PKFOD, despite its best, good faith efforts, is unable to identify an Independent Consultant candidate that meets all of the above-listed criteria, it may seek approval from the PCAOB staff of alternative candidates or alternative terms that PKFOD believes to be otherwise suitable.

e. Within 90 days of this Order, PKFOD will review, evaluate, and implement, under the supervision of the Independent Consultant, any necessary enhancements to PKFOD's quality control policies and procedures applicable to audits and reviews conducted pursuant to PCAOB standards. If, as a result of that review and evaluation, it appears to the Independent Consultant that any further enhancements to the system of quality control are necessary, it shall recommend such enhancements to PKFOD.

f. Within 180 days of this Order, PKFOD shall (1) implement any recommendations received from the Independent Consultant, pursuant to Paragraph IV.C.2.e, and (2) require the Independent Consultant to review a sample of the Firm's most recent integrated audits to ensure those audits comply with PCAOB auditing standards and that those integrated audits were conducted in accordance with PCAOB quality control standards and the Firm's revised Quality Control Manual. If PKFOD does not implement recommendations received from the Independent Consultant pursuant to Paragraph IV.C.2.e, it shall communicate to the Director of the Division of Enforcement and Investigations the recommendations of the Independent Consultant it did not implement and the reasons for doing so.

3. Firm Certification

a. Within 270 days of the date of this Order, PKFOD shall certify in writing to the Director of the Division of Enforcement and Investigations, PCAOB, 1666 K Street N.W., Washington, DC 20006, the Firm's compliance with the above paragraphs. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The certification shall include a description of the specific enhancements implemented to PKFOD's system of quality control since the time of the conduct described in

this Order. PKFOD shall also submit such additional evidence of and information concerning as the staff of the Division of Enforcement and Investigations may reasonably request.

b. For good cause shown, the PCAOB staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

c. PKFOD understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

January 25, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of PricewaterhouseCoopers LLP,

Respondent.

PCAOB Release No. 105-2022-002

February 24, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon PricewaterhouseCoopers LLP ("PwC Canada," the "Firm," or "Respondent"). The Board is:

(1) censuring the Firm;

(2) imposing a $750,000 civil money penalty on the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that PwC Canada violated PCAOB rules and quality control standards over several years in connection with the Firm's internal training program.

In ordering these sanctions, the Board took into account the Firm's extraordinary cooperation in this matter, including self-reporting and remedial actions, as described in more detail below.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **PricewaterhouseCoopers LLP** is an unincorporated partnership in Canada and is headquartered in Toronto, Ontario. It is a member firm of the PricewaterhouseCoopers International Limited global network of firms ("PwC Global"). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm served as the principal auditor for over 55 issuer audit clients. Additionally, at all relevant times, the Firm performed audit work that other PCAOB-registered firms, including member firms of PwC Global, used or relied on in issuing audit reports for their issuer clients.

B. Summary

2. From at least 2016 until early 2020, PwC Canada violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing internal training tests, including tests designed to help the Firm's audit professionals satisfy the requirements for maintaining their accounting certifications. Those quality control failures prevented the Firm from identifying that more than 1,200 Firm professionals were involved in improper answer sharing—either by providing or receiving answers—in connection with tests for mandatory internal training courses covering topics that included auditing, accounting, and professional independence. More than 1,100 of these professionals were from the Firm's Assurance practice.

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

3. After discovering the training-related misconduct in January 2020, PwC Canada reported the matter to the PCAOB and began implementing remedial policies and procedures.

C. PwC Canada Violated PCAOB Rules and Standards

i. Applicable PCAOB Rules and Quality Control Standards

4. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[2] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[3]

5. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[4] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[5] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[6]

6. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[7] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[8] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among

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2 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

3 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

4 QC § 20.09.

5 QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

6 QC § 20.13.c; QC § 40.02.c.

7 QC § 20.08.

8 *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[9]

ii. Training Requirements for PwC Canada Personnel

7. As part of PwC Canada's personnel management system, the Firm administers an internal training program for all of its professionals. The Firm has designed its training program to serve multiple purposes, including to provide Firm personnel with technical instruction, to further their professional development, and to satisfy some of the continuing professional education requirements imposed by the accountancy boards that grant CPA certifications to the Firm's auditors. The Firm's training requirements vary by each professional's position, role, and industry practice area, and are intended to be relevant to, among other things, the independence of its personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. The Firm's internal training often includes a testing component.

8. Since at least 2016, the Firm has utilized an online platform to offer training to its personnel. The platform enables the Firm to deliver, track, and record completion of mandatory training and testing. The platform records the dates and times when personnel access and complete mandatory training and testing. For training courses with a testing component, the Firm does not credit personnel with completing the training until they satisfactorily pass the related test.

9. Since at least 2016, the Firm has required all personnel to take certain online courses, including courses containing content regarding professional independence and performing professional responsibilities with integrity. These courses include a testing component at the end. During the same period, the Firm has also administered a number of online courses related to auditing and accounting. The particular courses the Firm's auditors must take vary based on their experience levels. Many of these audit-related courses include a testing component and are mandatory for the Firm's audit personnel.

iii. Failures by PwC Canada to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

10. Between 2016 and early 2020, PwC Canada had in place certain quality control policies and procedures intended to address integrity and personnel management. None of those policies and procedures, however, were designed to provide reasonable assurance that Firm personnel acted with integrity when taking internal training tests. In fact, on only one occasion between 2016 and early 2020 did the Firm formally advise its Assurance personnel

[9] *See* QC § 20. 20.c-.d; QC § 30.02.c-.d.

that they should perform training tests on their own. During this time period, the Firm also employed certain monitoring procedures related to internal training, but those procedures were limited to tracking completion of courses and related tests. The monitoring procedures were not designed to detect other compliance issues, such as answer sharing.

11. As described below, these policies and procedures were inadequate to prevent or detect the extensive answer sharing on training tests that occurred among Firm personnel over multiple years.

iv. Widespread Sharing of Answers to Training Tests at PwC Canada

12. From at least 2016 to early 2020, more than 1,200 PwC Canada personnel were involved in improper answer sharing related to training tests. Firm personnel primarily shared answers through use of several shared drives that professionals had created on the Firm's computer network (the "Shared Drives"), and on which professionals had posted the answers for others to view and provide supplemental answers. In addition, individuals shared answers by sending emails with attached documents containing answers to training test questions, by providing answers in hard copy documents, or by discussing answers when taking tests in the presence of others.

13. Instances of improper answer sharing primarily occurred in connection with tests that were a part of the Firm's mandatory Assurance training. The Shared Drives contained answers for at least 46 of the Firm's approximately 55 mandatory Assurance tests, as well as answers for some mandatory Firm-wide tests containing content concerning professional integrity and professional independence.

14. Improper sharing of training test answers occurred among junior staff, managers, directors, and partners at the Firm. After Firm leadership learned of the practice, it conducted an internal investigation. The Firm's investigation revealed that the misconduct was widespread within the Firm's audit practice, including among those who performed work on audits governed by PCAOB standards. At least 1,100 professionals in the Firm's Assurance practice were involved in answer sharing.

15. As illustrated by the misconduct described above, from 2016 to early 2020, PwC Canada failed to establish policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) Firm personnel performed all professional responsibilities with integrity; (2) personnel to whom work was assigned had the degree of technical training and proficiency required in the circumstances; and (3) personnel participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements

of regulatory agencies. Accordingly, the Firm violated PCAOB quality control policies related to integrity and personnel management.[10]

IV.

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

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation in this matter.[11] The Firm voluntarily self-reported the matter to PCAOB staff after learning about the misconduct. Additionally, the Firm promptly instituted remedial measures, including conducting periodic searches across certain Firm systems to identify improper answer sharing, and requiring personnel to re-take certain training and testing. Absent the Firm's extraordinary cooperation, the civil money penalty imposed would have been significantly larger, and the Board may have imposed additional sanctions.

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty of $750,000 on PricewaterhouseCoopers LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. PricewaterhouseCoopers LLP shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, certified check, bank cashier's check, or bank money order (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (c) submitted under a cover letter which identifies PricewaterhouseCoopers LLP as the Respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W.

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[10] *See* QC § 20.09, .13.b-.c, .20; QC § 30.02; and QC § 40.02.b-.c.

[11] *See Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations,* PCAOB Rel. No. 2013-003 (Apr. 24, 2013).

Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), PricewaterhouseCoopers LLP is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (a) personnel perform all internal training and tests associated with such training with integrity; (b) personnel to whom work has been assigned have the degree of technical training and proficiency required in the circumstances; (c) personnel participate in general and industry-specific continuing professional education that enable them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies; and (d) the above-described policies and procedures are suitably designed and are being effectively applied.

2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1. above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. PricewaterhouseCoopers LLP shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 24, 2022

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

1666 K Street NW
Washington, DC 20006

Office: 202-207-9100
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of BMKR LLP and Joseph Mortimer, CPA,

Respondents.

PCAOB Release No. 105-2022-003

February 24, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) revoking the registration of BMKR LLP ("BMKR" or the "Firm"), a registered public accounting firm;[1]

(2) imposing a $20,000 civil money penalty on BMKR;

(3) barring Joseph Mortimer ("Mortimer") from being associated with a registered public accounting firm;[2] and

(4) imposing a $10,000 civil money penalty on Mortimer.

The Board is imposing these sanctions on BMKR and Mortimer (collectively, "Respondents") on the basis of its findings that: (a) Respondents violated PCAOB rules and auditing standards in connection with the audits of two issuers; (b) BMKR violated PCAOB rules

[1] BMKR may reapply for registration after two years from the date of this Order.

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

and quality control standards; and (c) Mortimer violated PCAOB Rule 3502 by directly and substantially contributing to BMKR's violations of PCAOB rules and quality control standards.[3]

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds that:[5]

A. Respondents

1. **BMKR LLP** is a limited liability partnership organized under the laws of the State of New York with headquarters in Hauppauge, New York. The Firm was, at all relevant times,

[3] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits and reviews discussed herein.

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

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

licensed in the state of New York (License No. 058798). The Firm is, and at all relevant times was, registered with the PCAOB pursuant to Section 102 of the Act and PCAOB rules.

2. **Joseph Mortimer** is a partner of the Firm. He is a certified public accountant licensed by the State of New York (License No. 055916). Mortimer is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuers

3. Issuer A is, and at all relevant times was, a Florida corporation headquartered in Hicksville, New York. Its public filings disclosed that it develops and sells products containing Cannabidiol, produces hemp biomass, licenses medical devices, and sells non-CBD products such as sunscreen and lip balm. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. Issuer B was, at all relevant times, a Nevada corporation headquartered in Mississauga, Ontario. Its public filings disclosed that it manages e-commerce transportation and logistics for third parties. At all relevant times, Issuer B was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the audits of Issuer A for the fiscal year ended ("FYE") December 31, 2019, and Issuer B for the FYE July 31, 2019 (the "2019 Audits"). Mortimer, as the only Firm partner performing issuer audits at the time, led the Firm's issuer audit practice and served as engagement partner on the 2019 Audits. As detailed below, Respondents violated PCAOB rules and standards by failing to: (1) properly evaluate whether the issuers' accounting for certain significant transactions was in conformity with U.S. Generally Accepted Accounting Principles ("GAAP") and (2) perform any testing of certain equity transactions.

6. This matter also concerns the Firm's violations of PCAOB rules and quality control standards between 2016 and 2019, and Mortimer's direct and substantial contribution to certain of those violations. Specifically, the Firm failed to: (1) maintain a system of quality control sufficient to provide the Firm with reasonable assurance that the engagement teams performed issuer audits in accordance with applicable professional standards and regulatory requirements; and (2) establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures were suitably designed and were being effectively applied.

D. Respondents Violated PCAOB Rules and Auditing Standards in Connection with the 2019 Audits

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[7] Among other things, PCAOB standards require an auditor to exercise due professional care in the planning and performance of the audit and the preparation of the report, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[8]

8. PCAOB standards further require that auditors evaluate whether the financial statements contain the information essential for a fair presentation of the financial statements in conformity with the applicable financial reporting framework.[9] In addition, PCAOB standards require that the auditor evaluate whether the fair value measurements and disclosures in the financial statements are in conformity with GAAP.[10]

i. Audit of Issuer A's 2019 Financial Statements

9. The Firm issued an audit report dated March 26, 2020, containing an unqualified audit opinion on Issuer A's financial statements for the FYE December 31, 2019. Mortimer, as the engagement partner, authorized the Firm's issuance of the audit report, which was included in Issuer A's Form 10-K filed with the Commission on April 2, 2020.

10. In its Form 10-K, Issuer A reported net intangible assets, total assets, revenues, and net loss of approximately $1.1 million, $6.9 million, $2.3 million, and $4.6 million, respectively. It also disclosed that in January 2019, it purchased technology from a company in

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6 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

7 *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

8 *See* AS 1015.01, .07, *Due Professional Care in the Performance of Work*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 1105.04, *Audit Evidence*.

9 *See* AS 2810.31, *Evaluating Audit Results*.

10 *See* AS 2502.15, *Auditing Fair Value Measurements and Disclosures*.

exchange for 7.5 million shares of Issuer A's common stock. The shares were issued to the owner of the company and valued at $131,625, reflecting the book value of those shares. Issuer A recorded $131,625 of intangible assets in its financial statements.

11. During the 2019 audit, Respondents failed to evaluate whether Issuer A's accounting for the acquired technology was recorded in conformity with GAAP. GAAP requires that assets acquired be measured at either the fair value of the consideration given or the fair value of the assets acquired, whichever is more clearly evident.[11] Respondents obtained the relevant agreement and agreed the purchase price to that agreement. In addition, Respondents determined that the fair value of the common stock issued was $510,000, a difference of $378,375 from book value. Respondents failed, however, to evaluate whether the assets acquired, recorded by Issuer A at the book value of the shares, were accounted for in conformity with GAAP.[12]

12. In its Form 10-K, Issuer A also disclosed that in December 2019, it acquired 51% of the issued and outstanding equity interest of a business in exchange for 37.5 million shares of common stock. Although Issuer A acquired 51% of the outstanding equity, it recorded only inventory, totaling $487,500, related to this acquisition in its 2019 financial statements. In addition, the acquisition agreement required that if the 37.5 million shares issued were valued at less than $1 million, Issuer A would issue additional shares to ensure that the total value of the shares issued equaled $1 million.

13. During the 2019 audit, Respondents failed to evaluate whether Issuer A's accounting for the acquisition was recorded in conformity with GAAP. Generally, GAAP requires that an acquisition be treated as a business combination when the acquirer obtains control of the business.[13] If the acquisition is not determined to be a business combination, then it is recorded as an asset acquisition and the entity applies the acquisition method.[14] Although Respondents obtained the share purchase agreement and recalculated the value of inventory acquired, they failed to evaluate whether the acquisition, accounted for as a purchase of inventory and documented in the workpapers as "essentially purchas[ing] . . . inventory," was recorded in conformity with GAAP.[15]

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[11] *See* Financial Accounting Standards Board Accounting Standards Codification Topic ("ASC") 805-50-30-2, *Business Combinations*.

[12] *See* AS 2810.30-.31.

[13] *See* ASC 805-10-25-1.

[14] *Id*.

[15] *See* AS 2810.30-.31.

14. In its Form 10-K, Issuer A disclosed that throughout the year it issued 17 million options of its common stock to a former officer and certain directors, which Issuer A valued in the aggregate at $381,000. Respondents assessed the combined risk of material misstatement as high for equity transactions. Nevertheless, other than obtaining management representations, Respondents failed to perform any audit procedures to test whether the issued stock options were properly valued and properly disclosed in accordance with PCAOB standards.[16]

15. Accordingly, Respondents violated AS 1015, AS 1105, AS 2301, AS 2502, and AS 2810 by failing to: (1) exercise due professional care and professional skepticism; (2) evaluate whether the financial statements were presented fairly and in conformity with GAAP; and (3) perform audit procedures to test stock options.

ii. Audit of Issuer B's 2019 Financial Statements

16. The Firm issued an audit report dated January 15, 2020, containing an unqualified audit opinion on Issuer B's financial statements for the FYE July 31, 2019. Mortimer, as the engagement partner, authorized the Firm's issuance of the audit report, which was included in Issuer B's Form 10-K filed with the Commission on January 16, 2020.

17. In its Form 10-K, Issuer B disclosed that it issued 8 million shares of Series D Preferred Stock, which Issuer B valued at approximately $8,000, recorded at par value.[17] Generally, GAAP requires that share-based payment transactions be measured based on the fair value of the equity instruments issued.[18] Although Respondents obtained the relevant agreement and recalculated the par value of the issued stock, they failed to evaluate whether Issuer B's accounting for the preferred stock was in conformity with GAAP.[19]

18. Accordingly, Respondents violated AS 1015 and AS 2810 by failing to: (1) exercise due professional care and professional skepticism; and (2) evaluate whether the financial statements were presented fairly and in conformity with GAAP.

19. On November 17, 2020, Issuer B disclosed in its Form 10-K for the FYE July 31, 2020, that it had restated its financial statements for FYE July 31, 2019 "to correct the valuation

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16 *See* AS 2301.08; AS 2502.15; 1105.04; 1105.11.

17 "Par value" (a/k/a "nominal value") is the value of a single share as set by a corporation's charter and is not typically related to the actual value of the share. For this particular transaction, the par value was $0.001 per share.

18 *See* ASC 718, *Compensation – Stock Compensation*.

19 *See* AS 2810.30-.31.

of shares issued for services," after having determined that the shares should have been recorded at fair value rather than par value. The restatement increased operating expenses and net loss by approximately $4.77 million.

E. The Firm Violated PCAOB Rules and Quality Control Standards

20. PCAOB rules and standards require that a registered firm have a system of quality control for its accounting and auditing practice.[20] A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and procedures established to provide the firm with reasonable assurance of complying with professional standards.[21] A firm's system of quality control should, among other things, include policies and procedures for engagement performance and monitoring.[22] Specifically, a firm should establish policies and procedures for engagement performance to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[23] A firm should also establish policies and procedures for monitoring to provide the firm with reasonable assurance that its quality control policies and procedures are suitably designed and are being effectively applied.[24]

21. From 2016 through 2019, the Firm failed to establish and maintain policies and procedures that provided reasonable assurance that its personnel complied with applicable professional standards and regulatory requirements. Specifically, the Firm's quality control system failed to ensure, in multiple instances, that Firm personnel evaluated whether its issuer clients' financial statements were presented fairly and in conformity with GAAP. In addition, the Firm was aware of significant engagement deficiencies in its prior years' audits inspected by the PCAOB in 2016 and 2018, related to its testing of purchase accounting and equity transactions. During the 2016 inspection, the PCAOB inspectors notified the Firm of significant engagement deficiencies related to the engagement team's testing of, among other things, purchase accounting. During the 2018 inspection, the PCAOB inspectors notified the Firm of significant engagement deficiencies related to the engagement team's testing of, among other things, equity transactions. Despite knowing about significant engagement deficiencies regarding these issues, the Firm failed to effectively implement policies and procedures to provide it with

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[20] *See* PCAOB Rule 3400T, *Interim Quality Control Standards*; QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[21] *See* QC § 20.04.

[22] QC § 20.07.

[23] QC § 20.17.

[24] *See* QC § 20.20; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

reasonable assurance that its engagement personnel would comply with applicable professional standards in violation of QC § 20.

22. In addition, although the Firm's written policies in place during the 2019 Audits stated that an integral part of its monitoring process for its system of quality control would be annual internal inspections, since at least 2016, the Firm failed to undertake any internal inspections or other monitoring procedures with respect to its PCAOB issuer audits. As a result, the Firm violated QC §§ 20 and 30 by failing to have monitoring procedures to enable the Firm to obtain reasonable assurance that its system of quality control was effective.

F. Mortimer Directly and Substantially Contributed to BMKR's Quality Control Violations

23. PCAOB Rule 3502 states that "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[25]

24. At the time of the 2016 and 2018 PCAOB inspections, Mortimer served as one of three partners at BMKR and, since September 2019, was responsible for overseeing the Firm's system of quality control. Mortimer also performed engagement quality reviews on the Firm's prior years' audits inspected by the PCAOB in 2016 and 2018. In addition, Mortimer served as the engagement partner on the 2019 Audits. In his management roles, Mortimer was responsible, at least in part, for the Firm's system of quality control, and was aware of the PCAOB inspection findings identifying deficiencies discussed above. Yet Mortimer knowingly failed to take appropriate actions to provide reasonable assurance that the Firm's policies and procedures were suitably designed and being effectively applied. Specifically, Mortimer, as the partner in charge of the Firm's system of quality control and the engagement partner on the 2019 Audits, was in a position to ensure that the Firm complied with PCAOB rules and standards.

25. As a result, Mortimer knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of PCAOB quality control standards in violation of Rule 3502.

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[25] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

IV.

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

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

B. After two years from the date of this Order, BMKR LLP may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Joseph Mortimer is barred from being an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[26]

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

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon BMKR LLP, and a civil money penalty in the amount of $10,000 is imposed upon Joseph Mortimer. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay the civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C.

[26] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Mortimer. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***By consenting to this Order, Respondents acknowledge that a failure to pay the civil money penalty described above may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b) or a reapplication for registration pursuant to PCAOB Rule 2101.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 24, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Scott Marcello, CPA,

Respondent.

PCAOB Release No. 105-2022-004

April 5, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or PCAOB) is:

(1) censuring Scott Marcello, CPA ("Marcello" or "Respondent"); and

(2) imposing a civil money penalty of $100,000 on Marcello.

The Board is imposing these sanctions on the basis of its finding that, pursuant to Section 105(c)(6) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), Marcello failed reasonably to supervise associated persons of KPMG LLP ("KPMG") who illegally obtained and used confidential PCAOB information in violation of PCAOB rules and provisions of the securities laws related to the preparation and issuance of audit reports and the obligations and liabilities of accountants, including Securities and Exchange Commission ("Commission") rules.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(2) against Respondent.

II.

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

these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Scott Marcello** is a certified public accountant licensed in the states of Florida (license no. AC17907 (active)), Connecticut (license no. CPAL.0010221(inactive)), and New York (license no. 087367 (inactive)). Marcello served as the Vice Chair of Audit for KPMG from July 2015 until April 2017 and, at all relevant times, was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Marcello was separated from KPMG in April 2017.

B. Summary

2. This matter concerns Marcello's failure reasonably to supervise senior members of KPMG's audit practice who unlawfully obtained and used confidential PCAOB information.[2] Under Marcello's supervision, several of his subordinates, including his direct report, KPMG's National Managing Partner for the Professional Practice Group, obtained confidential lists of the audits that the PCAOB would select for review during its 2016 and 2017 inspections of KPMG. Marcello's subordinates used the 2016 confidential information to enhance the audit documentation for the engagements on those lists in an attempt to improve KPMG's inspection results. The conduct of Marcello's subordinates violated PCAOB rules and securities laws related to the preparation and issuance of audit reports and the obligations and liabilities of accountants, including Commission rules.[3]

3. Pursuant to Section 105(c)(6) of the Act, Marcello, as a supervisory person of KPMG, failed to take sufficient and appropriate steps to reasonably supervise his subordinates with a view to preventing their misconduct.

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

[2] *See KPMG LLP*, SEC Exchange Act Rel. No. 86118 (June 17, 2019).

[3] *See, e.g.*, *David Britt, CPA*, SEC Exchange Act Rel. No. 92514 (July 28, 2021); *Thomas Whittle, CPA*, SEC Exchange Act Rel. No. 92513 (July 28, 2021); *David Middendorf, CPA*, SEC Exchange Act Rel. No. 87969 (Jan. 15, 2020); *Cynthia Holder, CPA*, SEC Exchange Act Rel. No. 87642 (Nov. 29, 2019); *Brian Sweet, CPA*, SEC Exchange Act Rel. No. 82557 (Jan. 22, 2018).

C. Marcello Failed Reasonably to Supervise KPMG Personnel Who Obtained and Used PCAOB Confidential Information

i. Applicable Law

4. Section 105(c)(6) of the Act provides that the Board may impose sanctions on a supervisory person of a registered public accounting firm if the Board finds that an associated person of the firm commits certain violations (hereafter, "predicate violations") and "the firm has failed reasonably to supervise [that] associated person, either as required by the rules of the Board relating to auditing or quality control standards, or otherwise, with a view to preventing" such violations.

5. As Vice Chair of Audit, Marcello was in charge of KPMG's audit practice and he had responsibility for implementation and monitoring of KPMG's audit-related quality control policies and procedures. As a result, Marcello was a "supervisory person" of KPMG, as that term is used in Section 105(c)(6) of the Act. As described below, Marcello failed reasonably to supervise several KPMG associated persons who committed predicate violations.

ii. Background: PCAOB Inspection Process and KPMG's Inspection Results

6. The Act directs the Board to conduct a continuing program of inspections to assess registered public accounting firms' compliance with applicable laws, rules and professional standards during the period covered by an inspection.[4] Board inspections are designed to identify and address weaknesses and deficiencies related to how a firm conducts its issuer and broker-dealer audits. To achieve that goal, Board inspections include an evaluation of a firm's performance in selected audit engagements, as well as an evaluation of the design and operating effectiveness of the firm's quality control policies and procedures. Registered firms that issue audit reports for more than 100 issuers, including KPMG, are required to be inspected by the PCAOB annually.[5]

7. To ensure the integrity of the inspection process, the Board closely guards the confidentiality of its inspection selections. Typically, the Board's Division of Registration and Inspections ("DRI") does not reveal those selections to the firm under inspection until after the

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[4] *See* Act § 101(c)(3), 15 U.S.C. § 7211(c)(3); *id.* § 104(a)(1), 7214(a)(1).

[5] *See id.* § 104(a)(1), § 7214(b)(1)(A).

"documentation completion dates" for the audits being reviewed and shortly before beginning its inspection field work procedures.[6]

8. Between 2010 and 2014, the rate of deficiencies that the Board identified in the KPMG audits that it reviewed increased each year. More specifically, the percentage of inspected audits in which the Board found that KPMG had failed to obtain sufficient evidence to support its audit opinions (or had failed to fulfill the objectives of its role when it was assigned work by another auditor) steadily increased, from 22 percent in the 2010 inspection to 54 percent in the 2014 inspection.

9. Many of the deficiencies the Board identified during its inspections concerned KPMG's audits of banks and, in particular, the KPMG engagement teams' evaluation of allowances, *i.e.*, reserves, that KPMG's banking clients had recorded for potential losses in their loan portfolios.

10. In light of this inspection history, KPMG determined to take various steps to attempt to improve its results in future PCAOB inspections. One of those steps was to recruit to the Firm personnel from DRI, including individuals who had participated in inspections of KPMG and had identified deficiencies in certain of the Firm's audit work. In May 2015, KPMG hired Brian Sweet as a partner. Immediately prior to joining KPMG, Sweet worked in DRI. While at the PCAOB, Sweet, who had experience auditing and inspecting the audits of banks, was part of the team that inspected KPMG.

iii. Predicate Violations by KPMG's Associated Persons

11. In July 2015, two months after Sweet joined KPMG, the Firm appointed Marcello as Vice Chair of Audit. In his role as Vice Chair, Marcello supervised KPMG's audit practice, which included the Department of Professional Practice ("DPP"), headed by David Middendorf.

12. DPP included an Inspections group responsible for overseeing KPMG's participation in PCAOB inspections. Thomas Whittle, who reported to Middendorf, headed this Inspections group. David Britt, another partner in KPMG's DPP and the co-leader of the Firm's Banking and Capital Markets group, reported to KPMG's Chief Auditor, who, in turn, reported to Middendorf.

[6] Under PCAOB standards, a "complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)." AS 1215.15, *Audit Documentation*.

13. When Sweet joined KPMG, he became part of DPP's Inspections group, reporting to Whittle. After several months at the Firm, Sweet recruited Cynthia Holder, a former colleague from the PCAOB, to join him in KPMG's Inspections group.

14. Between 2015 and February 2017 (both before and after Marcello became Vice Chair of Audit), Middendorf, Whittle, Britt, Sweet, and Holder obtained and used confidential PCAOB inspection information to improve KPMG's inspection results, including for banking clients. The scheme included using an employee at the PCAOB to provide confidential lists of PCAOB inspection selections and inspection focus areas so that KPMG could target resources to those audits in advance of PCAOB inspections.

15. In March 2016, Holder obtained from a PCAOB inspector, Jeffrey Wada, a list of several KPMG issuer clients, mostly banks, whose audits the PCAOB intended to review as part of its 2016 inspection of the Firm (the "2016 Inspections List"). Holder shared the 2016 Inspection List with Sweet, who, in turn, informed Middendorf, Whittle, and Britt of it.

16. Upon receiving that confidential information, Middendorf, Whittle, and Britt instructed Sweet and others to perform examinations of the audit work papers for seven banking clients on the 2016 Inspections List outside of KPMG's normal processes. The reviews consisted of partners outside of the engagement teams re-reviewing the audit work papers of the seven banking clients after KPMG's audit reports had been issued for those clients, but before the respective documentation completion dates for the audits. The re-reviews uncovered problems with audit documentation as well as concerns about substantive audit issues, which Middendorf, Whittle, and the others attempted to have addressed in hopes of improving KPMG's inspection results.

17. In early February 2017, Holder again received from Wada a confidential list, this time the entire list, of the KPMG audits that the PCAOB intended to review as part of its 2017 inspection of the Firm (the "2017 Inspections List"). Holder shared the 2017 Inspections List with Sweet, who promptly informed Middendorf, Whittle, and Britt of it.

18. Before the confidential information from the 2017 Inspections List could be used, one of the engagement partners, who had been informed by Sweet that the PCAOB was planning to review her audit, recognized that prior knowledge that the PCAOB would inspect the audit was confidential information that KPMG should not have. The partner then contacted a supervisor, who in turn escalated the matter. Ultimately, KPMG's Office of General Counsel was informed and began an internal investigation.

19. As a result of the scheme to obtain and use confidential information for KPMG's benefit, Middendorf, Whittle, Britt, Sweet, and Holder, all violated, among other provisions, PCAOB Rule 3500T, *Interim Ethics and Independence Standards*.[7]

20. KPMG failed to adequately supervise Middendorf, Whittle, Britt, Sweet, and Holder as required by PCAOB quality control standards. Indeed, KPMG failed to implement and monitor sufficient policies and procedures to provide "reasonable assurance that . . . personnel . . . perform all professional responsibilities with integrity."[8]

iv. Marcello Failed to Reasonably Supervise

21. In his role as a supervisory person of KPMG, Marcello failed reasonably to supervise Middendorf and other subordinates with a view to preventing the predicate violations described above. Specifically, Marcello failed to take appropriate and immediate steps when he learned that KPMG had received confidential PCAOB inspection information in both 2016 and 2017. As a result, Marcello failed reasonably to supervise associated persons of KPMG under Section 105(c)(6) of the Act.

a. KPMG's Focus on Inspection Results

22. KPMG promoted Marcello to Vice Chair of Audit, in part, to improve its relationship with the PCAOB, including by reversing the trend of poor inspection results. After being appointed Vice Chair of Audit, Marcello met with the SEC and the PCAOB, both of which expressed disappointment with KPMG's inspection performance, specifically with respect to its audits of banks. Thereafter, Marcello's actions contributed to a culture in which KPMG personnel, including Marcello's subordinates, perceived that improving the Firm's inspection results took priority over improvements in overall audit quality.

b. 2016 Confidential Information

23. In March 2016, Marcello learned from Middendorf that KPMG had obtained advance information about certain PCAOB inspection selections of KPMG audits. Specifically,

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[7] *See, e.g.*, *David Britt, CPA*, SEC Exchange Act Rel. No. 92514 (July 28, 2021) (consenting to entry of an order denying him the privilege of appearing or practicing before the Commission as an accountant); *Thomas Whittle, CPA*, SEC Exchange Act Rel. No. 92513 (July 28, 2021) (same); *David Middendorf, CPA*, SEC Rel. No. 87969 (Jan. 15, 2020) (order suspending him from appearing or practicing before the Commission); *Cynthia Holder, CPA*, SEC Exchange Act Rel. No. 87642 (Nov. 29, 2019) (consenting to entry of an order denying her the privilege of appearing or practicing before the Commission as an accountant); *Brian Sweet, CPA*, SEC Exchange Act Rel. No. 82557 (Jan. 22, 2018) (same).

[8] *See KPMG LLP*, SEC Exchange Act Rel. No. 86118, at 13-14 (June 17, 2019) (finding that KPMG violated QC § 20.09, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*).

Marcello understood that KPMG had obtained information about PCAOB inspection selections or potential selections through Sweet's contacts at the PCAOB, which Marcello should have recognized was inappropriate. At the time, Marcello also understood that for all of the selections, which included the Firm's audits of several banks, the documentation completion date for the final assembly of work papers had not passed.[9] Marcello further understood that KPMG personnel intended to review the work papers for those audits and could enhance the documentation in an effort to improve inspection results.

24. Despite knowing that Middendorf and others had received advance notice of certain inspection selections and intended to review and could enhance work papers for those audits, Marcello failed to take appropriate action in response. Marcello did not report or escalate the matter, or instruct Middendorf and other subordinates to refrain from using the PCAOB's confidential information. In failing to take action in response to learning about the receipt and intended use of confidential information in 2016, Marcello missed an opportunity to change the tone at the top of the Firm, which could have helped prevent further violations.

c. 2017 Confidential Information

25. On February 7, 2017, Middendorf reported to Marcello that Sweet had obtained a list of 2017 PCAOB inspection selections. Marcello understood that the list had come from someone inside the PCAOB. Marcello, however, again failed to respond appropriately, including by failing to promptly report the receipt of that highly confidential information to anyone at KPMG or the PCAOB. Instead, over the course of a week, he and Middendorf had several conversations about the list and what to do with the information, though they agreed that no one should use the information while they decided what to do with it.

26. Marcello ultimately reported the receipt of the confidential information, but only after he learned of others' negative reaction to KPMG having the information. First, Marcello learned from Middendorf that KPMG's Chief Auditor had a very negative reaction to learning that Sweet had obtained the confidential inspection information. Second, Marcello also learned from Middendorf that a professional practice partner likewise had a very negative reaction to learning that KPMG had obtained confidential PCAOB inspection information. Finally, two partners who had learned of the issue from the professional practice partner informed Marcello of additional details concerning the situation and that they were troubled by KPMG having the list and would report the issue themselves if Marcello did not. After that meeting Marcello escalated the issue, reporting it to KPMG's in-house counsel on February 14, 2017, a week after learning of KPMG's receipt of the confidential 2017 Inspections List.

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[9] *See* AS 1215.15.

27. As a result of the actions and omissions described above, pursuant to Section 105(c)(6) of the Act, Marcello failed reasonably to supervise Middendorf and other subordinates, with a view to preventing the predicate violations that they committed.

IV.

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

A. Pursuant to Sections 105(c)(4)(E) and 105(c)(6) of the Act and PCAOB Rule 5300(a)(5), Marcello is censured; and

B. Pursuant to Sections 105(c)(4)(D) and 105(c)(6) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $100,000 is imposed upon Marcello. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Marcello shall pay the civil money penalty within 10 days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, certified check, bank cashier's check, or bank money order (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and (c) submitted under a cover letter which identifies Scott Marcello as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 5, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of JLKZ CPA LLP and Jimmy P. Lee, CPA,

Respondents.

PCAOB Release No. 105-2022-005

April 19, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) Censuring JLKZ CPA LLP ("JLKZ") and Jimmy P. Lee, CPA ("Lee" and, together with JLKZ, "Respondents");

(2) Limiting JLKZ's activities, for a period of two years from the date of this Order, by prohibiting JLKZ from accepting engagements to prepare or issue audit reports for new clients that are issuers, brokers, or dealers, as those terms are defined by the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB rules; and

(3) Imposing a civil money penalty in the amount of $50,000 jointly and severally on Respondents.

The Board is imposing these sanctions on the basis of Respondents' violations of PCAOB rules and standards in connection with JLKZ's issuance of audit reports for two issuers after the underlying audits had been performed by a separate public accounting firm that was not registered with the Board.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents each consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds[2] that:

A. Respondents

1. **JLKZ CPA LLP** is a partnership organized under the laws of the state of New York and headquartered in Flushing, New York. The firm registered with the Board, pursuant to Section 102 of the Act and PCAOB rules, on November 28, 2018.

2. **Jimmy P. Lee, CPA** is a certified public accountant registered with the New York State Education Department (License No. 110032). Lee is the managing partner of JLKZ and an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Other Relevant Entities

3. SBA Stone Forest CPA Co., Ltd. ("Stone Forest") is a limited liability corporation headquartered in Shanghai, China. Stone Forest is a public accounting firm, as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii). Stone Forest is not now, and never has been, registered with the Board.

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

[2] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

4. Issuer A was, at all relevant times, a Cayman Islands corporation headquartered in Huli District, Xiamen, China. It was, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. Issuer B was, at all relevant times, a Cayman Islands corporation headquartered in Flushing, New York. It was, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

6. This case concerns Respondents' conduct in allowing audit reports to be issued by JLKZ after the underlying audits had been conducted by an unregistered public accounting firm.

7. Specifically, JLKZ entered into an arrangement with Stone Forest contemplating that Stone Forest personnel would act as the engagement partner and engagement quality review ("EQR") partner for certain issuer audits, and that Stone Forest would receive the majority of the audit fees for such audits.

8. The 2019 audits of Issuer A and Issuer B were conducted under that arrangement: Stone Forest personnel served as the engagement partner, EQR partner, and audit staff. JLKZ's involvement in these audits was limited to a review of certain work papers, primarily to check that they used JLKZ templates, and a draft of the financial statements by Lee near the end of the audit. Lee nonetheless agreed to the issuance of audit reports for Issuer A and Issuer B by JLKZ.

9. By issuing audit reports where it had not conducted the underlying audits, JLKZ violated AS 3101, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*. By taking or omitting to take actions knowing, or recklessly not knowing, that his acts and omissions would directly and substantially contribute to the Firm's AS 3101 violations, Lee violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

D. Background

10. On or about February 1, 2019, Stone Forest submitted a registration application to the Board. On February 26, 2019, the Board requested that Stone Forest provide certain additional information. To date, Stone Forest has not responded to the Board's information request and is not registered with the Board.

11. On June 29, 2019, Stone Forest entered into a "Collaborative Professional Service Agreement" with JLKZ providing that, "[a]t each Party's sole discretion, a Party may periodically seek to engage the other Party to perform services (the 'Services') on projects (each a 'Project')." The Collaborative Professional Service Agreement was signed by Lee on behalf of JLKZ and by a director of Stone Forest ("Stone Forest Director") on behalf of Stone Forest.

12. The same day, the Stone Forest Director also entered into an agreement between himself and JLKZ. The agreement stated that the Stone Forest Director's relationship to JLKZ was "that of an independent contractor" and that "[n]othing in this agreement shall be construed to form an employer-employee relationship." The agreement further provided that "[e]ach party has no authority, right, or ability to bind or commit each other Party in any way."

13. Two weeks later, on July 11, 2019, a partner in Stone Forest ("Stone Forest Partner") likewise entered into an agreement with JLKZ, the terms of which were substantially the same as those of the Stone Forest Director's agreement with JLKZ. Lee signed both agreements on behalf of JLKZ.

14. On June 28, 2020, Stone Forest entered into an "Alliance and Joint Marketing Agreement" with JLKZ, which stated that the two firms would "enter[] into an alliance with each other . . . for the purposes of soliciting clients and prospects for both [Stone Forest] and JLKZ." Lee and the Stone Forest Partner signed this agreement on behalf of JLKZ and Stone Forest, respectively.

15. The Alliance and Joint Marketing Agreement provided that for PCAOB audit engagements "where [Stone Forest's] partner(s) shall be the engagement partner and engagement quality reviewer for the Engagements . . . [Stone Forest] shall retain 80% of the Client Fees" and "JLKZ must be the technical quality and/or firm quality control reviewer for the Engagements and [Stone Forest] shall pay to JLKZ 20% of the Client Fees."

16. The Alliance and Joint Marketing Agreement between JLKZ and Stone Forest further provided that "[e]ach party will be solely responsible to the client for their respective services rendered to the client. Delivery of services and invoicing will be processed independently and the parties covenant that to the extent practicable, to co-ordinate the delivery and completion of services."

17. The 2019 audits of Issuer A and Issuer B were performed pursuant to the above arrangement among JLKZ and Stone Forest, the Stone Forest Director, and the Stone Forest Partner.

E. Respondents Violated PCAOB Rules and Standards

18. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[3]

i. JLKZ Issued Audit Reports for Issuer A and Issuer B Without Conducting an Audit in Accordance with PCAOB Standards

19. PCAOB standards provide that "[t]he auditor is in a position to express an unqualified opinion on the financial statements when the auditor conducted an audit in accordance with the standards of the Public Company Accounting Oversight Board ('PCAOB') and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework."[4]

20. Stone Forest's personnel planned, performed, and supervised the audits of Issuer A's and Issuer B's 2019 financial statements as of December 31, 2019. Despite Stone Forest's performance of the underlying audits, JLKZ issued an audit report on Issuer A's and Issuer B's 2019 financial statements.

21. Because Stone Forest, not JLKZ, performed the underlying audits, JLKZ was not in a position to express an opinion on Issuer A's or Issuer B's 2019 financial statements.[5] In doing so, JLKZ violated AS 3101.

a. The 2019 Audit of Issuer A

22. The Stone Forest Director obtained the 2019 Issuer A audit engagement after Issuer A's audit committee chairman, who had previously worked with the Stone Forest

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[3] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[4] AS 3101.02.

[5] *See id.*; *see also Auditor Considerations Regarding Using the Work of Other Auditors and Engaging Assistants from Outside the Firm*, Staff Audit Practice Alert No. 6, at 7 (July 12, 2010) (describing how PCAOB inspectors identified inspection findings where "the level of [a] firm's involvement in the audit work performed by [another firm] was not sufficient for the firm to assert that an audit had been performed by the firm and that the audit provided a reasonable basis for the firm to have an opinion on the financial statements").

Director at an unrelated entity, approached the Stone Forest Director about the audit engagement opportunity.

23. The Stone Forest Director served as the engagement partner, and the Stone Forest Partner served as the EQR partner, for the Issuer A audit. As engagement partner, the Stone Forest Director supervised the planning and performance of the audit procedures and authorized the issuance of the audit report.

24. Stone Forest personnel acted as the audit staff for the Issuer A audit and performed the audit procedures.

25. Stone Forest billed the audit fees directly to, and was paid by, Issuer A.

26. Accordingly, Stone Forest and its personnel obtained, supervised, performed, and billed the client for the 2019 Issuer A audit engagement.

27. Near the end of the audit, and before the audit report was issued under JLKZ's name, Lee reviewed certain work papers, primarily to check that they used JLKZ templates, and a draft of the financial statements. He drafted a memorandum documenting certain questions he had in connection with his review.

28. Lee considered that the purpose of his review was to gain assurance that the Issuer A audit had been conducted in a manner that was consistent with JLKZ's quality control policies and procedures.

29. Lee's review was insufficient for JLKZ to conclude that it had performed the audit or to provide a reasonable basis for the firm to issue an opinion on the financial statements.[6]

30. Nonetheless, on May 11, 2020, JLKZ issued an audit report expressing an unqualified opinion on Issuer A's 2019 financial statements. Issuer A filed JLKZ's audit report with the Commission.

31. Because Stone Forest, not JLKZ, performed the 2019 Issuer A audit, JLKZ did not conduct an audit in accordance with the standards of the PCAOB.[7] By expressing an unqualified

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[6] *See* AS 3101.02; *see also Auditor Considerations Regarding Using the Work of Other Auditors and Engaging Assistants from Outside the Firm*, Staff Audit Practice Alert No. 6, at 7.

[7] *See* AS 3101.02.

opinion on Issuer A's financial statements without having conducted an audit of those financial statements, JLKZ violated AS 3101.

b. The 2019 Audit of Issuer B

32. The Stone Forest Partner obtained the 2019 Issuer B audit engagement after a business contact who knew about the engagement opportunity approached him about it.

33. The Stone Forest Partner served as the engagement partner, and the Stone Forest Director served as the EQR partner, for the Issuer B audit. As engagement partner, the Stone Forest Partner supervised the planning and performance of the audit procedures and authorized the issuance of the audit report.

34. Stone Forest personnel acted as the audit staff for the Issuer B audit and performed the audit procedures.

35. Stone Forest billed the audit fees directly to, and was paid by, Issuer B.

36. Accordingly, Stone Forest and its personnel obtained, supervised, performed, and billed the client for the 2019 Issuer B audit engagement.

37. As with the Issuer A audit, Lee reviewed certain work papers, primarily to check that they used JLKZ templates, and a draft of the financial statements near the end of the Issuer B audit. Lee's review was insufficient for JLKZ to conclude that it had performed the audit or to provide a reasonable basis for the firm to issue an opinion on the financial statements.[8]

38. Nonetheless, on July 29, 2020, JLKZ issued an audit report expressing an unqualified opinion on Issuer B's 2019 financial statements. Issuer B filed JLKZ's audit report with the Commission.

39. Because Stone Forest, not JLKZ, performed the Issuer B audit, JLKZ did not conduct an audit in accordance with the standards of the PCAOB.[9] By expressing an unqualified opinion on Issuer B's financial statements without having conducted an audit of those financial statements, JLKZ violated AS 3101.

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[8] *See* AS 3101.02; *see also Auditor Considerations Regarding Using the Work of Other Auditors and Engaging Assistants from Outside the Firm*, Staff Audit Practice Alert No. 6, at 7.

[9] *See* AS 3101.02.

ii. Lee Substantially Contributed to JLKZ's Violations of AS 3101

40. PCAOB rules prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to the firm's violation of PCAOB rules or professional standards.[10]

41. As JLKZ's managing partner, Lee was in a position to prevent the firm from issuing audit reports where it had not performed the underlying audits, but he failed to do so.

42. On behalf of JLKZ, Lee entered into agreements with Stone Forest and its personnel pursuant to which the two firms would "collaborate" in offering professional services to clients, with Stone Forest audit staff performing and supervising the audit procedures, and Stone Forest receiving 80% of the fees, for PCAOB audits.

43. Lee was further aware that, consistent with the agreements he had signed, the 2019 Issuer A and Issuer B audits were planned and conducted by Stone Forest personnel who served as the engagement partner and EQR partner for each audit.

44. Even though he knew, or was reckless in not knowing, that the 2019 Issuer A and Issuer B audits had been planned and performed by Stone Forest, not by JLKZ, Lee agreed to the issuance of the Issuer A and Issuer B audit reports in JLKZ's name. Accordingly, Lee directly and substantially contributed to JLKZ's violations of AS 3101, in violation of Rule 3502.

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rules 5300(a)(5), JLKZ CPA LLP and Jimmy P. Lee, CPA are censured;

B. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), JLKZ CPA LLP shall be prohibited, for a period of two years from the date of this Order, from accepting engagements to prepare or issue audit reports for new clients who are issuers, as that term is defined by Section 2(a)(7) of the Act and

[10] PCAOB Rule 3502.

PCAOB Rule 1001(i)(iii), as well as for new clients who are brokers or dealers, as those terms are defined by PCAOB Rules 1001(b)(iii) and 1001(d)(iii); and

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty of $50,000 jointly and severally on JLKZ CPA LLP and Jimmy P. Lee. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 19, 2022

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of WWC, P.C.,

Respondent.

PCAOB Release No. 105-2022-006

April 19, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring WWC, P.C. ("WWC" or "Respondent");

(2) imposing a civil money penalty in the amount of $50,000 on WWC; and

(3) requiring WWC to undertake and certify the completion of certain improvements to its system of quality control.

The Board is imposing these sanctions on the basis of WWC's conduct in connection with its use of audit work performed by WWC P.C. Limited ("WWC-Hong Kong"), a Hong Kong based affiliate of WWC that was not registered with the Board and played a substantial role in ten of WWC's issuer audits between 2017 and 2020. In addition, WWC failed to make timely and accurate Form AP and annual report filings. Specifically, the Board finds that WWC failed to reasonably supervise WWC-Hong Kong and failed to comply with PCAOB rules and standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rules 5200(a)(1) and (2).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, WWC has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of WWC's Offer, the Board finds that:

A. Respondent

1. **WWC, P.C.** is a professional corporation organized under the laws of California and headquartered in San Mateo, California. At all relevant times, WWC was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Other Relevant Entities

2. WWC P.C. Limited is a firm organized under the laws of, and headquartered in, Hong Kong. WWC-Hong Kong is owned by certain partners of WWC. At all relevant times, WWC-Hong Kong was a public accounting firm, as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii), and an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). WWC-Hong Kong is not now, and never has been, registered with the Board.

3. Issuers A through U were, at all relevant times, issuers as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). With respect to each of the audits of Issuers A through U referenced in this Order, WWC issued an audit report that the relevant issuer included in a filing with the U.S. Securities and Exchange Commission ("Commission").

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

C. Summary

4. This matter concerns WWC's conduct in allowing its unregistered affiliate, WWC-Hong Kong, to play a substantial role in numerous issuer audits.

5. WWC was aware that WWC-Hong Kong was required to register with the Board before it played a substantial role in WWC's issuer audits.[2] A "substantial role" is defined in PCAOB Rule 1001(p)(ii) as, among other things, performing "material services" that a public accounting firm uses or relies on in issuing all or part of an audit report. "Material services" means "services, for which the engagement hours or fees constitute 20% or more of the total engagement hours or fees, respectively, provided by the principal auditor in connection with the issuance of all or part of its audit report."[3] Indeed, the WWC partners who owned WWC-Hong Kong sought to register WWC-Hong Kong with the Board, but were unable to do so as a result of WWC-Hong Kong's inability to provide certain required information.

6. WWC nonetheless entered into an arrangement with WWC-Hong Kong pursuant to which WWC-Hong Kong participated in WWC's issuer audits. WWC failed to take any steps to ensure that WWC-Hong Kong's participation was consistent with PCAOB registration requirements, that is, that it did not constitute a "substantial role" in those audits.

7. WWC-Hong Kong's participation exceeded the 20% of total hours threshold with respect to ten issuer audits over the course of three years, including one audit where WWC-Hong Kong incurred 88% of the total audit hours. Due to its failure to adequately plan and supervise WWC-Hong Kong's participation in these ten audits, WWC failed to reasonably

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[2] Section 102(a) of the Act requires that an accounting firm must register with the Board "to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any issuer, broker, or dealer." 15 U.S.C. § 7212(a). Section 106(a)(2) of the Act provides that "[t]he Board may, by rule, determine that a foreign public accounting firm (or a class of such firms) that does not issue audit reports nonetheless plays such a substantial role in the preparation and furnishing of such reports for particular issuers, brokers, or dealers, that it is necessary or appropriate, in light of the purposes of this Act and in the public interest or for the protection of investors, that such firm (or class of firms) should be treated as a public accounting firm (or firms) for purposes of registration under, and oversight by the Board in accordance with, this subchapter." 15 U.S.C. § 7216(a)(2). PCAOB Rule 2100, *Registration Requirements for Public Accounting Firms*, requires an accounting firm that "plays a substantial role in the preparation or furnishing of an audit report with respect to any issuer" to register with the Board. Thus, by virtue of Section 106(a)(2) and Rule 2100, Section 102(a) is applicable to foreign accounting firms that play a substantial role in an issuer audit.

[3] PCAOB Rule 1001(p)(ii) n.1.

supervise an associated person under the Act and failed to comply with PCAOB rules and standards.[4]

8. In addition, WWC repeatedly failed to make required Form AP and annual report filings on a timely basis and failed to include all of the required information in those filings, in violation of PCAOB rules.

D. Background

9. In 2014, WWC-Hong Kong took steps to submit a registration application to the Board. However, WWC-Hong Kong did not complete the registration process after concluding that it would be unable to provide certain additional information necessary for the Board to take action on a registration application.[5] As a result, WWC-Hong Kong has remained unregistered and may not play a substantial role in the preparation or furnishing of an issuer audit report.

10. Because WWC-Hong Kong is owned entirely by partners of WWC, WWC was aware of WWC-Hong Kong's unregistered status.

11. WWC and WWC-Hong Kong entered into an agreement dated January 1, 2015. The agreement provided:

> [WWC] may from time-to-time request [WWC-Hong Kong] to render accounting, auditing, tax compliance and assurance services to the clients of [WWC]. . . . [WWC-Hong Kong] is responsible to provide personnel acceptable to [WWC] requirements to carry out procedures set forth by [WWC]. . . . [WWC-Hong Kong] will issue invoices on an engagement-by-engagement basis to [WWC] for services rendered and reasonably reimbursable expenses that are subject to the approval of [WWC].

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[4] All citations in this Order are to the standards and rules that were in effect at the time.

[5] *See Consideration of Registration Applications from Public Accounting Firms in Non-U.S. Jurisdictions Where There Are Unresolved Obstacles to PCAOB Inspections*, PCAOB Rel. No. 2010-007, at 3 (Oct. 7, 2010) (where a firm located in a jurisdiction where the Board has been unable to perform inspections submits a registration application, "the Board will ask the applicant to state its understanding of whether a PCAOB inspection of the firm would currently be allowed by local law or local authorities and, if the response is that the inspection would be allowed, to supply written confirmation of that point from the appropriate local regulatory authority").

12. Pursuant to the agreement between the two firms, WWC-Hong Kong participated in a number of WWC's issuer audits. For these audits, WWC personnel served as the engagement partner and engagement quality reviewer, while WWC-Hong Kong staff and a WWC-Hong Kong partner worked with WWC staff to perform the audit procedures. Per their agreement, WWC-Hong Kong invoiced WWC for the services it provided.

13. From 2017 through August 2019, WWC-Hong Kong exceeded the 20% of total hours threshold and therefore played a substantial role with respect to seven audits that WWC performed for six different issuers. As shown in the table below, WWC-Hong Kong's participation in these audits ranged from 21% to 88% of the total audit hours.

Audit	Percent of Total Audit Hours Incurred by WWC-Hong Kong
Audit of Issuer A's December 31, 2017 financial statements	69%
Audit of Issuer B's December 31, 2017 financial statements	65%
Audit of Issuer B's December 31, 2018 financial statements	88%
Audit of Issuer C's December 31, 2018 financial statements	29%
Audit of Issuer D's December 31, 2018 financial statements	21%
Audit of Issuer E's December 31, 2018 financial statements	42%
Audit of Issuer F's March 31, 2019 financial statements	30%

14. The Form AP Instructions for "Part IV – Responsibility for the Audit Is Not Divided" require that an auditor who uses an "other accounting firm"[6] that incurs more than 5% of the total hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP. Nonetheless, WWC did not report WWC-Hong Kong's participation in its Form AP filings for any of the seven audits listed in paragraph 13 above.

[6] *See Form AP – Auditor Reporting of Certain Audit Participants*, General Instruction No. 2 ("'other accounting firm' means (i) a *registered public accounting firm* other than the Firm; or (ii) any other *person* or entity that opines on the compliance of any entity's financial statements with an applicable financial reporting framework").

15. WWC omitted WWC-Hong Kong from its Form AP filings because, as the firm subsequently expressed, it understood that WWC-Hong Kong's participation in WWC's issuer audits as an unregistered firm "may be construed as a violation" of PCAOB requirements.

16. In October 2019, the PCAOB's Division of Registration and Inspections performed an inspection of WWC. In January 2020, the PCAOB inspectors issued a comment form criticizing, among other things, WWC's failure to report the participation of WWC-Hong Kong in certain Form AP filings and WWC's failure to make certain Form AP filings on a timely basis.

17. In response to the inspection comment, WWC represented to the inspectors that it would "continue to push forward" WWC-Hong Kong's registration application. Nonetheless, WWC subsequently continued to use WWC-Hong Kong in a substantial role on issuer audits while WWC-Hong Kong remained unregistered.

18. Specifically, as shown in the table below, WWC-Hong Kong exceeded the 20% of total hours substantial role threshold during three audits completed after WWC received the inspection comment form.

Audit	Percent of Total Audit Hours Incurred by WWC-Hong Kong
Audit of Issuer C's December 31, 2019 financial statements	28%
Audit of Issuer D's December 31, 2019 financial statements	47%
Audit of Issuer E's December 31, 2019 financial statements	28%

19. WWC made Form AP filings disclosing WWC-Hong Kong's participation in the 2019 audits of Issuers C and D, but its Form AP filing for the 2019 audit of Issuer E failed to disclose WWC-Hong Kong's participation in that audit.

20. With respect to the audits listed in the tables in paragraphs 13 and 18 above (the "Substantial Role Audits"), WWC failed to take adequate steps to plan or supervise the audits in a manner that would ensure that WWC-Hong Kong's audit hours did not exceed the substantial role threshold. For example, WWC neither documented any consideration of the 20% substantial role threshold nor performed any analysis of whether the hours expected to be incurred by WWC-Hong Kong would exceed that threshold.

E. WWC Failed to Reasonably Supervise WWC-Hong Kong and Violated PCAOB Rules and Standards

21. During the Substantial Role Audits, WWC-Hong Kong incurred more than 20% of the total engagement hours. Accordingly, WWC-Hong Kong played a substantial role in each of these audits without being registered with the Board, in violation of Section 102(a) of the Act and PCAOB Rule 2100.

22. WWC failed to reasonably supervise WWC-Hong Kong's participation in the Substantial Role Audits in a manner designed to avoid violations of Section 102(a) and PCAOB Rule 2100, and WWC likewise failed to properly plan the Substantial Role Audits.

i. WWC Failed to Reasonably Supervise WWC-Hong Kong

23. Section 105(c)(6) of the Act provides that the Board may impose sanctions on a registered public accounting firm if the Board finds that (1) the firm has failed to reasonably supervise an associated person, either as required by the rules of the Board relating to auditing or quality control standards, or otherwise, with a view to preventing violations of the Act or the rules of the Board; and (2) such associated person commits a violation of the Act or Board rules.

24. Under Section 2(a)(9) of the Act, the term "person associated with a registered public accounting firm" includes "any . . . entity that, in connection with the preparation or issuance of any audit report—(i) shares in the profits of, or receives compensation in any other form from, that firm; or (ii) participates as agent or otherwise on behalf of such accounting firm in any activity of that firm." WWC-Hong Kong invoiced WWC for the services it provided in connection with the Substantial Role Audits. Thus, WWC-Hong Kong "receive[d] compensation" from WWC in connection with the preparation and issuance of WWC's audit reports. In addition, because it performed audit work at the direction, and under the supervision, of WWC, WWC-Hong Kong acted as an "entity that, in connection with the preparation or issuance of [WWC's] audit report[s,] . . . participate[d] as agent or otherwise on behalf of [WWC]." Accordingly, WWC-Hong Kong was an "associated person" of WWC during the Substantial Role Audits.

25. WWC had a responsibility to reasonably supervise its associated persons during its issuer audits. WWC knew that WWC-Hong Kong was unregistered and that its participation in issuer audits "may be construed as a violation" of PCAOB rules.

26. WWC failed to reasonably supervise WWC-Hong Kong during the Substantial Role Audits with a view to preventing violations of the registration requirements set forth in Section 102(a) of the Act and PCAOB Rule 2100. Rather, WWC allowed WWC-Hong Kong, while

unregistered, to play a substantial role in those audits without performing an analysis of WWC-Hong Kong's participation or taking adequate steps to ensure that WWC-Hong Kong's participation would not constitute a substantial role.

27. Indeed, WWC allowed WWC-Hong Kong to play a substantial role in ten issuer audits—including three audits after the January 2020 PCAOB inspection comment form raised the issue of WWC-Hong Kong's unreported participation in WWC's audits, and after WWC's response to the comment form highlighted WWC-Hong Kong's unregistered status.

28. Because WWC-Hong Kong incurred more than 20% of the total audit hours during the Substantial Role Audits, it performed material services used by WWC in issuing WWC's audit reports. WWC-Hong Kong therefore violated Section 102(a) of the Act and Rule 2100 by playing a substantial role in the Substantial Role Audits without being registered with the Board.

29. Accordingly, WWC failed to reasonably supervise WWC-Hong Kong under Section 105(c)(6) of the Act.

ii. WWC Violated PCAOB Rules and Standards

30. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7]

31. PCAOB standards provide that, as part of audit planning, the auditor should establish an overall audit strategy.[8] The auditor should take into account "[t]he factors that are significant in directing the activities of the engagement team" and "[t]he nature, timing, and extent of resources necessary to perform the engagement."[9] PCAOB standards also require that "[d]ue professional care is to be exercised in the planning and performance of the audit and the preparation of the report."[10]

32. In establishing the overall audit strategy for the Substantial Role Audits, WWC failed to adequately take into account: (1) the fact that WWC-Hong Kong was an unregistered

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7 PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

8 AS 2101.08, *Audit Planning*.

9 AS 2101.09.

10 AS 1015.01, *Due Professional Care in the Performance of Work*.

firm whose substantial role participation in issuer audits WWC knew "may be construed as a violation"; (2) the nature of the resources necessary to perform the audits, insofar as those resources included the involvement of an unregistered firm; and (3) for the three post-inspection Substantial Role Audits, the fact that a PCAOB inspection comment and the firm's own response had highlighted WWC-Hong Kong's unreported participation as an unregistered firm.[11] As a result of these failures, WWC did not engage in adequate planning to ensure that WWC-Hong Kong would not violate PCAOB registration requirements.

33. Accordingly, WWC violated AS 2101. WWC also violated AS 1015 by failing to exercise due professional care in planning the Substantial Role Audits.

F. WWC Violated PCAOB Rules Regarding Required Filings

i. WWC Failed to Make Timely and Complete Form AP Filings

34. PCAOB rules provide that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."[12] The Form AP Instructions for "Part IV – Responsibility for the Audit Is Not Divided" require that an auditor who uses another accounting firm that incurs more than 5% of the total hours "[s]tate the legal name of [the] *other accounting firm[]* and the extent of participation in the *audit*."

35. As discussed above, WWC failed to report WWC-Hong Kong's participation, which exceeded 5% of the total hours, in its Form AP filings with respect to eight of the Substantial Role Audits.

36. PCAOB rules further provide that a Form AP is timely filed if it "is filed by the 35th day after the date the audit report is first included in a document filed with the Commission."[13]

37. WWC failed to timely file a Form AP within 35 days of its audit report being included in a filing with the Commission with respect to sixteen audits—including three audit reports with respect to which the firm did not file a Form AP at all.

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11 *See* AS 2101.05 ("Planning is not a discrete phase of an audit but, rather, a continual and iterative process that . . . continues until the completion of the current audit").

12 PCAOB Rule 3211(a), *Auditor Reporting of Certain Audit Participants*.

13 PCAOB Rule 3211(b).

38. Specifically, prior to the 2019 PCAOB inspection, WWC failed to file a Form AP within 35 days of its audit report's inclusion in a filing with the Commission six times, as shown in the following table.

Audit	Days Elapsed Between Audit Report's Inclusion in a Filing with the Commission and WWC's Form AP Filing
Audit of Issuer G's December 31, 2016 financial statements	398 days
Audit of Issuer H's August 31, 2017 financial statements	55 days
Audit of Issuer I's March 31, 2018 financial statements	60 days
Audit of Issuer H's August 31, 2018 financial statements	133 days
Audit of Issuer C's December 31, 2018 financial statements	57 days
Audit of Issuer J's December 31, 2018 financial statements	47 days

39. As discussed above, the PCAOB inspection comment form issued to WWC in January 2020 criticized the firm's failure to make timely Form AP filings. Even after receiving this comment form, however, WWC's failure to make timely Form AP filings continued. As shown in the table below, WWC failed to file a Form AP within 35 days of its audit report's inclusion in a filing with the Commission with respect to ten post-inspection issuer audits.

Audit	Days Elapsed Between Audit Report's Inclusion in a Filing with the Commission and WWC's Form AP Filing
Audit of Issuer K's December 31, 2019 financial statements	Not filed
Audit of Issuer L's December 31, 2019 financial statements	Not filed
Audit of Issuer F's March 31, 2020 financial statements	50 days
Audit of Issuer C's December 31, 2020 financial statements	182 days
Audit of Issuer D's December 31, 2020 financial statements	47 days
Audit of Issuer E's December 31, 2020 financial statements	53 days
Audit of Issuer J's December 31, 2020 financial statements	Not filed
Audit of Issuer M's December 31, 2020 financial statements	48 days
Audit of Issuer N's December 31, 2020 financial statements	168 days
Audit of Issuer O's December 31, 2020 financial statements	145 days

40. Accordingly, WWC violated PCAOB Rule 3211.

ii. WWC Failed to Make Timely and Complete Annual Report Filings

41. PCAOB rules provide that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2 by following the instructions to that form."[14] PCAOB rules also require that "[e]ach registered public accounting firm must file the annual report on Form 2 no later than June 30 of each year."[15] Item 4.1 of the Form 2 instructions require the reporting firm to provide "information concerning each *issuer* for which the Firm issued any *audit report(s)* during the reporting period."

14 PCAOB Rule 2200, *Annual Report*.

15 PCAOB Rule 2201, *Time for Filing of Annual Report*.

42. WWC filed its 2020 annual report with the Board on July 1, 2020. The 2020 annual report failed to include information relating to four audit reports WWC had issued during the reporting period: the audit reports for the firm's audits of (1) Issuer P's December 31, 2018 financial statements; (2) Issuer Q's June 30, 2019 financial statements; (3) Issuer R's December 31, 2019 financial statements; and (4) Issuer S's December 31, 2019 financial statements.

43. WWC filed its 2021 annual report with the Board on September 16, 2021. The 2021 annual report failed to include information relating to eight audit reports WWC had issued during the reporting period: the audit reports for the firm's audits of (1) Issuer C's December 31, 2019 financial statements; (2) Issuer D's December 31, 2019 financial statements; (3) Issuer E's December 31, 2019 financial statements; (4) Issuer K's December 31, 2019 financial statements; (5) Issuer L's December 31, 2019 financial statements; (6) Issuer T's December 31, 2019 financial statements; (7) Issuer F's March 31, 2020 financial statements; and (8) Issuer U's March 31, 2020 financial statements.

44. Accordingly, WWC failed to include in its 2020 and 2021 annual report filings information concerning each issuer for which the firm issued an audit report during the respective reporting periods, and WWC filed its 2021 annual report two and a half months after the June 30, 2021 filing deadline. By this conduct, WWC violated PCAOB Rules 2200 and 2201.

G. WWC Violated PCAOB Quality Control Standards

45. PCAOB rules require that a registered firm comply with PCAOB quality control standards, which require that a firm "shall have a system of quality control for its accounting and auditing practice" and describe "elements of quality control and other matters essential to the effective design, implementation, and maintenance of the system."[16] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[17]

46. WWC failed to establish adequate policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel met applicable regulatory requirements when using other accounting firms. WWC's lack of adequate policies and procedures related to the use of other accounting firms resulted in WWC-Hong Kong's

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16 PCAOB Rule 3400T, *Interim Quality Control Standards*; QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

17 QC § 20.17.

participation in the Substantial Role Audits exceeding the 20% of total hours threshold, despite WWC's knowledge that WWC-Hong Kong's participation in the audits was inconsistent with PCAOB registration requirements.

47. In addition, WWC's repeated Form AP and annual report violations—which ranged from the omission of required information to late filings and failures to file at all—demonstrate that the firm lacked sufficient policies and procedures to ensure that these forms would be accurate and timely filed, in compliance with applicable regulatory requirements.

48. Accordingly, WWC failed to comply with QC § 20.

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rules 5300(a)(5), WWC, P.C. is censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty of $50,000 on WWC, P.C. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Sections 105(c)(4)(G) of the Act and PCAOB Rules 5300(a)(9), the Board orders that:

1. Review by WWC, P.C. Within six months of the date of this Order, WWC, P.C. shall review and evaluate its quality control policies and procedures to assess whether those policies and procedures provide the firm with reasonable assurance that its personnel and other associated persons comply with applicable regulatory requirements (a) when the firm uses audit work performed or supervised by other accounting firms, and (b) when the firm makes required regulatory filings.

2. Reporting. Within six months of the date of this Order, WWC, P.C. shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the areas specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by WWC, P.C. or, if WWC, P.C. concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the firm believes changes are not warranted. In addition, WWC, P.C. shall submit any additional information and evidence concerning the Report, the information in the Report, and WWC, P.C.'s compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within twelve months of the date of this Order, WWC, P.C.'s managing partner shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that WWC, P.C. has implemented all of the modifications and additions to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of WWC, P.C.'s adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. WWC, P.C. shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. WWC, P.C. understands that a failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 19, 2022

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Citrin Cooperman & Company, LLP, Joseph Puglisi, CPA, Mark Schniebolk, CPA, and John Cavallone, CPA,

Respondents.

PCAOB Release No. 105-2022-007

May 11, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Citrin Cooperman & Company, LLP ("Citrin" or the "Firm"), imposing a civil money penalty of $200,000 on Citrin, and requiring the Firm to undertake certain remedial actions as described in Section IV of this Order;

(2) suspending Joseph Puglisi, CPA ("Puglisi") from associating with a registered public accounting firm for a period of one year from the date of this Order, limiting his activities in connection with any audit or examination of a broker-dealer that is required to file a compliance report under Securities Exchange Act of 1934 ("Exchange Act") Rule 17a-5, 17 C.F.R. § 240.17a-5, of the U.S. Securities and Exchange Commission ("Commission") until two years from the date of this Order by prohibiting Puglisi from serving in certain capacities, as described in Section IV hereto, imposing a civil money penalty of $25,000 on Puglisi, and requiring Puglisi to complete, within one year from the date of this Order, 20 hours of professional education or training; and

(3) censuring and limiting the activities of Mark Schniebolk, CPA ("Schniebolk") and John Cavallone, CPA ("Cavallone") for a period of one year from the date of this Order by prohibiting them from: (a) serving, or supervising the work of another person serving, as an engagement quality reviewer, or (b) serving, or supervising the work of another person serving, in any role that is equivalent to, but differently denominated from, engagement quality reviewer on any "audit," as that term is defined in Section 110 of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), or

PCAOB Rule 1001(a)(v), imposing civil money penalties of $15,000 on each of Schniebolk and Cavallone, and requiring that they each complete, within one year from the date of this Order, 20 hours of professional education or training.

The Board is imposing these sanctions on the basis of its findings that: (a) Citrin, Puglisi, Schniebolk, and Cavallone (collectively, "Respondents") violated PCAOB rules and standards in connection with the audits and examinations of a broker-dealer ("Broker-Dealer A") for the fiscal years ended December 31, 2016 and/or 2017; and (b) Citrin violated PCAOB rules and quality control standards by failing to take sufficient steps to ensure that its system of quality control provided reasonable assurance that work performed by its engagement personnel would comply with PCAOB standards and regulatory requirements and was assigned to personnel having the degree of technical training and proficiency required in the circumstances.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

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

[2] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (a) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (b) repeated instances of

A. Respondents

1. **Citrin Cooperman & Company, LLP** is a limited liability partnership organized under the laws of New York and headquartered in New York, New York. The Firm is licensed to practice public accounting in multiple jurisdictions, including the State of New York (Partnership ID No. 021300). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm issued audit reports containing unqualified opinions on Broker-Dealer A's financial statements and compliance reports for the fiscal year end ("FYE") December 31, 2016, and FYE December 31, 2017.

2. **Joseph Puglisi, CPA** is a partner of the Firm in its Livingston, New Jersey office, a certified public accountant under the laws of New Jersey (license no. 20CC03427100) and New York (license no. 081527), and, at all relevant times was, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Puglisi served as the engagement partner for the 2016 and 2017 audits and examinations of Broker-Dealer A.

3. **Mark Schniebolk, CPA** is a partner of the Firm in its New York, New York office, a certified public accountant under the laws of the State of New York (license no. 087801), and, at all relevant times was, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Schniebolk served as the engagement quality reviewer for the 2016 audit and examination of Broker-Dealer A.

4. **John Cavallone, CPA** is a partner of the Firm in its New York, New York office, a certified public accountant under the laws of the State of New York (license no. 079788), and, at all relevant times was, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Cavallone served as the engagement quality reviewer for the 2017 audit and examination of Broker-Dealer A.

B. Broker-Dealer

5. Broker-Dealer A is a Delaware corporation, headquartered in New York. Broker-Dealer A's public filings indicate that it is a broker-dealer registered with the Commission and the Financial Industry Regulatory Authority, Inc. ("FINRA"), and provides order management and clearing services to institutions and professional traders. At all relevant times, Broker-Dealer A was a "broker" and a "dealer," as those terms are defined in Sections 110(3) and 110(4) of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii). Broker-Dealer A had assets of

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negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

$232 million as of, and revenue of $36 million for, the year ended December 31, 2016, and assets of $196 million as of, and revenue of $33 million for, the year ended December 31, 2017.

C. Summary

6. This matter concerns Puglisi's violations of PCAOB rules and Attestation Standard No. 1 ("AT No. 1"), *Examination Engagements Regarding Compliance Reports of Brokers and Dealers*, when performing the examinations of the statements made by Broker-Dealer A in its FYE December 31, 2016 and FYE December 31, 2017 compliance reports filed with the Commission pursuant to Exchange Act Rule 17a-5, 17 C.F.R. § 240.17a-5 ("Rule 17a-5") (the "Examinations"). In particular, Puglisi failed to sufficiently evaluate (a) whether Broker-Dealer A maintained effective internal controls over compliance ("ICOC") with Commission Rule 15c3-3. 17 C.F.R. 240.15c3-3, under the Exchange Act ("Rule 15c3-3," or the "Customer Protection Rule") throughout the fiscal years and as of the end of fiscal years 2016 and 2017, and (b) whether Broker-Dealer A was in compliance with Rule 15c3-3(e) (the "Reserve Requirements Rule") as of the end of fiscal years 2016 and 2017.

7. This matter also concerns Puglisi's violations of PCAOB rules and auditing standards in connection with the audits of the financial statements and accompanying supporting schedules of Broker-Dealer A for FYE December 31, 2016 and FYE December 31, 2017 (the "Audits"). Among other things, Puglisi failed to perform sufficient audit procedures to test the supplemental information related to the Customer Protection Rule in connection with the Audits.

8. In addition, Schniebolk and Cavallone, who served as engagement quality reviewers ("EQR reviewers") on the 2016 audit and examination and 2017 audit and examination, respectively, failed to perform their engagement quality reviews ("EQRs") with due professional care, in violation of AS 1220, *Engagement Quality Review*.

9. Finally, the Firm violated quality control standards because its system of quality control failed to provide it with reasonable assurance that the work performed by its engagement personnel would comply with PCAOB standards and regulatory requirements. The Firm's system of quality control also failed to provide reasonable assurance that work was assigned to personnel having the degree of technical training and proficiency required in the circumstances.

D. Puglisi Violated AT No. 1 in the Examinations of Broker-Dealer A's 2016 and 2017 Compliance Reports

i. Certain Commission Reporting Requirements for Broker-Dealer A

10. At all relevant times, Rule 15c3-3 imposed various obligations on Broker-Dealer A to avoid, in the event of a broker-dealer failure, a delay or a shortfall in returning the assets held by Broker-Dealer A for the accounts of its customers ("customer accounts") or for the proprietary securities accounts of broker-dealers ("PAB accounts").[3,4] For example, the Reserve Requirements Rule required Broker-Dealer A, among other things, to maintain with a bank or banks[5] a "Special Reserve Bank Account for the Exclusive Benefit of Customers" (a "Customer Reserve Bank Account") and a "Special Reserve Bank Account for Brokers and Dealers" (a "PAB Reserve Bank Account"), each kept separate from each other and from Broker-Dealer A's other accounts, to deposit therein an amount calculated in accordance with Exhibit A to Rule 15c3-3 (17 C.F.R. § 240.15c3-3a) ("Reserves"), and to make and maintain a record of each such computation.

11. Furthermore, at all relevant times, Broker-Dealer A was required, among other things to promptly obtain and thereafter maintain physical possession or control over its customers' fully paid and excess margin securities.[6] This included the requirement that Broker-Dealer A hold certain customer securities in a "good control location"[7] pursuant to paragraph

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[3] The term "PAB account" is defined in Rule 15c3-3(a)(16).

[4] *See* Division of Trading and Markets and Division of Enforcement of the U.S. Securities and Exchange Commission, *Customer Protection Rule Initiative*, modified June 23, 2016, at Section II, available at https://www.sec.gov/divisions/enforce/customer-protection-rule-initiative.shtml. Although some broker-dealers qualify for exemption from the Customer Protection Rule under paragraph (k) of Rule 15c3-3, Broker-Dealer A, at all relevant times, did not qualify for such an exemption.

[5] "Bank" is defined in Rule 15c3-3(a)(7).

[6] *See* Rule 15c3-3(b).

[7] Although not defined in Rule 15c3-3, the term "good control location" is frequently used to identify those locations that are considered acceptable under the Rule. *See, e.g.*, Division of Trading and Markets, U.S. Securities and Exchange Commission and Office of General Counsel, FINRA, *Joint Staff Statement on Broker-Dealer Custody of Digital Asset Securities* (July 8, 2019) (noting that "[a]mong its core protections for customers, Rule 15c3-3 requires a broker-dealer to physically hold customers' fully paid and excess margin securities or maintain them free of lien at a good control location"), *available at* https://www.sec.gov/news/public-statement/joint-staff-statement-broker-dealer-custody-digital-asset-securities.

(c) of Rule 15c3-3 ("Good Control Location"). In addition, Rule 15c3-3(d) required that Broker-Dealer A regularly determine the quantity of its customers' fully-paid securities and excess margin securities[8] that were not in its possession or control, and to take actions to bring these securities into its possession or control within the time frame prescribed by the Customer Protection Rule. Collectively, these requirements in Rule 15c3-3(b), (c), and (d) are referred to herein as the "Possession and Control Requirements."

12. At all relevant times, Rule 17a-5 required Broker-Dealer A, among other things, to file with the Commission[9] an annual report containing: (a) a financial report that includes financial statements and supporting schedules;[10] and, as Broker-Dealer A did not claim exemption under paragraph (k) of Rule 15c3-3,[11] (b) a compliance report concerning the effectiveness of Broker-Dealer A's ICOC[12] with, among other things, the Customer Protection

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[8] "Customer," "fully paid securities," and "excess margin securities" are defined, respectively, in Rule 15c3-3(a)(1), (3), (5).

[9] *See* Rule 17a-5(d)(6).

[10] *See* Rule 17a-5(d)(1)(i)(A). The financial report, including the required supporting schedules, must be in a format that is consistent with the statements contained in Commission Form X-17A-5. *See* Rule 17a-5(d)(2).

[11] The Commission has stated that there may be circumstances in which a broker-dealer has not held customer securities or funds during the past year, but does not fit into one of the exemptive provisions set forth in paragraph (k) of Rule 15c3-3, and should file an "exemption report" under Rule 17a-5(d)(1)(i)(B)(*2*) in lieu of a "compliance report" under Rule 17a-5(d)(1)(i)(B)(*1*). *See* U.S. Securities and Exchange Commission, *Broker-Dealer Reports*, Exchange Act Release No. 70073 (July 30, 2013), at n. 74, *available at* https://www.sec.gov/rules/final/2013/34-70073.pdf; *see also* Division of Trading and Markets of the U.S. Securities and Exchange Commission, *Frequently Asked Questions Concerning the July 30, 2013 Amendments to the Broker-Dealer Financial Reporting Rule* (updated July 1, 2020), at Question and Answer 8 (describing the views of the staff of the Division of Trading and Markets regarding the eligibility of certain broker-dealers to file exemption reports in accordance with the circumstances described in footnote 74 of the 2013 *Broker-Dealer Reports* release), available at https://www.sec.gov/divisions/marketreg/amendments-to-broker-dealer-reporting-rule-faq.htm. Those circumstances are not applicable here.

[12] The term "internal control over compliance" is defined in Rule 17a-5(d)(3)(ii) as follows: "The term *Internal Control Over Compliance* means internal controls that have the objective of providing the broker or dealer with reasonable assurance that non-compliance with [Exchange Act Rules 15c3-1 ("Rule 15c3-1"), 15c3-3, 17a-13], or any rule of the designated examining authority of the broker or dealer that requires account statements to be sent to the customers of the broker or dealer (an 'Account Statement Rule') will be prevented or detected on a timely basis."

Rule;[13] and (c) reports by a PCAOB-registered firm based on examinations of Broker-Dealer A's financial and compliance reports that meets certain specified requirements.[14] At all relevant times, Rule 17a-5 also required that the auditor's examinations of each of Broker-Dealer A's financial report and compliance report be performed in accordance with PCAOB standards.[15]

13. Rule 17a-5 also required, at all relevant times, Broker-Dealer A's compliance report to contain certain statements ("assertions") about its compliance with, among other things, the Customer Protection Rule, including that: (a) Broker-Dealer A's ICOC was effective during the most recent fiscal year; (b) Broker-Dealer A's ICOC was effective as of the end of the most recent fiscal year; and (c) Broker-Dealer A was in compliance with, among other things, the Reserve Requirements Rule as of the end of the most recent fiscal year.[16]

ii. Relevant Provisions of PCAOB Rules and Standards

14. In connection with the preparation or issuance of an audit report, including an examination report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards, including attestation standards.[17]

15. AT No. 1 provides that, in performing an examination of the assertions made by a broker-dealer in a compliance report (an "examination engagement"), the auditor's objective is to express an opinion regarding whether the assertions made by the broker-dealer in its compliance report are fairly stated, in all material respects.[18] AT No. 1 also provides that, to express such an opinion, the auditor must plan and perform the examination engagement to obtain appropriate evidence that is sufficient to obtain reasonable assurance about whether, among other things: (a) one or more material weaknesses[19] existed during the most recent fiscal year specified in the broker-dealer's assertion; (b) one or more material weaknesses existed as of the end of the most recent fiscal year specified in the broker-dealer's assertion; and (c) one or more instances of non-compliance with the Reserve Requirements Rule existed

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13 *See* Rule 17a-5(d)(1)(i)(B)(1), (d)(3).

14 *See* Rule 17a-5(d)(1)(i)(C), (g), (i).

15 *See* Rule 17a-5(g).

16 *See* Rule 17a-5(d)(3)(i)(A)(2) – (4).

17 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

18 *See* ¶ 3 of AT No. 1.

19 The term "material weakness" is defined in AT No. 1, Appendix A ¶ A4.

as of the end of the most recent fiscal year specified in the broker-dealer's assertion.[20] As noted in AT No. 1, the auditor's examination should include an evaluation of the effectiveness of ICOC with the Customer Protection Rule during, and as of the end of, the most recent fiscal year.[21]

16. AT No. 1 also provides that the auditor must exercise due professional care, which includes application of professional skepticism, in planning and performing the examination and preparation of the report, and that the engagement partner is responsible for proper planning and supervision of work for the engagement.[22]

17. Additionally, AT No. 1 provides, that, when planning the examination engagement, the auditor should obtain an understanding of the broker-dealer's processes regarding compliance with, among other things, the Customer Protection Rule, which includes evaluating the design of controls that are relevant to the examination and determining whether they have been implemented.[23] When performing the examination engagement, the auditor must test the controls that are important to the auditor's conclusion about whether the broker-dealer has maintained effective ICOC for, among other things, the Customer Protection Rule, during the fiscal year and as of fiscal year end.[24] The auditor must obtain evidence that the controls over compliance selected for testing are designed effectively and operated effectively during the fiscal year and as of fiscal year end.[25]

18. AT No. 1 further requires the auditor to conduct tests sufficient to support the auditor's conclusions regarding whether the broker-dealer was in compliance with the Reserve Requirements Rule as of fiscal year end; the auditor does this by, among other things, testing

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20 *See* ¶ 4 of AT No. 1.

21 *See id.* ¶ 4, Note.

22 *See id.* ¶¶ 6(d), 7.

23 *See id.* ¶ 9(b), Notes.

24 *See id*. ¶ 11.

25 *See id.* The auditor should test the design effectiveness of the selected controls by determining whether they can effectively prevent or detect instances of non-compliance with, among other things, the Customer Protection Rule on a timely basis. *See id.* ¶ 14. Additionally, the auditor should test the operating effectiveness of the selected controls by determining whether each selected control is operating as designed. *See id.* ¶ 16.

the accuracy and completeness of the information that the broker-dealer used to determine its compliance with that rule as of fiscal year end.[26]

19. As provided in AT No. 1, the auditor should evaluate whether he or she has obtained sufficient appropriate evidence to support the conclusions to be presented in the examination report, taking into account the risks associated with controls and non-compliance, the results of the examination procedures performed, and the appropriateness (*i.e.*, the relevance and reliability) of the evidence obtained.[27] If the auditor is unable to obtain sufficient appropriate evidence about an assertion, the auditor should express a disclaimer of opinion.[28]

20. As described below, Puglisi failed to comply with applicable PCAOB rules and standards in connection with his examinations of the assertions made by Broker-Dealer A in its compliance reports for FYE December 31, 2016, and FYE December 31, 2017.

iii. Puglisi's Examinations of Broker-Dealer A's 2016 and 2017 Compliance Reports

21. Broker-Dealer A filed its annual reports for 2016 and 2017 with the Commission on March 1, 2017 and March 5, 2018, respectively. Broker-Dealer A included compliance reports in those filings—the 2016 compliance report was dated February 27, 2017, and the 2017 compliance report was dated February 28, 2018 (collectively, the "Compliance Reports"). The Compliance Reports' assertions included that Broker-Dealer A's ICOC with the Customer Protection Rule was effective during the period from January 1, 2016, to December 31, 2016, and as of December 31, 2016, and from January 1, 2017, to December 31, 2017, and as of December 31, 2017, respectively.

22. Puglisi authorized the issuance of the Firm's reports on the Examinations concerning Broker-Dealer A's Compliance Reports (collectively, the "Examination Reports"). Schniebolk and Cavallone, who served as EQR reviewers on the 2016 examination and the 2017 examination, respectively, provided concurring approval of the Firm's issuance of the Examination Reports. The Firm's 2016 examination report was dated February 27, 2017, and the Firm's 2017 examination report was dated February 28, 2018. The Examination Reports expressed the Firm's unqualified opinions that Broker-Dealer A's assertions in the respective Compliance Reports were fairly stated, in all material respects, and the Examination Reports

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26 *See id*. ¶ 21.

27 *See id.* ¶ 27.

28 *See id.* ¶ 29.

stated, among other things, that the Examinations were conducted in accordance with PCAOB standards.

a. Puglisi's Testing of Broker-Dealer A's ICOC related to the Customer Protection Rule for the Examinations

23. In connection with the Examinations, Puglisi failed to adequately test Broker-Dealer A's ICOC with the Customer Protection Rule during, and at the end of, the 2016 and 2017 fiscal years.

24. With respect to the Possession and Control Requirements, Puglisi failed to sufficiently plan the 2016 examination engagement because Puglisi failed to obtain an understanding of Broker-Dealer A's key controls to ensure compliance with the Possession and Control Requirements during the 2016 examination.[29] Specifically, Puglisi failed to identify the controls that he believed were important to the conclusion that Broker-Dealer A maintained effective ICOC with the Possession and Control Requirements during, and as of, the FYE December 31, 2016. Further, Puglisi failed to perform, or cause the engagement team to perform, any testing to obtain evidence that Broker-Dealer A's controls for compliance with the Possession and Control Requirements were designed and operating effectively.[30]

25. With respect to the Reserve Requirements Rule, Puglisi failed to adequately evaluate Broker-Dealer A's ICOC related to that rule during, and at the end of, the fiscal years 2016 and 2017. Broker-Dealer A used a system-generated report ("Reserve workbook") to determine the minimum amount of Reserves required to comply with the rule. Puglisi and the engagement team documented that, among other things, Broker-Dealer A relied on a key information technology ("IT") application control in its internally-developed system to ensure the completeness and accuracy of the Reserve workbook. In connection with the 2016 examination, however, Puglisi failed to perform, or cause the engagement team to perform, any procedures to test the design and operating effectiveness of the controls related to the Reserve Requirements Rule.[31] In addition, Puglisi and the engagement team did not test the IT controls applicable to the internally-developed system.[32]

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[29] *See id* ¶ 9.

[30] An auditor must obtain evidence that the controls selected for testing were designed and operated effectively. *See id*. at ¶¶ 11, 14, 16.

[31] *See* AT No. 1 ¶¶ 11, 14, 16.

[32] *Id.* In 2017, Puglisi and the engagement team modified their audit procedures; as a result this failure did not recur.

26. Further, Puglisi was aware that FINRA performed annual examinations of Broker-Dealer A, and obtained the FINRA examination report on the preceding year during each audit and examination.[33] FINRA noted repeatedly in its prior examination reports that: (a) Broker-Dealer A had failed to maintain adequate documentation to ascertain the appropriate classification of an account as either a customer account or a PAB account; and (b) Broker-Dealer A, in several instances, incorrectly designated certain accounts as a PAB account instead of a customer account and vice-versa. Despite the recurring FINRA findings, Puglisi failed to sufficiently plan the examination engagements because Puglisi failed to obtain an understanding of Broker-Dealer A's process, including relevant controls, regarding the designation of an account as either a customer account or a PAB account.[34] Similarly, Puglisi failed to perform, or cause the engagement team to perform, procedures to obtain evidence that Broker-Dealer A's internal controls related to account designation were designed and operating effectively. Finally, Puglisi reviewed FINRA's reports but failed to adequately evaluate whether FINRA's repeated findings contradicted Broker-Dealer A's assertions that its ICOC on the Reserve Requirements Rule was effective during, and as of the end of, the fiscal years 2016 and 2017.[35]

27. As a result, Puglisi failed to obtain appropriate evidence that was sufficient to obtain reasonable assurance about whether there were any material weaknesses in Broker-Dealer A's ICOC related to the Customer Protection Rule during, and as of the end of, the fiscal years 2016 and 2017.[36]

b. Puglisi's Testing of Broker-Dealer A's Compliance with the Reserve Requirements Rule for the Examinations

28. AT No. 1 required that Puglisi perform procedures sufficient to support the auditor's conclusions regarding whether Broker-Dealer A was in compliance with, among other things, the Reserve Requirements Rule as of the end of each fiscal year.[37] Each year, Puglisi and the engagement team tested whether Broker-Dealer A's reserves complied with the Reserve Requirements Rule, primarily by agreeing Broker-Dealer A's Reserves calculation to the Reserve workbook. During the 2016 examination, Puglisi and the engagement team used the Reserve

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33 An auditor is required to inquire of management and others regarding regulatory examinations relevant to the broker-dealer's assertions. *See id*. at ¶ (9)(h).

34 *See id*. at ¶ 9(b).

35 *See id*. at ¶ 25.

36 *See id*. at ¶¶ 3, 4.

37 *See id*. at ¶ 21, Note.

workbook as audit evidence, but failed to: (a) test the IT controls over the system that generated the Reserve workbook; (b) test the design and operating effectiveness of controls related to the Reserve workbook; and (c) perform sufficient substantive examination procedures to otherwise test the completeness and accuracy of the Reserve workbook.[38]

29. Further, Puglisi failed to test sufficiently in 2016, or test at all in 2017, Broker-Dealer A's designation of whether accounts were appropriately classified as customer accounts or PAB accounts. Specifically, in 2016, Puglisi tested Broker-Dealer A's customer account or PAB account designation by selecting samples from the population of new accounts opened during the year and reviewing certain documents to ascertain whether Broker-Dealer A appropriately classified the account as either a customer account or a PAB account. By excluding existing accounts from the population subject to testing, Puglisi failed to address the risk of non-compliance for existing accounts in light of FINRA's repeated examination findings. In 2017, Puglisi failed to perform, or cause the engagement team to perform, any procedures to test Broker-Dealer A's customer account or PAB account designation for either existing accounts or new accounts.

30. Accordingly, Puglisi failed to obtain sufficient appropriate evidence to obtain reasonable assurance that Broker-Dealer A maintained compliance with the Reserve Requirements Rule as of the end of the 2016 and 2017 fiscal years.[39]

E. Puglisi Violated PCAOB Rules and Standards in the Firm's Audits of Broker-Dealer A's 2016 and 2017 Supporting Schedules

31. Rule 17a-5 required that Broker-Dealer A file certain supplemental information in supporting schedules accompanying its 2016 and 2017 financial statements,[40] and that those supporting schedules be audited by a PCAOB-registered firm.[41]

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[38] Under AT No. 1, an auditor must test the completeness and accuracy of the information in the schedules (AT No. 1 ¶ 21(b)), and evaluate whether the amounts in the schedules were determined in accordance with the Reserve Requirements Rule (*id*. at ¶ 21(a)).

[39] *See* AT No. 1 at ¶¶ 3, 4, 27.

[40] *See supra* note 10 and accompanying text. Supporting schedules include, from Part II or Part IIA of Form X-17A-5 (17 C.F.R. § 249.617): (i) a Computation of Net Capital Under Rule 15c3-1; (ii) a Computation for Determination of the Reserve Requirements under Exhibit A of Rule 15c3-3; and (iii) Information Relating to the Possession or Control Requirements Under Rule 15c3-3. *See* Rule 17a-5(d)(2)(ii).

[41] *See* Rule 17a-5(d)(1)(i)(A), (d)(1)(i)(C), (d)(2), (g).

32. In connection with the preparation or issuance of an audit report on such supplemental information, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards.[42] Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism in performing the audit.[43]

33. PCAOB standards also require the auditor to perform audit procedures to obtain appropriate evidence that is sufficient to support the auditor's opinion about whether the supplemental information is fairly stated, in relation to the financial statements as a whole.[44] Among other things, the auditor should perform procedures to test the completeness and accuracy of the information presented in the supplemental information to the extent it was not tested as part of the audit of the financial statements, and evaluate whether the supplemental information complies with relevant regulatory requirements.[45] The standards also provide that, when an auditor uses information produced by a company as audit evidence, the auditor should evaluate whether the information was sufficient and appropriate for purposes of the audit by performing procedures to, among other things, test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information.[46]

34. According to PCAOB standards, if an auditor is unable to obtain sufficient appropriate audit evidence to support an opinion on the supplemental information, the auditor should disclaim an opinion on the supplemental information.[47]

35. As described below, Puglisi failed to comply with PCAOB rules and standards in connection with the audit procedures performed on the supplemental information in supporting schedules accompanying Broker-Dealer A's 2016 and 2017 financial statements.

a. Puglisi's Testing of Broker-Dealer A's Supplemental Information

36. Included in Broker-Dealer A's annual reports for 2016 and 2017 filed with the Commission were the Firm's audit reports for the Audits, dated February 27, 2017, and

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42 *See* PCAOB Rule 3100; PCAOB Rule 3200, *Auditing Standards*.

43 *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*.

44 *See* AS 2701.02, .03, *Auditing Supplemental Information Accompanying Audited Financial Statements*.

45 *See id*. at .04(e)-(f).

46 *See* AS 1105.10, *Audit Evidence*.

47 *See* AS 2701.15.

February 28, 2018, respectively (collectively, the "Audit Reports"). Puglisi authorized the Firm's issuance of the Audit Reports, each of which expressed an unqualified opinion on Broker-Dealer A's related financial statements and supplemental information, and stated, among other things, that the Firm's Audits were conducted in accordance with PCAOB standards. Schniebolk and Cavallone, as the EQR reviewers for 2016 and 2017, respectively, provided concurring approval of the Firm's issuance of the Audit Reports.

37. The Audit Reports also stated that the supplemental information was subjected to audit procedures in connection with the Audits. In particular, the Firm represented that it had performed procedures to "test the completeness and accuracy of the information presented in the supplemental information."

38. For both 2016 and 2017, Broker-Dealer A's supplemental information included schedules reported on its compliance with the Reserve Requirements Rule.[48] In these supporting schedules, Broker-Dealer A reported, for each fiscal year end, that it maintained cash segregated in a Customer Reserve Bank Account and a PAB Reserve Bank Account in excess of the amounts required by the Reserve Requirements Rule. Broker-Dealer A's supplemental information also included the possession or control supplemental information,[49] which represented that, as of the report date, all customers' fully paid securities and excess margin securities were in Broker-Dealer A's possession or held in a Good Control Location in compliance with the Possession or Control Requirements.

39. Puglisi, however, failed to perform, or cause the engagement team to perform, sufficient procedures to test the completeness and accuracy of the information presented in the possession or control supplemental information for FYE December 31, 2016, and whether that information, including its form and content, complied with Rule 15c3-3.[50]

40. In addition, as of the FYE December 31, 2016 and FYE December 31, 2017, Broker-Dealer A held customer securities in, among other locations, a U.S. bank, a foreign custodian bank, and its foreign broker-dealer affiliate, which Broker-Dealer A claimed were

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48 *See supra* note 40. Specifically, Broker-Dealer A included supplemental information for the "Computation for Determination of Reserve Requirements" and "Computation for Determination of PAB Reserve Requirements."

49 *See id.* Specifically, Broker-Dealer A included supplemental information "Relating to Possession or Control Requirements Pursuant to Rule 15c3-3 of the Securities and Exchange Commission."

50 *See* AS 2701.04(e)-(f).

Good Control Locations under Rule 15c3-3(c).[51] Notwithstanding that the amounts at these locations exceeded the Firm's materiality for the Audits,[52] Puglisi failed to perform, or cause the engagement team to perform, any procedures as part of auditing Broker-Dealer A's supplemental information to obtain audit evidence that these three locations were indeed Good Control Locations.

41. Further, Puglisi coordinated the audits of Broker-Dealer A's supplemental information with the testing of Broker-Dealer A's compliance with the Reserve Requirements Rule by relying on the procedures performed during the Examinations for the Audits.[53] Thus, the same failures by Puglisi to test Broker-Dealer A's compliance with the Reserve Requirements Rule discussed above also constituted a failure to perform sufficient procedures to test the supplemental information related to the Reserves for the end of the 2016 and 2017 fiscal years. Specifically, Puglisi failed to perform, or cause the engagement team to perform, sufficient audit procedures to test the completeness and accuracy of the Reserve workbook used by Broker-Dealer A to compute its Reserves during the 2016 examination,[54] and failed to test sufficiently in 2016, or test at all in 2017, Broker-Dealer A's designation of whether an account was appropriately classified as a customer account or a PAB account.

42. Consequently, Puglisi violated PCAOB standards in the Audits by failing to obtain sufficient appropriate audit evidence to support an opinion as to whether the supplemental information in Broker-Dealer A's 2016 and 2017 supporting schedules was fairly stated, in all material respects, in relation to the financial statements as a whole.[55]

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51 *See* Rule 15c3-3(c)(4) and (c)(5); *see also* U.S. Securities and Exchange Commission, *Guidelines for Control Locations for Foreign Securities Pursuant to Subparagraphs (c)(4) and (c)(7) of Rule 15c3-3 Under the Securities Exchange Act of 1934*, Exchange Act Release 34-10429 (Oct. 12, 1973), *available at* https://www.sec.gov/rules/interp/1973/34-10429.pdf.

52 Puglisi and the engagement team established materiality for the Audits at $1,700,000 in 2016 and $400,000 in 2017.

53 According to PCAOB standards, "[t]he auditor should take into account relevant evidence from . . . the attestation engagement[] . . . in planning and performing audit procedures related to the supplemental information and in evaluating the results of the audit procedures to form the opinion on the supplemental information." AS 2701.03(c), Note.

54 *Id*. at .04(e)-(f).

55 *See id*. at .02.

F. Schniebolk and Cavallone Violated PCAOB Rules and Standards in Connection with the Engagement Quality Reviews for the Examinations and Audits

43. PCAOB Rules provide that associated persons of registered public accounting firms shall comply with all applicable auditing and related professional practice standards.[56]

44. AS 1220 requires that an engagement quality review be performed on all audits and certain attestation engagements conducted pursuant to PCAOB standards, like the Audits and Examinations.[57] AS 1220 also provides that the engagement quality reviewer for an engagement performed pursuant to PCAOB auditing or attestation standards should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement.[58] In both audit engagements and attestation engagements performed pursuant to AT No. 1, a firm may grant permission to a client to use the firm's audit or attestation report only after an engagement quality reviewer provides concurring approval of issuance of the report.[59]

45. Moreover, under AS 1220, the engagement quality reviewer may provide concurring approval of issuance of an audit or attestation report only if, after performing with due professional care the review required by AS 1220, he or she is not aware of a significant engagement deficiency.[60] AS 1220 states that a significant engagement deficiency in an audit exists when, among other things, the engagement team failed to obtain sufficient appropriate evidence.[61] Similarly, a significant engagement deficiency in an attestation engagement exists when, among other things, "the engagement team failed to perform attestation procedures necessary in the circumstances of the engagement."[62]

46. In connection with the Examinations, Schniebolk and Cavallone failed to properly evaluate the conclusions reached by the engagement team with respect to significant areas of

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56 *See* PCAOB Rule 3100; PCAOB Rule 3200.

57 *See* AS 1220.01.

58 *See id.* at .10, .18A.

59 *See id.* at .13, .18C.

60 *See id.* at .12, .18B.

61 *Id.* at .12, Note.

62 *Id.* at .18B, Note.

the Examinations, including the testing of Broker-Dealer A's ICOC and the testing of Broker-Dealer A's compliance with the Reserve Requirements Rule as of fiscal year end. Specifically, they failed to properly evaluate the failure of Puglisi and the engagement team to obtain an understanding of Broker-Dealer A's key controls to ensure compliance with the Customer Protection Rule and test whether those controls were designed and operating effectively.

47. During the 2016 audit and examination, Schniebolk failed to document his review of any of the work papers related to Puglisi's evaluation of Broker-Dealer A's ICOC or audit of Broker-Dealer A's financial statements and supplemental information. Schniebolk was aware that the engagement team had identified "compliance with the determination of reserve requirements and the information for possession or control requirements" as a significant risk to the client, but failed to document his review of any work papers reflecting the engagement team's responses to this significant risk, and failed to identify that Puglisi had not performed attestation procedures necessary in the circumstances of the engagement. As a result, Schniebolk failed to properly evaluate the significant judgments made by the engagement team and the conclusions reached in these areas prior to providing his concurring approval for the Firm to issue its reports on the 2016 audit and the 2016 examination.[63]

48. Cavallone, the EQR reviewer for the 2017 audit and the 2017 examination, also failed to properly evaluate the conclusions reached by Puglisi and the engagement team and failed to perform his engagement quality review with due professional care. Unlike Schniebolk, Cavallone documented that he reviewed the key work papers in each of the areas identified above where Puglisi violated PCAOB standards. However, Cavallone failed to perform his review with due professional care and professional skepticism, as he failed to identify that Puglisi and the engagement team had failed to perform attestation procedures necessary in the circumstances of the engagements and had reached conclusions unsupported by the procedures performed. Furthermore, although Cavallone was aware of FINRA's findings related to Broker-Dealer A's improper account designations, he failed to evaluate Puglisi's determination, a significant judgment, not to perform procedures to test those account designations.[64] Nevertheless, Cavallone provided his concurring approval for the Firm to issue its reports on the 2017 audit and the 2017 examination.

49. Accordingly, both Schniebolk and Cavallone failed to perform their engagement quality reviews with due professional care, in violation of AS 1220.

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63 *See id*. at .10, .18A.

64 *See id*. at .18B, Note.

G. Citrin Violated PCAOB Rules and Quality Control Standards

50. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[65] These standards require that a registered firm have a system of quality control for its accounting and auditing practice.[66] PCAOB quality control standards provide that a registered firm should establish policies and procedures "to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[67] Such policies should "encompass all phases of the design and execution of the engagement."[68]

51. PCAOB quality control standards further provide that firms should establish policies and procedures to provide the firm with reasonable assurance that work is assigned to personnel having the degree of technical training and proficiency required in the circumstances.[69]

52. Citrin had a limited number of carrying broker-dealer clients. At the time of the 2016 Broker-Dealer A engagement, only two of Citrin's 35 broker-dealer clients were carrying broker-dealers requiring an examination under AT No. 1. Puglisi was the engagement partner for both of those clients, along with nine other non-carrying broker-dealers.

53. Citrin was also aware that the PCAOB's Division of Registration and Inspections had performed an inspection of the Firm's 2016 audit and 2016 examination of Broker-Dealer A, and that PCAOB inspectors had identified numerous deficiencies in the work performed by Puglisi, including that:

- Puglisi had failed to obtain appropriate evidence that was sufficient to obtain reasonable assurance about whether material weaknesses existed during 2016, and at December 31, 2016, as required by AT No. 1.

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65 *See* PCAOB Rule 3100; Rule 3400T, *Interim Quality Control Standards*.

66 *See* Quality Control Standard 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20"), .01.

67 *Id*. at .17.

68 *Id*. at .18.

69 *See id*. at .13.

- Puglisi had failed to perform sufficient procedures to test controls that were important to determine whether Broker-Dealer A had maintained ICOC with respect to the Reserve Requirements Rule and the Possession and Control Requirements.

- Puglisi had failed to perform procedures sufficient to test the completeness and accuracy of the supplemental information related to the Customer Protection Rule.

54. Notwithstanding the deficiencies identified with respect to the 2016 audit and the 2016 examination, as discussed above, the Firm again assigned Puglisi, who had limited experience with carrying broker-dealers, to serve as the engagement partner for the 2017 engagement. The Firm did so without providing Puglisi with any additional support or resources, as the senior staff on the engagement did not change between 2016 and 2017. The Firm also assigned a new EQR reviewer, Cavallone, to perform the EQR on the 2017 engagement.

55. Puglisi again failed to obtain sufficient appropriate evidence to obtain reasonable assurance that Broker-Dealer A's ICOC related to the Customer Protection Rule were effective during, and as of the end of 2017, and that Broker-Dealer A had maintained compliance with the Reserve Requirements Rule as of the end of 2017. These repeated failures indicated that Citrin's system of quality control failed to provide it with reasonable assurance that the work performed by its engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality.

56. In addition to failing to provide Puglisi with sufficient support and resources, the Firm's system of quality control failed to ensure that work was assigned to personnel having the degree of technical training and proficiency required in the circumstances.[70] Specifically, during both 2016 and 2017, the Firm failed to perform evaluations of Puglisi's performance required by its quality control system and failed to adequately consider whether Puglisi possessed the degree of technical training and proficiency required to continue as the engagement partner for Broker-Dealer A.

57. Accordingly, Citrin violated PCAOB quality control standards in connection with the 2017 audit and examination.

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70 *See id*.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Citrin Cooperman & Company, LLP, Mark Schniebolk, and John Cavallone are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Joseph Puglisi is suspended, for one year from the date of this Order, from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act;[71]

C. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for one year following the suspension ordered in paragraph IV.B, Puglisi's role in any audit or attestation engagement shall be restricted as follows: Puglisi shall not serve, or supervise the work of another person serving, as either an "engagement partner" (as used in AS 1201), "engagement quality reviewer" (as used in AS 1220), or any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "concurring partner" or "concurring reviewer"), for clients that are brokers or dealers that are required to file a compliance report under Securities Exchange Act of 1934 Rule 17a-5, 17 C.F.R. § 240.17a-5, of the U.S. Securities and Exchange Commission and that carry customer or broker or dealer accounts and receive or hold funds or securities for those persons;

D. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date of this Order, Schniebolk's and Cavallone's

[71] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Joseph Puglisi, CPA. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

roles in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Schniebolk and Cavallone shall not (1) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220; or (2) serve, or supervise the work of another person serving, in any role that is equivalent to engagement quality reviewer, but differently denominated (such as "concurring partner");

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

1. Citrin Cooperman & Company, LLP, $200,000;

2. Joseph Puglisi, $25,000;

3. Mark Schniebolk, $15,000; and

4. John Cavallone, $15,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm or the person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

F. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Puglisi, Schniebolk, and Cavallone, are required to complete, within one year from the date of this Order, 20 additional hours of continuing professional education ("CPE") in subjects that are related to audits and examinations of broker-dealers under PCAOB auditing and attestation standards (such hours shall be in addition

to, and shall not be counted in, any CPE they are required to obtain in connection with any professional license); and

G. Pursuant to Sections 105(c)(4)(G) of the Act and PCAOB Rules 5300(a)(9), Citrin is required:

1. Within 90 days of the entry of this Order, to: (a) undertake a self-assessment of its system of quality control, including its quality control policies and procedures related to the Firm's audits and examinations of broker-dealers, to ensure its current policies and procedures are compliant with PCAOB quality control standards; and (b) establish, revise or supplement, as necessary, its quality control policies and procedures, including monitoring procedures, to provide reasonable assurance that work performed by engagement personnel complies with applicable PCAOB auditing and attestation standards;

2. Within 120 days of the entry of this Order, to provide a certification, signed by its Chief Executive Officer (or equivalent), to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.G.1 above. The certification shall identify the actions undertaken (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. Citrin shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 11, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Bo-Shiang Lien, CPA,

Respondent.

PCAOB Release No. 105-2022-009

May 24, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) barring Bo-Shiang ("Eric") Lien, CPA ("Lien" or "Respondent") from being associated with a registered public accounting firm;[1]

(2) imposing a $25,000 civil money penalty on Lien; and

(3) requiring that Lien complete 50 hours of continuing professional education ("CPE") (in addition to any CPE required in connection with any professional license) in subjects that are directly related to the audits of issuer financial statements under PCAOB standards.

The Board is imposing these sanctions on the basis of its findings that Lien violated PCAOB rules and auditing standards in connection with the audits by BF Borgers CPA PC ("BF Borgers" or the "Firm") of the financial statements of three issuers.[2]

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

[2] As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules,* PCAOB Rel. No. 2015-002 (Mar. 31, 2015); *see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering* (Jan. 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondent's conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[3]

III.

On the basis of Respondent's Offer, the Board finds that:[4]

A. Respondent

1. **Eric Lien** is a certified public accountant licensed by the state of Colorado (license no. 0030719). At all relevant times, Lien was an audit manager or director (non-equity partner) of BF Borgers and served as an engagement partner on issuer audits. Lien was, at all relevant times, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuers

2. Chineseinvestors.com, Inc. ("Chineseinvestors.com") is an Indiana corporation headquartered in San Gabriel, California. Its public filings disclose that, at all relevant times, it

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

[4] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

was a provider of Chinese-language financial information and also sold, among other things, industrial hemp-infused cosmetics and liquor in China. At all relevant times, Chineseinvestors.com was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

3. United Cannabis Corporation ("United Cannabis") is a Colorado corporation headquartered in Golden, Colorado. Its public filings disclose that, at all relevant times, it was a company focused on developing therapeutics related to the endocannabinoid system. It also owned intellectual properties related to growth, production, manufacture, marketing, management, utilization, and distribution of medical and recreational marijuana, and marijuana-infused products in the United States and the Cayman Islands. At all relevant times, United Cannabis was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. China Pharma Holdings, Inc. ("China Pharma") is a Nevada corporation headquartered in Haikou, Hainan Province, China. Its public filings disclose that, at all relevant times, the company manufactured and marketed generic and branded pharmaceutical and biochemical products primarily to hospitals and private retailers in China. At all relevant times, China Pharma was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Respondent's violations of PCAOB rules and auditing standards on four audits of three issuers: the audit of the financial statements of Chineseinvestors.com for the fiscal year ("FY") ended May 31, 2019; the audit of the financial statements of United Cannabis for the FY ended December 31, 2018; and the audits of the financial statements of China Pharma for the FYs ended December 31, 2015 and 2016 (collectively, the "Audits"). Lien served as engagement partner on the Audits and authorized the issuance of the Firm's audit reports expressing unqualified opinions on those audits.

6. As detailed below, in performing the Audits, Lien failed to: (1) exercise due professional care and professional skepticism; (2) obtain sufficient appropriate audit evidence supporting significant accounts, including accounts designated as a fraud risk or a significant risk; and (3) comply with multiple other PCAOB auditing standards.[5]

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[5] An auditor's opinion that an issuer's financial statements are presented in conformity with the applicable reporting framework must be based on an audit performed in accordance with PCAOB standards. *See* AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending on or before December 14, 2017); AS 3101.02, *The Auditor's Report on an Audit of Financial*

D. Lien Violated PCAOB Rules and Standards in Performing the Audits

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[7]

8. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit.[8] Due professional care requires that the auditor exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[9]

9. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report, including obtaining reasonable assurance about whether the financial

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Statements When the Auditor Expresses an Unqualified Opinion (applicable to audits for fiscal years ending on or after December 15, 2017). PCAOB standards require an auditor to perform audit procedures sufficient to evaluate the issuer's adherence to generally accepted accounting principles ("GAAP"). *See, e.g.*, AS 1001.01, *Responsibilities and Functions of the Independent Auditor*. This Order's description of audit failures relating to GAAP departures in an issuer's financial statements necessarily reflects the Board's judgment concerning the proper application of GAAP. Any such description of GAAP departures, however, should not be understood as an indication that the Securities and Exchange Commission ("Commission") has considered or made any determination concerning the issuer's compliance with GAAP.

6 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200T, *Interim Auditing Standards* (applicable to audits for fiscal years ending before December 31, 2016); PCAOB Rule 3200, *Auditing Standards* (applicable to audits for fiscal years ending on or after December 31, 2016).

7 *See* AS 3101.07, *Reports on Audited Financial Statements* (applicable to audits for fiscal years ending on or before December 14, 2017); AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion* (applicable to audits for fiscal years ending on or after December 15, 2017).

8 *See* AS 1015.02, *Due Professional Care in the Performance of Work*.

9 *See id.* at .07; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 2401.13, *Consideration of Fraud in a Financial Statement Audit*.

statements are free of material misstatement, whether caused by error or fraud.[10] Auditors should design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[11] For significant risks, including fraud risks, the auditor should perform substantive procedures that are specifically responsive to the assessed risks.[12]

10. As described below, Lien violated these and other PCAOB standards in performing the Audits.

i. Lien Violated PCAOB Rules and Standards in the FY 2019 Chineseinvestors.com Audit

11. The Firm audited Chineseinvestors.com's FY 2019 financial statements and issued an audit report containing an unqualified audit opinion on those financial statements on August 29, 2019. Lien served as engagement partner and authorized the issuance of the audit report.

a. Lien Failed to Obtain Sufficient Appropriate Audit Evidence for Revenue

12. In FY 2019, Chineseinvestors.com disclosed that it adopted a new revenue recognition policy, and revised its accounting policies related to revenue recognition. Chineseinvestors.com reported total revenues for FY 2019 of approximately $6.5 million, which included approximately $4.2 million in revenue from sales of products, primarily liquor. During the audit, Lien and the engagement team became aware that Chineseinvestors.com's liquor sales had grown by over 1,000% from FY 2018 to FY 2019, with most of the FY 2019 sales occurring in the final months of the fiscal year. Lien and the engagement team assessed a significant risk and fraud risk related to improper revenue recognition. As described below, although Lien and the engagement team performed certain tests of details on a sample of Chineseinvestors.com's liquor sales, Lien violated multiple PCAOB standards in the Chineseinvestors.com audit with respect to addressing the fraud risk related to improper revenue recognition for liquor sales.

1. Lien Failed to Evaluate Whether Chineseinvestors.com's 2019 Liquor Sales Revenue Was Recognized in Accordance with GAAP

13. During FY 2019, Chineseinvestors.com recognized approximately $4 million in revenue from sales of liquor in China, which represented 62% of total revenues. Essentially all the company's liquor revenue was derived from sales to wholesale customers. When a

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10 *See* AS 1105.04, *Audit Evidence*; AS 2401.01.

11 *See* AS 2301.08.

12 *See id.* at .11, .13.

customer ordered liquor, Chineseinvestors.com purchased from its supplier the quantity of liquor to satisfy the customer's order and the supplier shipped the liquor directly to the company's customer. The company disclosed that it recognized revenue at the gross amount received for the liquor (*i.e.*, "gross basis"). In doing so, Chineseinvestors.com purported to be the principal seller of the liquor as opposed to an agent of the seller.

14. When another party is involved in an entity's provision of goods or services to a customer, the entity should determine whether the nature of its performance obligation is to provide the specified goods or services itself (that is, the entity is a principal) or to arrange for those goods or services to be provided by the other party (that is, the entity is an agent).[13] If a company acts in the capacity of an agent as opposed to a principal seller, it is only entitled to recognize revenue in the amount of any fee or commission earned for arranging for the product to be provided to the end customer.[14]

15. Lien and the engagement team failed to evaluate whether Chineseinvestors.com's revenue was presented fairly, in all material respects, in conformity with GAAP.[15] More specifically, Lien and the engagement team failed to evaluate whether Chineseinvestors.com's performance obligation under its contracts with its wholesale customers was to provide the liquor itself or arrange for the liquor to be provided by the liquor suppliers. Moreover, Lien knew from his review of the audit work papers that the liquor suppliers shipped the liquor ordered by the company's wholesale customers directly to those customers after Chineseinvestors.com placed an order, evidence suggesting that Chineseinvestors.com was, in fact, acting as an agent of its suppliers and not as a principal seller. Despite being aware of these facts, Lien failed to evaluate whether Chineseinvestors.com's application of accounting principles was in conformity with the applicable financial reporting framework, in violation of PCAOB standards.[16]

2. Lien Failed to Obtain Sufficient Appropriate Audit Evidence to Support Product Sales Revenue Because the Number of Transactions Tested Was Insufficient

16. Lien planned substantive tests of details procedures using the firm's sample size calculation worksheet, which calculated a minimum sample size of 84 sales transactions

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13 *See* FASB ASC 606-10-55-36, *Revenue from Contracts with Customers*.

14 *See* ASC 606-10-55-38; *see also* ASC 606-10-25-25.

15 *See* AS 2810.30, *Evaluating Audit Results*.

16 *See* AS 2810.30; AS 1015.07; AS 2110.12-.13, *Identifying and Assessing Risks of Material Misstatement*.

("planned sample size"). The planned sample size was calculated by taking into account the factors identified in AS 2315.23, *Audit Sampling*.[17]

17. However, Lien and the engagement team then decided to subject only 53 transactions, or 63% of the planned sample size, to potential tests of details ("actual sample size"). The actual sample size was not determined using any reasoned or informed basis. In determining the actual sample size, Lien and the engagement team failed to appropriately take into account the factors of AS 2315.23.

18. Moreover, 16 of the 53 transactions that Lien and the engagement team selected were recorded on Chineseinvestors.com's books at negative amounts (*i.e.*, a reduction to sales revenue). As Lien was aware, these transactions were sales returns. Lien and the engagement team failed to perform any audit procedures on the sales returns selections or evaluate the effect of these unexamined selections on the sample.[18] Excluding the unexamined sales returns, Lien and the engagement team performed tests of details on a sample of only 37 transactions, or 44% of the planned sample size ("effective sample size").

19. Lien reviewed the revenue testing work paper and, thus, knew the effective sample size was less than half of the planned sample size. Nevertheless, Lien failed to either (1) direct the engagement team to test additional transactions, or (2) evaluate whether the effective sample size provided sufficient audit evidence to meet the objective of the substantive tests of details procedures.[19] Lien thus failed to evaluate the audit evidence gathered by the engagement team with due professional care and professional skepticism.[20] Lien also failed to obtain sufficient appropriate audit evidence to support his conclusion that Chineseinvestors.com's product sales had occurred, in violation of PCAOB standards.[21]

3. Lien Failed to Obtain Sufficient Appropriate Audit Evidence that Liquor Sales Occurred

20. To test whether each sales transaction in the sample selected for testing was recorded in the proper period, Lien and the engagement team obtained third-party delivery

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17 Those factors include: (1) tolerable misstatement for the population; (2) allowable risk of incorrect assessment (based on assessments of inherent risk, control risk, and detection risk); and (3) the characteristics of the population, including the expected size and frequency of misstatements.

18 *See* AS 2315.25.

19 *See* AS 1105.22.

20 *See* AS 1015.07; AS 2301.07.

21 *See* AS 1015.07; AS 1105.04, .22; AS 2315.23, .25.

records (the "delivery notes"). The delivery notes did not include information about the title for the liquor shipped.

21. Lien knew that Chineseinvestors.com was not able to recognize revenue until it satisfied its contractual performance obligations. Based on management's representations, Lien believed Chineseinvestors.com's performance obligations were satisfied upon transfer of title from the company to the customer. However, as Lien was aware from his review of the work papers, audit evidence suggested Chineseinvestors.com never held the title of the liquor it sold to wholesale customers. Lien failed to resolve the inconsistent audit evidence and, therefore, violated PCAOB standards because he had no basis to conclude that Chineseinvestors.com's recorded wholesale liquor sales were recorded in the proper period.[22]

22. Further, for 25% of the sales transactions tested as part of the test of revenue details, the audit documentation identified the customer as a third-party shipping company, and not the actual customer. Lien reviewed the revenue test of details work paper, and thus knew that Chineseinvestors.com had identified a shipping company as the customer rather than the wholesale customer. However, Lien and the engagement team failed to perform any further procedures to understand who the ultimate wholesale customers were for these transactions or to validate that Chineseinvestors.com had contracts with those purported customers. Therefore, Lien and the engagement team had no basis to conclude that delivery notes were appropriate evidence to support revenue recognition. As a result, Lien failed to obtain sufficient appropriate audit evidence to support his conclusion that these sales transactions had occurred, in violation of PCAOB standards.[23]

4. Lien Failed to Obtain Sufficient Appropriate Audit Evidence that Chineseinvestors.com's Revenue from Product Sales Was Recorded at the Proper Value

23. To test whether each sales transaction in the sample selected for testing was recorded at the proper value, Lien and the engagement team relied on the third-party delivery notes. However, as Lien was aware, these delivery notes did not contain sales prices or any other evidence related to the amounts, or values, of the sales transactions. Lien and the engagement team failed to perform any procedures to determine whether the selected transactions were properly valued.

24. Lien reviewed the engagement team's tests of revenue details. Thus, he knew, or should have known, that he and the engagement team had failed to obtain any audit evidence to determine whether the selected revenue transactions were recorded at the proper value. As

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22 *See* AS 1105.29; AS 1015.07; AS 2805.04, *Management Representations.*

23 *See* AS 1015.07; AS 1105.04, .29.

a result, Lien failed to obtain sufficient appropriate audit evidence to support his conclusion that Chineseinvestors.com's FY 2019 sales were properly valued, in violation of PCAOB standards.[24]

b. Lien Failed to Obtain Sufficient Appropriate Audit Evidence Supporting Cost of Product Sales

25. With respect to the $4.2 million in product sales in FY 2019, Chineseinvestors.com reported $3.5 million in cost of product sales. Lien and the engagement team assessed a significant risk for these cost of sales. Thus, Lien and the engagement team were required to perform substantive procedures to test this account.[25]

26. The only substantive procedure Lien and the engagement team performed to test the cost of product sales was to send confirmation requests to Chineseinvestors.com's two suppliers requesting a confirmation of total purchases for the year. However, only one of the company's suppliers responded to the confirmation request. Lien and the engagement team failed to perform any alternative procedures to test the cost of liquor sold during the year that was purportedly purchased from the second supplier, which totaled $2.2 million and represented 60% of total purchases in the year under audit.[26]

27. Because Lien failed to substantively test $2.2 million in product purchases, he failed to perform sufficient procedures in response to a significant risk and failed to obtain sufficient appropriate audit evidence supporting the cost of sales account, in violation of PCAOB standards.[27]

ii. Lien Violated PCAOB Rules and Standards in the FY 2018 United Cannabis Audit

28. The Firm issued an audit report dated March 28, 2019, containing an unqualified audit opinion on United Cannabis's FY 2018 financial statements. Lien served as engagement partner and authorized the issuance of the audit report.

29. In its 2018 Form 10-K, United Cannabis reported total assets of $12.9 million, of which approximately $4.8 million consisted of goodwill. United Cannabis's goodwill was

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[24] *See* AS 1015.07; AS 1105.04; AS 2301.11, .13.

[25] *See* AS 2301.11.

[26] *See* AS 2310.31, *The Confirmation Process* ("When the auditor has not received replies to positive confirmation requests, he or she should apply alternative procedures to the nonresponses to obtain the evidence necessary to reduce audit risk to an acceptably low level.").

[27] *See* AS 1015.07; AS 1105.04; AS 2301.11; AS 2310.31.

primarily associated with the July 14, 2017 acquisition of Prana Therapeutics, Inc. ("PTI"), a company that develops therapeutics for the oncology, neurology, and orthopedic markets.

30. Goodwill should be tested for impairment by the issuer at least annually, and whenever there is an indication that the goodwill may be impaired.[28] As Lien was aware, at year-end 2018, United Cannabis performed a qualitative assessment of whether it was more likely than not that the carrying value of PTI exceeded its fair value.[29] Lien also understood that, to support its impairment determination, management relied on a valuation report prepared by a third-party specialist. Lien knew that the third-party specialist was engaged by United Cannabis management to estimate the fair value of PTI based on the present value of PTI's projected future cash flows, and that this estimated fair value was highly dependent on data and assumptions provided by United Cannabis management.

31. During the 2018 audit, Lien assessed the valuation of goodwill as a "high risk" due to the risk of material misstatement related to potential impairment, thereby designating it as an area that required more extensive audit procedures than non-high-risk areas. Lien, however, failed to gather sufficient appropriate audit evidence to address the high risk that goodwill was potentially impaired as of December 31, 2018.

a. Lien Failed to Perform Sufficient Audit Procedures to Evaluate Management's Qualitative Assessment of Goodwill Impairment

32. In its Form 10-K, United Cannabis reported significant operating losses and negative cash flows from operations during 2017 and 2018, and a steady and significant decline in its common stock price. Lien was also aware that PTI experienced a loss of approximately $653,000 in 2018. In addition, Lien and the engagement team concluded that there was substantial doubt about United Cannabis's ability to continue as a going concern due to its recurring losses, illiquidity, and accumulated deficit.

33. Despite being aware of these qualitative factors indicating that goodwill was potentially impaired, Lien accepted management's contradictory representation that there were no relevant events or changes in circumstances that indicated its goodwill may be

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[28] *See* FASB ASC 350-20-35-1, *Goodwill – Subsequent Measurement*.

[29] To comply with the annual impairment testing requirement under GAAP, an issuer is permitted to first assess certain qualitative factors to determine whether it is necessary to perform a two-step goodwill impairment test (*i.e.*, the qualitative assessment). If determined to be necessary, a two-step impairment test is then used to identify potential goodwill impairment and measure the amount of any impairment loss to be recognized. *See* ASC 350-20-35-3.

impaired.[30] Lien failed to perform any further procedures to investigate the basis for management's conclusion or evaluate its reasonableness.[31] As a result, Lien failed to perform sufficient appropriate audit procedures to address the risk that United Cannabis's goodwill was impaired.[32]

b. Lien Failed to Perform the Procedures Necessary to Use the Work of a Third-Party Specialist

34. To support its reported goodwill balance, United Cannabis management also relied on the valuation report prepared by a third-party specialist, which indicated there had been no significant changes in PTI's estimated fair value or underlying projections of future cash flows since the prior year. The report also stated that, to determine the fair value of PTI, the specialist relied on data and assumptions provided by United Cannabis management, namely the future cash flow projections, without the specialist performing any procedures to evaluate the reasonableness of this information.

35. PCAOB standards require the auditor to evaluate whether the significant assumptions used by management in measuring fair value, taken individually and as a whole, provide a reasonable basis for the fair value measurements and disclosures.[33] The auditor is also required to test the data used to develop the fair value measurements and disclosures and evaluate whether the fair value measurements have been properly determined from such data and management's assumptions.[34] PCAOB standards further require that when using the work of a specialist, auditors should: (1) obtain an understanding of the methods and assumptions used by the specialist; (2) make appropriate tests of data provided to the specialist; and (3) evaluate whether the specialist's findings support the related assertions in the financial statements.[35]

36. Though Lien obtained the valuation report, he failed to perform any procedures to understand the work performed or assumptions used by the third-party specialist in

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30 *See* AS 2805.04 ("If a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made.").

31 *See* AS 1015.07; AS 1105.29; AS 2805.04.

32 *See* AS 2301.08.

33 *See* AS 2502.28, *Auditing Fair Value Measurements and Disclosures* (applicable to audits for fiscal years ending on or before December 14, 2020).

34 *See id.* at .39.

35 *See* AS 1210.12, *Using the Work of a Specialist* (applicable to audits for fiscal years ending on or before December 14, 2020).

determining the fair value of United Cannabis's ownership interest in PTI, and to test the data provided by management and relied on by the specialist, including ten years of cash flow projections. As a result of these failures, Lien violated PCAOB standards.[36]

iii. Lien Violated PCAOB Rules and Standards in the FY 2015 and FY 2016 China Pharma Audits

37. The Firm audited China Pharma's FY 2015 and FY 2016 financial statements concurrently and issued an audit report containing an unqualified audit opinion on those financial statements on March 31, 2017. Lien served as engagement partner and authorized the issuance of the audit report.

a. Lien Failed to Obtain Sufficient Appropriate Audit Evidence for Intangible Assets

38. China Pharma's public filings disclosed that the largest asset on its 2015 and 2016 balance sheets was Advances for the Purchase of Intangible Assets ("Advances"), which represented cash payments made to independent laboratories for the patent rights and development costs of 20 medical formulas ("products"). Advances represented approximately $42 million (44%) and $35.5 million (45%) of China Pharma's total assets as of December 31, 2015 and 2016, respectively. Lien and the engagement team identified the valuation of Advances as a significant risk.

39. During the 2015 and 2016 audits, Lien knew that China Pharma had experienced delays in receiving Chinese government approval for its products purportedly because of uncertainties about new regulations. Lien also knew that China Pharma had suspended the development of its products in FY 2016 because of the uncertainties surrounding these new regulations. As a result, Lien knew that China Pharma was unable to determine when, if ever, any of its products would receive government approval.

40. Lien was required to evaluate the reasonableness of China Pharma's estimates related to the potential impairment of Advances as of both December 31, 2015 and December 31, 2016.[37] The procedures Lien and the engagement team performed, however, failed to provide sufficient appropriate audit evidence to support Lien's conclusions on the Advances.

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[36] *See* AS 1015.07; AS 1105.29; AS 2502.28 (as applicable to audits for fiscal years ending on or before December 14, 2020); AS 1210.12 (as applicable to audits for fiscal years ending on or before December 14, 2020).

[37] *See* AS 2501.04, .07, *Auditing Accounting Estimates* (as applicable to audits for fiscal years ending on or before December 14, 2017).

41. First, Lien and the engagement team knew that China Pharma had recognized full impairment on the Advances with at least three laboratories in FY 2016, but failed to sufficiently evaluate whether those impairments should have instead been recognized in FY 2015. China Pharma management represented to Lien and the engagement team that the impairments resulted from new Chinese regulations in FY 2016. Lien relied on this representation despite inconsistent information in China Pharma's accounting records suggesting the impairments in connection with at least two of the three laboratories were actually caused by concerns in 2015 about the financial insolvency of the laboratories.

42. Second, Lien and the engagement team failed to perform procedures necessary to resolve inconsistent audit evidence. Management's FY 2016 impairment analysis assumed that, although development of the products was suspended indefinitely, the suspension would not affect the valuation of the Advances because it would not have a significant impact on the projected future cash flows for the products. This assumption was inconsistent with three conditions of which Lien was aware at the time of the audit: (a) China Pharma's competitors were developing similar products and delays by the company could harm its future sales; (b) although the analysis assumed all medical formulas would receive government approval, this was not assured; and (c) the analysis ignored the risk that the laboratories developing the new products might become insolvent and be unable to fulfill their contractual obligations. Lien and the engagement team failed to perform audit procedures necessary to resolve these inconsistencies.[38]

43. Third, Lien and the engagement team failed to obtain and test an impairment analysis for FY 2015. Lien conducted the FY 2015 and FY 2016 audits concurrently and assessed a significant risk relating to the valuation of Advances for both years. Lien planned to address this risk in both years by testing China Pharma's impairment analyses. Although Lien obtained an analysis as of December 31, 2016, he failed to obtain one as of December 31, 2015. Lien's justification for this failure was a belief that the results of management's analyses as of December 31, 2015 and 2016 would be similar, despite the fact that China Pharma suspended the development of its products in 2016. Lien failed to obtain any audit evidence beyond management representation to support this belief.[39]

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38 *See* AS 1105.29.

39 *See id.* at .17, note.

44. As a result, Lien failed to obtain sufficient appropriate audit evidence in the 2015 and 2016 China Pharma audits to determine whether Advances were properly valued, in violation of PCAOB standards.[40]

b. Lien Failed to Obtain Sufficient Appropriate Evidence for Revenue

45. China Pharma reported revenue of approximately $15.6 million for the year ended December 31, 2016, and approximately $20.4 million for the year ended December 31, 2015. At the end of each year, the company also reported more than $15 million in outstanding customer receivables that were doubtful of collection. For both audits, Lien identified fraud risks related to improper revenue recognition.

46. Lien failed to evaluate in either audit whether China Pharma's revenue was presented fairly, in all material respects, in conformity with GAAP.[41] Specifically, Lien knew that, among other things, an issuer could not recognize revenue under GAAP until the seller's price to the buyer was fixed or determinable.[42] Lien also knew that China Pharma had a history of using a collection discount program under which outstanding invoices were discounted to encourage customer payments. Lien did not, however, address this evidence that the sales invoice price recognized as revenue by China Pharma might not be the actual price to the buyer. As a result, Lien failed to evaluate whether China Pharma's reported revenue was presented fairly, in conformity with GAAP.[43]

47. Additionally, in both audits, Lien and the engagement team's procedures to assess the valuation of revenue were limited to inspecting a selection of sales invoices. These procedures were flawed for two reasons. First, because of China Pharma's collection discount program, the invoices did not provide evidence of the actual price to the customer. Second, Lien and the engagement team had no basis to evaluate whether the selected invoices had been paid in full because, as they were aware, China Pharma used a first-in, first-out method to apply customer payments to the oldest outstanding invoice. As a result, Lien failed to obtain sufficient appropriate evidence to determine whether revenue was recorded at the appropriate value, in violation of PCAOB standards.[44]

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40 *See id.* at .04, .17, note, .29; AS 2301.11; AS 2501.04, .07 (as applicable to audits for fiscal years ending on or before December 14, 2017); AS 1015.07.

41 *See* AS 2810.30.

42 *See* FASB ASC 605-10, *Revenue Recognition* (superseded by FASB ASC 606, *Revenue from Contracts with Customers*, for public companies for annual periods beginning after December 15, 2017).

43 *See* AS 2810.30.

44 *See* AS 1015.07; AS 1105.04; AS 2301.11, .13.

IV.

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

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Bo-Shiang ("Eric") Lien is barred from being an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[45]

B. After two years from the date of this Order, Bo-Shiang ("Eric") Lien may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed on Bo-Shiang ("Eric") Lien. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay the foregoing civil money penalty as follows: Respondent shall pay $5,000 within ten days of the issuance of this Order, an additional $2,500 within 90 days of the issuance of this Order, an additional $2,500 within 180 days of the issuance of this Order, an additional $2,500 within 270 days of the issuance of this Order, an additional $2,500 within 360 days of the issuance of this Order, an additional $2,500 within 450 days of the issuance of this Order, an additional $2,500 within 540 days of the issuance of this Order, an additional $2,500 within 630 days of the issuance of this Order, and an additional $2,500 within 720 days of the issuance of this Order, making each payment by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover

[45] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Lien. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm***; and

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Bo-Shiang ("Eric") Lien is required to complete, within two years from the date of this Order, 50 hours of professional education and training in subjects that are directly related to the audits of issuer financial statements (such hours shall be in addition to, and shall not be counted in, the continuing professional education he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 24, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Robert C. Duncan Accountancy Corp. and Robert C. Duncan, CPA,

Respondents.

PCAOB Release No. 105-2022-010
(Corrected Copy)

June 22, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) revoking the registration of Robert C. Duncan Accountancy Corporation (the "Firm"), a registered public accounting firm;[1]

(2) barring Robert C. Duncan, CPA ("Duncan") from being associated with a registered public accounting firm;[2] and

(3) imposing a $30,000 civil money penalty jointly and severally upon the Firm and Duncan (collectively, "Respondents").

The Board is imposing these sanctions on the Respondents on the basis of its findings that they violated PCAOB rules and standards in connection with three audit and attestation engagements by the Firm of a broker-dealer client for the fiscal years ended 2017, 2020, and 2021.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit

[1] The Firm may reapply for registration after two years from the date of this Order.

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

reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **Robert C. Duncan Accountancy Corporation** is a corporation organized under the laws of the State of California, with headquarters in Roseville, California. The Firm was, at all relevant times, licensed in the state of California (License No. 6271). The Firm is, and at all relevant times was, registered with the PCAOB pursuant to Section 102 of the Act and PCAOB rules.

2. **Robert C. Duncan, CPA** is the Firm's president and sole shareholder. He is a certified public accountant licensed by the State of California (License No. 60174). Duncan is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Broker-Dealer

3. Seedchange Execution Services Inc. ("SESI") (a/k/a Yosemite Execution Partners, Inc.) was, at all relevant times, a Delaware corporation headquartered in San Francisco, California. SESI's public filings disclose that it is registered with the Commission as a broker-dealer. SESI also claimed an exemption from Rule 15c3-3 under the Securities Exchange Act of 1934 ("Exchange Act"), *Customer protection - reserves and custody of securities* ("Rule 15c3-3").[5] At all relevant times, SESI was a broker-dealer as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii).

C. Summary

4. This matter concerns the Firm's failure to comply with AS 1220, *Engagement Quality Review*, with respect to three audit and attestation engagements for SESI for the fiscal years ended 2017, 2020, and 2021. With respect to each of these broker-dealer audit and attestation engagements, the Firm failed to obtain an engagement quality review and concurring approval of issuance even though an engagement quality review was required pursuant to AS 1220.

5. This matter also concerns Duncan's direct and substantial contribution to the Firm's violations of PCAOB rules and standards concerning the requirements for engagement quality reviews. With respect to each of the audit and attestation engagements, Duncan took or omitted to take actions knowing, or recklessly not knowing, that his actions and omissions would directly and substantially contribute to the Firm's violations of AS 1220.

D. The Firm Violated PCAOB Rules and Auditing Standards Relating to Engagement Quality Reviews

6. In connection with the preparation or issuance of an audit report,[6] PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7]

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[5] 17 C.F.R. § 240.15c3-3.

[6] Rule 17a-5(d) of the Exchange Act, 17 C.F.R. § 240.17a-5(d), *Annual Filing of Audited Financial Statements*, requires every broker or dealer registered pursuant to Section 15 of the Exchange Act to file annually a report audited by an independent public accountant. Rule 17a-5(g) requires that audits of broker-dealers be performed in accordance with PCAOB standards.

[7] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

7. AS 1220 requires that an engagement quality review be performed on all audits, reviews of interim financial information, and certain attestation engagements conducted pursuant to PCAOB standards.[8] In addition, a firm may grant permission to a client to use an engagement report only after an engagement quality reviewer provides concurring approval of issuance.[9]

8. An engagement quality reviewer must be independent of the company, perform the engagement quality review with integrity, and maintain objectivity in performing the review.[10] To maintain objectivity, the engagement quality reviewer and others who assist the reviewer should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team.[11] The engagement partner remains responsible for the engagement and its performance, notwithstanding the involvement of the engagement quality reviewer and others who assist the reviewer.[12]

9. The Firm failed to obtain an engagement quality review that complied with AS 1220 for the three SESI audit and attestation engagements for fiscal years 2017, 2020 and 2021.[13] In each instance, the audit and attestation engagement was for a broker-dealer, as defined in Sections 110(3) and 110(4) of the Act and PCAOB Rules 1001(b)(iii) and 1001(d)(iii). And in each instance, the Firm improperly permitted the issuance of its audit report containing an unqualified opinion and review report without obtaining an engagement quality review and concurring approval of issuance. As a result, the Firm repeatedly violated AS 1220.

E. Duncan Contributed to the Firm's Violations of PCAOB Rules and Auditing Standards

10. PCAOB Rule 3502 states that "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that

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8 AS 1220.01.

9 AS 1220.13, .18C.

10 AS 1220.06.

11 AS 1220.07.

12 AS 1220.07.

13 Duncan represented that, while serving as the engagement partner on these audits and attestation engagements, he simultaneously acted as the engagement quality reviewer. However, Duncan could not serve as the engagement quality reviewer on these engagements while also serving as the engagement partner. *See* AS 1220.06-.08. As a result, no engagement quality review was performed for the 2017, 2020, and 2021 audit and attestation engagements.

the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[14]

11. Duncan was the Firm's principal and sole shareholder, as well as the engagement partner for all three of the SESI audits and attestation engagements at issue. Accordingly, Duncan was responsible for ensuring that the Firm complied with PCAOB rules and standards. Duncan knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of AS 1220, as described above. As a result, Duncan violated PCAOB Rule 3502.

IV.

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

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Robert C. Duncan Accountancy Corporation is revoked;

B. After two years from the date of this Order, Robert C. Duncan Accountancy Corporation may reapply for registration by filing an application pursuant to PCAOB Rule 2101;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Robert C. Duncan, CPA is barred from being an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[15]

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[14] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

[15] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Duncan. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable

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

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed jointly and severally upon Robert C. Duncan Accountancy Corporation and Robert C. Duncan, CPA. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay the civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***By consenting to this Order, Respondents acknowledge that a failure to pay the civil money penalty described above may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b) or a reapplication for registration pursuant to PCAOB Rule 2101.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 22, 2022

care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Making Findings and Imposing Sanctions

In the Matter of Kevin F. Pickard, CPA,

Respondent.

PCAOB Release No. 105-2022-011

June 22, 2022

By this Order Making Findings and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) barring Kevin F. Pickard, CPA ("Pickard" or "Respondent") from being an associated person of a registered public accounting firm, but allowing him, after two years, to file a petition for Board consent to associate with a registered firm;

(2) if the Board later consents to Pickard's association with a registered firm, limiting his activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for an additional period of one year following the termination of the bar;

(3) imposing a civil money penalty in the amount of $30,000 on Pickard; and

(4) requiring Pickard to complete 25 hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license, before filing any petition for Board consent to associate with a registered public accounting firm.

The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB rules and standards in connection with two issuer audits.[1]

[1] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audit discussed herein.

I.

On April 16, 2021, the Board instituted non-public disciplinary proceedings against Respondent.[2] Pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[3]

II.

On the basis of Respondent's Offer, the Board finds that:[4]

A. Respondent

1. **Kevin F. Pickard** was, at all relevant times, a certified public accountant, licensed by the state of California (license no. CPA 70205). Pickard served as the engagement quality reviewer for audits that a registered public accounting firm, AJ Robbins CPA, LLC, had performed with respect to the year-end April 30, 2017 financial statements of Soldino Group Corp ("Soldino" and the "Soldino Audit") and the year-end November 30, 2017 financial statements of Vado Corp. ("Vado" and the "Vado Audit"). Pickard was, at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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[2] Section 105(c)(2) of the Act provides that litigated disciplinary proceedings shall not be public, "unless otherwise ordered by the Board for good cause shown, with the consent of the parties." Although the Board found good cause for making the proceedings public, Respondent did not consent to making the hearing public, as permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203.

[3] The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

[4] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Relevant Entity

2. AJ Robbins CPA, LLC ("AJR" or "Firm") is a professional corporation organized under the laws of the state of Colorado and headquartered in Denver, Colorado. It is licensed by the Colorado State Board of Accountancy (license no. FRM.5000243). The Firm was, at all relevant times, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm performed the Soldino and Vado Audits as those issuers' independent auditor.

C. Issuers

3. Soldino, at all relevant times, was a Nevada corporation headquartered in Treviso, Italy. Its public filings disclosed that, at the time of the Soldino Audit, it intended to commence operations in the business of work wear distribution, sewing and embroidery services. Soldino filed a Form S-1 registration statement with the U.S. Securities and Exchange Commission ("Commission") on June 14, 2017, which contained AJR's audit report for the Soldino Audit (dated May 31, 2017) and a consent from AJR (dated June 12, 2017) for that audit report to be included in the Form S-1 registration statement. With AJR's consent, Soldino also included the audit report in amended Forms S-1, including an amended Form S-1 filed on August 21, 2017. From the time that it filed its Form S-1, and at all relevant times thereafter, Soldino was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. Vado, at all relevant times, was a Nevada corporation headquartered in Nitra, Slovakia. Its public filings disclosed that, at the time of the Vado Audit, it was developing an embroidery business. Vado filed a Form S-1 registration statement with the Commission on January 18, 2018, which contained AJR's audit report for the Vado Audit (dated January 8, 2018) and a consent from AJR (dated January 16, 2018) for that audit report to be included in the Form S-1 registration statement. From the time that it filed its Form S-1, and at all relevant times thereafter, Vado was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

D. Summary

5. This matter concerns Respondent's violations of PCAOB rules and standards in connection with the Soldino and Vado Audits. While serving as the engagement quality reviewer for those audits, Pickard failed to comply with AS 1220, *Engagement Quality Review*. Pickard also failed to document his engagement quality reviews ("EQRs") as required by PCAOB standards.

6. In July 2018, after the documentation completion date for both the Soldino and Vado Audits, Pickard documented his EQRs by completing and signing two work papers that the Firm sent to Pickard for each audit. Pickard completed that documentation at the request of the audits' engagement partner, because of an upcoming PCAOB inspection of the Firm. When documenting his EQRs, Pickard falsely indicated that he had performed all of the procedures required by AS 1220. Pickard also backdated his signature on the forms to dates during or near the time of his EQRs. Although Pickard completed the forms well after the documentation completion date for both audits, Pickard did not document in the forms the date that he added information to the forms, or the reason for doing so after the documentation completion date, as required by AS 1215, *Audit Documentation*, and AS 1220.

E. Pickard Violated PCAOB Rules and Standards in Connection with the Soldino and Vado Audits

7. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An EQR is required for all audits and reviews conducted pursuant to PCAOB standards.[6] The EQR is intended to "serve as a meaningful check on the work performed by the engagement team."[7]

8. In an audit, the engagement quality reviewer is responsible for evaluating the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[8] Among other things, the engagement quality reviewer should: (1) evaluate the significant judgments that relate to engagement planning; (2) evaluate the engagement team's assessment of, and audit responses to, significant risks identified by the engagement team or the engagement quality reviewer; (3) review the engagement team's evaluation of the firm's independence in relation to the engagement; and (4) review the engagement completion document.[9] AS 1220 further provides that the engagement quality reviewer should evaluate whether appropriate matters have been communicated, or identified for communication, to

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[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[6] *See* AS 1220.01.

[7] PCAOB Rel. No. 2009-004 (July 28, 2009) at 2.

[8] *See* AS 1220.09.

[9] *See* AS 1220.10(a), (b), (d), (e).

the audit committee, management, and other parties, such as regulatory bodies.[10] The engagement quality reviewer should also evaluate whether the engagement documentation that he or she reviewed indicates that the engagement team responded appropriately to significant risks and supports the conclusions reached by the engagement team with respect to the matters reviewed.[11]

9. The engagement quality reviewer may provide concurring approval of issuance of an audit report only if, after performing the EQR with due professional care, he or she is not aware of a significant engagement deficiency.[12] "Due professional care requires the auditor to exercise professional skepticism. Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence."[13]

10. Documentation of an EQR should be included in the engagement documentation.[14] That documentation should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the engagement quality reviewer, including, but not limited to, the documents reviewed by the engagement quality reviewer.[15]

11. AS 1215's requirements related to retention of, and subsequent changes to, audit documentation apply to documentation of the engagement quality review.[16] For an audit, a complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*i.e.*, the "documentation completion date").[17] "Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[18]

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10 *See* AS 1220.10(i).

11 *See* AS 1220.11.

12 *See* AS 1220.12.

13 AS 1015.07, *Due Professional Care in the Performance of Work*.

14 *See* AS 1220.20.

15 *See* AS 1220.19.

16 *See* AS 1220.21.

17 *See* AS 1215.15.

18 AS 1215.16.

12. As described below, Pickard failed to comply with the foregoing rules and standards in connection with the Soldino and Vado Audits.

i. Soldino Audit

13. The Firm engaged Pickard to perform the EQR for the Soldino Audit on or about August 1, 2017—almost seven weeks after the Firm issued its audit report and permitted Soldino to include that report in a Form S-1 that it filed with the Commission on June 14, 2017. By the time Pickard performed the EQR on August 1, Soldino had already included the Firm's audit report in three Form S-1 registration statements and amendments filed with the Commission.

14. When performing his EQR in August 2017, Pickard received and reviewed only a draft copy of Soldino's financial statements and a signed copy of the audit report dated May 31, 2017. He did not receive any other documents related to the Soldino Audit.

15. Pickard failed to perform the EQR for the Soldino Audit with due professional care.[19] When performing his EQR, Pickard:

a. did not receive or review any planning documentation, and he failed to evaluate the significant judgments that related to engagement planning;[20]

b. did not receive or review any risk assessment documentation relating to the audit, and failed to evaluate the engagement team's assessment of, and responses to, significant risks identified by the engagement team;[21]

c. did not receive or review any documentation concerning the engagement team's evaluation of the Firm's independence, and failed to review the engagement team's evaluation of the Firm's independence;[22]

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19 *See* AS 1220.12; AS 1015.01.

20 *See* AS 1220.10(a).

21 *See* AS 1220.10(b).

22 *See* AS 1220.10(d).

d. did not receive or review the engagement completion document, and failed to confirm with the engagement partner that there were no significant unresolved matters;[23] and

e. did not receive or review documentation of any audit communications, and failed to evaluate whether appropriate matters were communicated, or identified for communication, to the audit committee, management, and other parties.[24]

16. Nevertheless, on August 1, 2017, Pickard provided concurring approval of issuance of the audit report for the Soldino Audit. On August 21, 2017, Soldino filed an amended Form S-1 registration statement containing the Firm's audit report for the Soldino Audit.

ii. Vado Audit

17. Pickard performed the EQR for the Vado Audit on or about January 16, 2018.

18. When performing his EQR for the Vado Audit, Pickard received a draft copy of Vado's financial statements. Pickard also received a general ledger document with some brief annotations from the audit engagement team, indicating that the engagement team had "traced" the transactions in that document to client-provided bank statements. Pickard did not receive any other documents related to the Vado Audit.

19. Pickard failed to perform the EQR for the Vado Audit with due professional care.[25] When performing his EQR for the Vado Audit, Pickard:

a. did not receive or review any planning documentation, and he failed to evaluate the significant judgments that related to engagement planning;[26]

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[23] *See* AS 1220.10(e).

[24] *See* AS 1220.10(i).

[25] *See* AS 1220.12; AS 1015.01.

[26] *See* AS 1220.10(a).

b. did not receive or review any risk assessment documentation relating to the audit, and failed to evaluate the engagement team's assessment of, and responses to, significant risks identified by the engagement team;[27]

c. did not receive or review any documentation concerning the engagement team's evaluation of the Firm's independence, and failed to review the engagement team's evaluation of the Firm's independence;[28]

d. did not receive or review the engagement completion document, and failed to understand the significant findings and issues from the audit or confirm with the engagement partner that there were no significant unresolved matters;[29]

e. did not review the audit report;[30] and

f. did not receive or review documentation of any audit communications, and failed to evaluate whether appropriate matters were communicated, or identified for communication, to the audit committee, management, and other parties.[31]

20. Nevertheless, on or about January 16, 2018, Pickard provided concurring approval of issuance of the audit report for the Vado Audit. On January 18, 2018, Vado filed a Form S-1 registration statement containing the Firm's audit report for the Vado Audit.

iii. Documentation of the Soldino and Vado Audits

21. Pickard failed to document his EQRs for the Soldino and Vado Audits as required by AS 1220 before the documentation completion date.[32] Although Pickard sent comments on the issuers' financial statements to the Firm via email at the time he performed the EQRs, he failed to document the EQRs with sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures he

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27 *See* AS 1220.10(b).

28 *See* AS 1220.10(d).

29 *See* AS 1220.10(e).

30 *See* AS 1220.10(f).

31 *See* AS 1220.10(i).

32 *See* AS 1220.19-.21.

performed to comply with AS 1220, including the documents he reviewed and the date he provided concurring approval of issuance.[33]

22. On July 14, 2018, Allan Jeffrie Robbins, CPA ("Robbins") the engagement partner for the Soldino and Vado Audits, sent Pickard an email, asking Pickard to document his EQRs for those audits. In his email to Pickard, Robbins explained that he needed the documentation for an upcoming inspection of the Firm by the PCAOB, which was scheduled for early August 2018. Pickard knew that he was being asked to document his EQRs several months after the documentation completion dates for both audits.

23. For each audit, Robbins sent Pickard two forms to complete to document his EQRs. The first was a "Supervision, Review and Approval Form," which contained a checklist for the engagement quality reviewer to complete, indicating whether he or she performed various steps required by AS 1220, and containing a space for the engagement quality reviewer's signature. The second was the "Engagement Completion Document," which also contained a space for the engagement quality reviewer's signature. Pickard had not previously received those forms from the Firm or completed them for either EQR.

24. Pickard knew that PCAOB standards required that audit documentation indicate the procedures performed and the date that they were completed.[34] Pickard also knew that, when adding information to audit documentation after the documentation completion date for an audit, PCAOB standards required that the documentation reflect the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.[35]

25. On July 26, 2018, Pickard completed the forms that Robbins had sent to him to document his EQRs, and returned those forms to the Firm via email. When completing the forms, Pickard backdated his signatures on the completed forms to dates contemporaneous with his EQRs (August 1, 2017 for the Soldino Audit, and January 21, 2018, for the Vado Audit), and failed to include any indication in the forms of the date he added his information to the forms or why the information was added. Pickard also falsely indicated in the forms that, at the time of the Soldino and Vado Audits, he had performed various procedures that he, in fact, had not performed, including:

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[33] *See* AS 1220.19.

[34] *See* AS 1215.06.

[35] *See* AS 1215.16; AS 1220.21.

a. evaluating the engagement team's assessment of, and responses to, significant risks, including fraud risks;

b. reviewing the engagement team's evaluation of the Firm's independence in relation to the audit engagements;

c. reviewing the engagement completion documents; and

d. evaluating whether appropriate matters had been communicated on a timely basis (or identified for communication) prior to the issuance of the audit reports to the audit committee, management, and other parties such as regulatory bodies.

Pickard also falsely documented that, for the Vado Audit, he had reviewed the audit report.

26. As a result of the foregoing, Pickard violated AS 1220 and AS 1215.

III.

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

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Kevin F. Pickard, CPA, is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[36]

[36] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Pickard. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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

C. If Kevin F. Pickard is permitted to associate again with a registered public accounting firm, pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date his bar is terminated, his role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Pickard shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, as a member of an engagement team; (4) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner, engagement quality reviewer, or engagement team member, but differently denominated (such as "lead partner," "practitioner-in-charge," "concurring partner," or "staff"); (5) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (6) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*; or (7) serve, or supervise the work of another individual serving, as a professional practice director;

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), civil money penalty in the amount of $30,000 is imposed on Kevin F. Pickard. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay the foregoing civil money penalty as follows: Respondent shall pay $10,000 within ten days of the issuance of this Order, an additional $6,667 by December 31, 2022, an additional $6,667 by June 30, 2023, and the remaining $6,666 by December 31, 2023, making each payment by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or

person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. *Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting* firm; and

E. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Kevin F. Pickard is required to complete, before filing a petition for Board consent to associate with a registered firm, 25 hours of professional education and training relating to PCAOB auditing standards and covering, among other topics, professional ethics, audit documentation in accordance with AS 1215, *Audit Documentation*, and the performance of engagement quality reviews in accordance with AS 1220, *Engagement Quality Review* (such hours shall be in addition to, and shall not be counted in, the continuing professional education he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 22, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG Samjong Accounting Corp.,

Respondent.

PCAOB Release No. 105-2022-012

August 16, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG Samjong Accounting Corp. ("KPMG Korea," the "Firm," or "Respondent");

(2) imposing a $350,000 civil money penalty upon the Firm; and

(3) requiring the Firm to undertake and certify the completion of certain improvements to its system of quality control.

In ordering these sanctions, the Board took into account the Firm's extraordinary cooperation in this matter, specifically the substantial assistance it provided to the PCAOB's investigation and the disciplinary action it took against individuals it determined had committed misconduct.

The Board is imposing these sanctions on the basis of its findings that: (1) KPMG Korea failed to comply with PCAOB standards after learning that certain procedures may not have been performed and certain evidence may not have been obtained in connection with an issuer audit; and (2) KPMG Korea's system of quality control failed to provide reasonable assurance that audit documentation would be appropriately assembled for retention and safeguarded from improper alteration.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG Samjong Accounting Corp.** is a limited liability corporation organized under the laws of the Republic of Korea and headquartered in Seoul, Republic of Korea. The Firm is licensed to practice public accountancy by the Korean Financial Services Commission (Registration No. 83). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is a member of the KPMG International Limited network of firms. KPMG Korea audited the financial information for five Korean components of Issuer A for the fiscal year ended September 30, 2017 ("Component Audit").

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

B. Relevant Entities and Individuals

2. The "Component Lead Partner" is a former partner of KPMG Korea. He was the partner responsible for the Firm's work on the Component Audit.[2]

3. The "Engagement Manager" was formerly employed as a director by KPMG Korea. He served as the engagement manager for the Component Audit.[3]

4. Issuer A was, at all relevant times, a Delaware corporation headquartered in Arizona. Issuer A's public filings disclose that it was a specialty materials manufacturer. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns KPMG Korea's failure to take required steps after learning that certain audit procedures may not have been performed and sufficient audit evidence may not have been obtained in connection with an issuer audit. Specifically, after the Component Audit had been completed and the Firm was preparing for a PCAOB inspection, senior KPMG Korea personnel learned that the engagement team for the Component Audit may have failed to perform certain planned procedures for accounts receivable and may have failed to obtain sufficient appropriate audit evidence. Indeed, senior members of the Firm learned that significant portions of the engagement team's documentation related to accounts receivable for the Component Audit consisted primarily of prior-year work papers, indicating that audit procedures may not have been performed, evidence may not have been obtained, or appropriate conclusions may not have been reached in the Component Audit. However, the Firm failed to take reasonable steps at the time to determine and demonstrate that sufficient procedures were performed, sufficient evidence was obtained, and appropriate conclusions were reached with respect to relevant assertions for accounts receivable. The Firm thereby violated PCAOB auditing standards.

6. This matter also concerns KPMG Korea's failure to establish and implement appropriate policies and procedures to provide reasonable assurance that: (1) personnel would assemble for retention ("archive") a complete and final set of audit documentation in connection with each issuer audit; and (2) archived audit documentation would be protected against improper alteration. In particular, the Firm failed to establish appropriate policies and

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[2] *See Jin Tae Kim*, PCAOB Release No. 105-2022-013 (Aug. 16, 2022).

[3] *See Se Woon Jung*, PCAOB Release No. 105-2022-014 (Aug. 16, 2022).

procedures to address the risk that hard-copy work papers might be improperly added to previously archived audit documentation.

D. Respondent Violated PCAOB Rules and Standards

i. Background

7. KPMG LLP ("KPMG US") performed an integrated audit of Issuer A for the fiscal year ending September 30, 2017. KPMG US instructed its Korean affiliate, KPMG Korea, to audit the financial information for five Korean components of Issuer A.[4] The Korean components constituted 27% of Issuer A's reported revenue and 23% of Issuer A's reported assets for fiscal year 2017.

8. KPMG US instructed KPMG Korea that, for the Component Audit, audit procedures should be performed and audit documentation should be prepared and retained in accordance with PCAOB standards. KPMG US further instructed the Firm that the five Korean components of Issuer A were, collectively, financially significant and identified revenue as a significant account for the Component Audit. In addition, KPMG US informed the Firm that there was a risk of fraud related to revenue cutoff.

9. At the conclusion of the Component Audit, KPMG Korea sent to KPMG US an interoffice report, which stated that the Component Audit was conducted in accordance with PCAOB standards. It also stated the engagement team had addressed the fraud risk related to revenue cutoff by performing accounts receivable confirmation procedures.

ii. The Firm Failed to Comply with PCAOB Auditing Standards

10. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm comply with the Board's auditing and related professional practice standards.[5] PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient audit evidence to provide a reasonable basis for the auditor's opinion.[6] PCAOB

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[4] *See* AS 1205, *Part of the Audit Performed by Other Independent Auditors*.

[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[6] *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*.

standards further require the auditor to document procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[7]

11. PCAOB standards also provide that if, after the documentation completion date for an audit,[8] "the auditor becomes aware, as a result of a lack of documentation or otherwise, that audit procedures may not have been performed, evidence may not have been obtained, or appropriate conclusions may not have been reached, the auditor must determine, and if so demonstrate, that sufficient procedures were performed, sufficient evidence was obtained, and appropriate conclusions were reached with respect to the relevant financial statement assertions."[9]

12. On or around September 20, 2018, KPMG Korea's Department of Professional Practice ("DPP") learned that the PCAOB would inspect the Firm and the inspection would include a review of the Component Audit. On or around October 4, 2018, the DPP learned that revenue and accounts receivable would be focus areas for the review of the Component Audit.

13. In preparing for the inspection, members of the DPP and the engagement team reviewed the archived audit documentation for the Component Audit. In the course of the review, members of the DPP learned that audit procedures may not have been performed, evidence may not have been obtained, or appropriate conclusions may not have been reached in connection with the Component Audit. Specifically, DPP members, including multiple partners, learned that, for three of the five Korean components of Issuer A, the accounts receivable documentation consisted primarily of prior-year work papers. The accounts receivable balance for these three components of Issuer A constituted 73% of accounts receivable recorded by the Korean components as of September 30, 2017. The leader of the Firm's DPP ("DPP Leader") was among those who were informed that accounts receivable work papers for the wrong year had been archived in the electronic audit documentation for the Component Audit.

14. Upon becoming aware of the lack of documentation related to accounts receivable, the DPP understood that the Firm needed to determine and, if so, demonstrate that sufficient procedures had been performed, sufficient evidence had been obtained, and appropriate conclusions had been reached with respect to accounts receivable during the

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7 *See* AS 1215.06, *Audit Documentation*.

8 *See id.* at .15 (defining documentation completion date as a date not more than 45 days after an auditor releases an audit report).

9 *Id.* at .09.

Component Audit (the "Determination and Demonstration"). Rather than participating in or monitoring the Determination and Demonstration, however, the DPP relied on the Component Audit engagement team to evaluate the sufficiency of the procedures and evidence, and did not adequately follow up with the engagement team. As a result, the DPP did not learn until *after* the PCAOB inspection that: (1) the Component Audit engagement team did not conduct an appropriate Determination and Demonstration; and (2) sufficient procedures had not been performed and sufficient audit evidence had not been obtained for accounts receivable during the Component Audit.[10]

15. Given the significance of the issues raised by the Component Audit engagement team's inclusion of prior-year work papers in the audit documentation, the DPP's decision to rely on the team to conduct the Determination and Demonstration, without adequate oversight and follow-up, was unreasonable. The Firm, therefore, violated PCAOB standards.[11]

iii. The Firm Failed to Comply with PCAOB Quality Control Standards

16. PCAOB rules require registered public accounting firms to comply with the Board's quality control standards.[12] PCAOB quality control standards, in turn, require each registered firm to effectively design, implement, and maintain a system of quality control for the firm's accounting and auditing practice.[13] The quality control system should include policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[14] Among other areas, a firm's policies and procedures should address the documentation of each engagement in accordance with applicable professional standards.[15]

17. PCAOB standards require an auditor to assemble for retention a complete and final set of audit documentation as of a date not more than 45 days after the report release

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[10] The Firm ultimately completed the requisite determination after the Component Audit engagement team's document alterations (described below) came to light during the Board inspection.

[11] *See* AS 1215.09.

[12] *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

[13] QC §§ 20.01 and 20.02, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[14] *See id.* at .17.

[15] *See id.* at .18.

date.[16] PCAOB standards also provide that "[a]udit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[17]

18. At the time of the Component Audit and the PCAOB's 2018 inspection, the Firm lacked sufficient policies and procedures to provide reasonable assurance that personnel would comply with PCAOB audit documentation requirements. In particular, the Firm's system of quality control failed to provide reasonable assurance that hard-copy work papers, once assembled for retention, would not be improperly altered. As described below, the Component Lead Partner and Engagement Manager exploited the deficiencies in the Firm's system of quality control and improperly added numerous hard-copy work papers to the documentation for the Component Audit shortly in advance of the PCAOB inspection.

19. Specifically, from October 15, 2018 through November 22, 2018, members of the Component Audit engagement team checked out various portions of the hard-copy work papers for the Component Audit on three separate occasions. While the hard-copy work papers were checked out, the Component Lead Partner and Engagement Manager improperly added documents to the archived audit documentation, including documents gathered by Component Audit engagement team members acting at their direction. The late-added documentation included work papers that described accounts receivable testing that was not performed at the time of the Component Audit and a management representation letter. The Component Lead Partner and Engagement Manager also created an independence confirmation that they, and other Component Audit engagement team members acting at the Component Lead Partner's direction, executed in a manner that made it appear as if the independence confirmation had been completed during the Component Audit. These documents were added to the audit documentation shortly before the inspection and more than ten months after the documentation completion date for the Component Audit. In violation of PCAOB standards, these documents did not indicate the date the information was added, the name of the person who prepared the additional documentation, or the reason for adding it.[18]

20. The Firm's quality control system failed to provide reasonable assurance that the work performed by engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality. Despite warning signs that document

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16 *See* AS 1215.14-.15.

17 *Id.* at .16.

18 *See id*.

manipulation might occur, including the multiple requests by the Component Audit engagement team to "check out" the hard-copy work papers shortly in advance of the PCAOB inspection, and the previously identified deficiencies in the accounts receivable documentation for the Component Audit, the Firm's system of quality control failed to detect or prevent this misconduct. Accordingly, the Firm violated PCAOB quality control standards.[19]

IV.

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

In ordering these sanctions, the Board took into account the Firm's extraordinary cooperation in this matter. Specifically, the Firm: (a) provided assistance to the PCAOB's investigation, including by conducting its own internal investigation and sharing the results of that internal investigation with Board staff; and (b) separated from the Firm certain personnel identified by the Firm as responsible for the misconduct. Absent that extraordinary cooperation, the sanctions imposed on the Firm would have been greater.

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of US $350,000 upon KPMG Korea. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. KPMG Korea shall pay this civil money penalty within twenty days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter that identifies KPMG Korea as a respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office

[19] *See* QC §§ 20.17-.18.

of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006;

C. Pursuant to Sections 105(c)(4)(F) and (G) of the Act and PCAOB Rules 5300(a)(6) and (9), KPMG Korea is required:

1. within 30 days from the date of this Order, to provide an electronic or paper copy of this Order, together with a Korean language translation, to each of its associated persons;

2. within 90 days from the date of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that personnel comply with applicable audit documentation requirements and cooperate with PCAOB inspections;

3. within 90 days from the date of this Order, to ensure that all Firm professionals involved in any "audit," as that term is defined in Section 110(1) of the Act, have received 4 hours of additional training concerning compliance with: (i) AS 1215, *Audit Documentation;* and (ii) PCAOB Rule 4006, *Duty to Cooperate with Inspectors*;

4. Within 120 days from the date of this Order, to provide a certification, signed by the CEO and the DPP Leader of KPMG Korea, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraphs IV.C.1-.3, above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. KPMG Korea shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request;

5. For two years from the date of this Order, to promptly report to the Board any allegation of improper document alterations in connection with (i) the Firm's system of quality control, (ii) any audit subject to the PCAOB's jurisdiction, or (iii) any PCAOB inspection or investigation; and

6. For two years from the date of this Order, within one week after being notified that the PCAOB will inspect the Firm, to notify its personnel of the inspection and specifically instruct its personnel of their obligation to cooperate with PCAOB inspections, including by not preparing or making available to the PCAOB's inspectors documents containing misleading information, and by not making misleading statements to the PCAOB's inspectors.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 16, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Jin Tae Kim,

Respondent.

PCAOB Release No. 105-2022-013

August 16, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) barring Jin Tae Kim ("Kim" or "Respondent") from being associated with a registered public accounting firm;[1] and

(2) imposing a $50,000 civil money penalty upon Kim.

The Board is imposing these sanctions on the basis of its findings that Kim: (a) violated PCAOB rules and standards in connection with the audit of an issuer; and (b) failed to cooperate with a Board inspection.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to

[1] Kim may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Kim and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Jin Tae Kim** is a member of the Korean Institute of Certified Public Accountants (registration no. 5358). Until March 8, 2019, and at all relevant times, Kim was a partner of KPMG Samjong Accounting Corp. ("KPMG Korea" or "Firm"). Kim was the lead partner for the audit of five Korean components of Issuer A for the fiscal year ended September 30, 2017 ("Component Audit"). At all relevant times, Kim was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities and Individuals

2. KPMG Korea is a limited liability corporation organized under the laws of the Republic of Korea and headquartered in Seoul, Republic of Korea.[4] The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

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

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] *See KPMG Samjong Accounting Corp.*, PCAOB Release No. 105-2022-012 (Aug. 16, 2022).

3. The "Engagement Manager" was formerly employed as a director by KPMG Korea. He served as the engagement manager for the Component Audit.[5]

4. Issuer A was, at all relevant times, a Delaware corporation headquartered in Arizona. Issuer A's public filings disclose that it was a specialty materials manufacturer. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Kim's violations of PCAOB rules and auditing standards in connection with the Component Audit, and the Board's subsequent review of portions of that audit as part of its 2018 inspection of KPMG Korea. First, Kim failed to properly plan, perform, and supervise the Component Audit. As a result, Kim did not identify that, for three of the five Korean components of Issuer A, the audit documentation that his engagement team prepared relating to accounts receivable confirmations consisted primarily of prior-year work papers.

6. Second, after learning that the complete and final set of audit documentation did not support the existence of accounts receivable and revenue for the three components, Kim failed to determine whether sufficient procedures were performed, sufficient evidence was obtained, and appropriate conclusions were reached with respect to accounts receivable.

7. Third, in advance of the Board's 2018 inspection, Kim, and others acting at his direction, improperly added documentation to the Component Audit work papers in an effort to mislead the Board's inspectors about the work performed at the time of the Component Audit.

8. Finally, Kim also provided misleading information to the Board's inspectors during inspection field work.

D. Respondent Violated PCAOB Rules and Standards in Connection with the Component Audit

9. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] Among other things, PCAOB

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[5] *See Se Woon Jung*, PCAOB Release No. 105-2022-014 (Aug. 16, 2022).

[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient audit evidence to provide a reasonable basis for the auditor's opinion.[7] As described below, Kim violated these and other PCAOB rules and standards in connection with the Component Audit and the Board's subsequent inspection of KPMG Korea.

i. Kim Failed to Properly Plan, Perform, and Supervise the Component Audit

10. KPMG LLP ("KPMG US") performed an integrated audit of Issuer A for the fiscal year ending September 30, 2017. KPMG US instructed its Korean affiliate, KPMG Korea, to audit the financial information for five Korean components of Issuer A.[8] The Korean components constituted 27% of Issuer A's reported revenue and 23% of Issuer A's reported assets for fiscal year 2017. Kim was the partner responsible for KPMG Korea's audit work on the Korean components of Issuer A.

11. KPMG US instructed Kim that audit procedures should be performed and audit documentation for the Component Audit should be prepared and retained in accordance with PCAOB standards. KPMG US further instructed Kim that the five Korean components of Issuer A were, collectively, financially significant and identified revenue as a significant account for the Component Audit. In addition, KPMG US informed Kim that there was a fraud risk related to revenue cutoff.

12. Kim was responsible for the proper supervision of the work of the Component Audit engagement team members and for compliance with PCAOB standards.[9] In fulfilling his responsibilities, Kim could seek assistance from appropriate engagement team members.[10] Kim—along with other engagement team members acting at his direction—was responsible for: informing engagement team members of their responsibilities; directing engagement team members to bring significant accounting and auditing issues to his attention; and reviewing the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work

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7 *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*.

8 *See* AS 1205, *Part of the Audit Performed by Other Independent Auditors*.

9 *See* AS 1201.04, *Supervision of the Audit Engagement*.

10 *Id*.

supported the conclusions reached.[11] Kim's performance and supervision of the Component Audit failed to comply with PCAOB standards.

13. Kim documented that the engagement team performed accounts receivable confirmation procedures to address the fraud risk related to revenue cutoff. Kim instructed the Engagement Manager to supervise that testing. The Engagement Manager and other engagement team members, however, failed to perform and document procedures sufficient to evaluate the existence of accounts receivable and revenue. In fact, the audit documentation for accounts receivable for three of the five Korean components of Issuer A consisted primarily of work papers from the prior year. The accounts receivable balance for these three components constituted 73% of accounts receivable recorded by Issuer A's Korean components as of September 30, 2017.

14. During the Component Audit, multiple engagement team members signed off as having prepared the accounts receivable audit documentation, and the Engagement Manager signed off as having reviewed that documentation, despite the documentation consisting of prior-year work papers. Kim did not review the engagement team's accounts receivable work, even though that work was intended to address a fraud risk in a significant account.

15. At the conclusion of the Component Audit, Kim sent to KPMG US an interoffice report, which stated that the Component Audit was conducted in accordance with PCAOB standards. It also stated Kim had addressed the fraud risk related to revenue cutoff by performing accounts receivable confirmation procedures. Because Kim and his engagement team had failed to perform the planned confirmation procedures and failed to obtain sufficient appropriate audit evidence to support the Korean components' accounts receivable balances, those statements were inaccurate.

16. In his role as lead partner for the Component Audit, Kim failed to "plan and perform the audit to obtain appropriate audit evidence that is sufficient to support the opinion expressed in the auditor's report."[12] Kim also failed "to evaluate the results of the audit to determine whether the audit evidence obtained [wa]s sufficient and appropriate to support the opinion to be expressed in the auditor's report."[13] Finally, Kim failed to supervise the

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11 *Id.* at .05.

12 AS 1105.03; *see also* AS 1015.01, .07.

13 AS 2810.33, *Evaluating Audit Results*.

Component Audit to ensure that work was performed as directed, and supported the conclusions reached.[14]

ii. Kim Failed to Make Required Determinations After Learning that Work May Not Have Been Performed

17. PCAOB standards provide that if, after the documentation completion date for an audit,[15] "the auditor becomes aware, as a result of a lack of documentation or otherwise, that audit procedures may not have been performed, evidence may not have been obtained, or appropriate conclusions may not have been reached, the auditor must determine, and if so demonstrate, that sufficient procedures were performed, sufficient evidence was obtained, and appropriate conclusions were reached with respect to the relevant financial statement assertions."[16]

18. On or around September 20, 2018, Kim learned that the PCAOB had selected the Component Audit as one of the engagements it would review as part of the 2018 inspection of KPMG Korea. On or around October 4, 2018, Kim learned that revenue and accounts receivable would be focus areas for the inspectors' review of the Component Audit.

19. In preparing for the inspection, Kim reviewed the complete and final set of audit documentation for the Component Audit. In the course of that review, he realized that, for three of the five Korean components of Issuer A, the accounts receivable documentation consisted primarily of prior-year work papers. After discovering the issue, Kim failed to take any steps to determine whether, during the Component Audit, sufficient procedures had been performed, sufficient evidence had been obtained, and appropriate conclusions had been reached with respect to accounts receivable. Accordingly, he violated PCAOB standards.[17]

iii. Kim Improperly Altered Audit Documentation and Failed to Cooperate with the Board's Inspection

20. PCAOB Rule 4006 states, in part: "Every registered public accounting firm, and every associated person of a registered public accounting firm, shall cooperate with the Board

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14 AS 1201.05.

15 *See* AS 1215.15, *Audit Documentation* (defining documentation completion date as a date not more than 45 days after auditor releases an audit report).

16 *Id.* at .09.

17 *See id.*

in the performance of any Board inspection."[18] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information" to the Board's inspectors.[19]

21. PCAOB standards require an auditor to assemble for retention a complete and final set of audit documentation as of a date not more than 45 days after the report release date.[20] PCAOB standards also provide that "[a]udit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[21]

22. As noted above, Kim conducted a review of the work papers for the Component Audit after learning that the engagement would be reviewed during the PCAOB inspection. As a result of that review, Kim noted the issue with the accounts receivable work; he also came to understand that the audit documentation did not include a management representation letter or an independence confirmation.

23. In response to those discoveries, Kim and the Engagement Manager improperly added work papers to the documentation for the Component Audit. First, with Kim's knowledge and approval, the Engagement Manager: (a) created work papers documenting accounts receivable testing that was not performed at the time of the Component Audit; and (b) improperly added those work papers to the audit documentation. Second, the Engagement Manager, acting at Kim's direction, improperly added a management representation letter to the audit documentation. Third, Kim and the Engagement Manager created an independence confirmation and executed it in a manner that made it appear as if the independence confirmation had been completed during the Component Audit. Kim then directed other available engagement team members to execute the independence confirmation and, to the extent that other engagement team members were unavailable, Kim and the Engagement Manager added signatures appearing to be from the unavailable engagement team members. Kim and the Engagement Manager improperly added the newly created independence confirmation to the audit documentation.

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18 PCAOB Rule 4006, *Duty to Cooperate with Inspectors.*

19 *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 Fed App'x 918 (9th Cir. 2018).

20 *See* AS 1215.14-.15.

21 *Id. at* .16.

24. None of these documents, which were added to the audit documentation shortly before the inspection and more than ten months after the documentation completion date for the Component Audit, indicated the date the information was added, the name of the person who prepared the additional documentation, or the reason for adding it, in violation of PCAOB standards.[22]

25. The Board's inspectors began field work in early December 2018. During field work, the inspectors met with Kim and other KPMG Korea auditors and asked about certain aspects of the audit documentation, including audit documentation that appeared to be for procedures performed in connection with the prior-year audit.

26. In response, Kim represented to the inspectors that additional accounts receivable work was documented and included in hard-copy work papers that had not yet been provided to the inspectors. Neither Kim nor anyone else on the engagement team, however, disclosed to the inspectors that they had improperly added accounts receivable work papers to the audit documentation shortly before the inspection.

27. Kim's actions—including instructing others to improperly add newly created and backdated work papers to the complete and final set of audit documentation, and providing misleading information to the Board's inspectors—violated PCAOB audit documentation standards and constituted a failure to cooperate with a PCAOB inspection.[23]

IV.

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

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Kim is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[24]

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22 *See id*.

23 *See id.* and PCAOB Rule 4006.

24 As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Kim. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial

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

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $50,000 upon Kim. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay this civil money penalty within twenty days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter that identifies Kim as a respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 16, 2022

management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Se Woon Jung,

Respondent.

PCAOB Release No. 105-2022-014

August 16, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) barring Se Woon Jung ("Jung" or "Respondent") from being associated with a registered public accounting firm;[1] and

(2) imposing a $40,000 civil money penalty upon Jung.

The Board is imposing these sanctions on the basis of its findings that Jung: (a) violated PCAOB rules and standards in connection with the audit of an issuer; and (b) failed to cooperate with a Board inspection.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to

[1] Jung may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Jung and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Se Woon Jung** is a member of the Korean Institute of Certified Public Accountants (registration no. 10540). Until March 8, 2019, and at all relevant times, Jung was a director employed by KPMG Samjong Accounting Corp. ("KPMG Korea" or "Firm"). Jung served as the engagement manager for the audit of five Korean components of Issuer A for the fiscal year ended September 30, 2017 ("Component Audit"). At all relevant times, Jung was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities and Individuals

2. KPMG Korea is a limited liability corporation organized under the laws of the Republic of Korea and headquartered in Seoul, Republic of Korea.[4] The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

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

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] *See KPMG Samjong Accounting Corp.*, PCAOB Release No. 105-2022-012 (Aug. 16, 2022).

3. The "Component Lead Partner" is a former partner of KPMG Korea. He was the partner responsible for the Firm's work on the Component Audit.[5]

4. Issuer A was, at all relevant times, a Delaware corporation headquartered in Arizona. Issuer A's public filings disclose that it was a specialty materials manufacturer. At all relevant times, Issuer A was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Jung's violations of PCAOB rules and auditing standards in connection with the Component Audit and the Board's subsequent review of portions of that audit as part of its 2018 inspection of KPMG Korea. First, during the Component Audit, Jung failed to properly perform and supervise the Firm's audit work on accounts receivable. As a result, Jung did not identify that, for three of the five Korean components of Issuer A, the audit documentation that the engagement team prepared related to accounts receivable confirmations consisted primarily of prior-year work papers.

6. Second, in advance of the Board's 2018 inspection, Jung improperly added documentation to the Component Audit work papers in an effort to mislead the Board's inspectors about the work performed at the time of the Component Audit.

7. Finally, Jung also provided misleading information to the inspectors during inspection field work.

D. Respondent Violated PCAOB Rules and Standards in Connection with the Audit Procedures for Accounts Receivable

8. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient audit evidence to provide a

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[5] *See Jin Tae Kim*, PCAOB Release No. 105-2022-013 (Aug. 16, 2022).

[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

reasonable basis for the auditor's opinion.[7] As described below, Jung violated these and other PCAOB rules and standards in connection with the Component Audit and the Board's subsequent inspection of KPMG Korea.

i. Jung Failed to Properly Perform and Supervise the Audit Procedures for Accounts Receivable

9. KPMG LLP ("KPMG US") performed an integrated audit of Issuer A for the fiscal year ending September 30, 2017. KPMG US instructed its Korean affiliate, KPMG Korea, to audit the financial information for five Korean components of Issuer A.[8] The Korean components constituted 27% of Issuer A's reported revenue and 23% of Issuer A's reported assets for fiscal year 2017. KPMG Korea's engagement team was led by the Component Lead Partner. Jung served as the engagement manager on the KPMG Korea engagement team.

10. KPMG US instructed KPMG Korea that audit procedures should be performed and audit documentation for the Component Audit should be prepared and retained in accordance with PCAOB standards. KPMG US further instructed KPMG Korea that the five Korean components of Issuer A were, collectively, financially significant and identified revenue as a significant account for the Component Audit. In addition, KPMG US informed KPMG Korea that there was a fraud risk related to revenue cutoff. Jung was aware of these instructions at the time of the Component Audit.

11. Engagement team members, including Jung, who assisted the Component Lead Partner with supervision of the work of other engagement team members, were required to comply with the supervision requirements of PCAOB standards with respect to their assigned responsibilities.[9] In the areas Jung was responsible for supervising, he was required to review the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached.[10] Jung's supervision of the audit procedures for accounts receivable failed to comply with PCAOB standards.

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7 *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*.

8 *See* AS 1205, *Part of the Audit Performed by Other Independent Auditors*.

9 *See* AS 1201.04, *Supervision of the Audit Engagement*.

10 *Id.* at .05.

12. KPMG Korea documented that it performed accounts receivable confirmation procedures to address the fraud risk related to revenue cutoff. The Component Lead Partner instructed Jung to supervise that testing. Jung and other engagement team members acting under his supervision, however, failed to perform and document procedures sufficient to evaluate the existence of accounts receivable and revenue. In fact, the audit documentation for accounts receivable for three of the five Korean components of Issuer A consisted primarily of work papers from the prior year. The accounts receivable balance for these three components constituted 73% of accounts receivable recorded by Issuer A's Korean components as of September 30, 2017.

13. During the Component Audit, multiple engagement team members working under Jung's supervision signed off as having prepared the accounts receivable audit documentation, and Jung signed off as having reviewed that documentation, despite the documentation consisting of prior-year work papers. Jung's acceptance of prior-year work papers to support current-year accounts receivable balances constituted a failure to exercise due professional care, a failure to obtain sufficient appropriate audit evidence, and a failure to appropriately fulfill his supervision responsibilities, in violation of PCAOB standards.[11]

14. At the conclusion of the Component Audit, Jung assisted in finalizing KPMG Korea's interoffice report. Jung then sent to KPMG US an interoffice report, which stated that the Component Audit was conducted in accordance with PCAOB standards. It also stated that the engagement team had addressed the fraud risk related to revenue cutoff by performing accounts receivable confirmation procedures. In light of Jung's violation of PCAOB standards, those statements were inaccurate.

ii. Jung Improperly Altered Audit Documentation and Failed to Cooperate with the Board's Inspection

15. PCAOB Rule 4006 states, in part: "Every registered public accounting firm, and every associated person of a registered public accounting firm, shall cooperate with the Board

[11] *See* AS 1015.01 and .07; AS 1105.04; AS 1201.05; *see also* AS 2810.33, *Evaluating Audit Results* (as part of evaluating audit results, the auditor must conclude on whether sufficient appropriate audit evidence has been obtained to support the audit opinion).

in the performance of any Board inspection."[12] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information" to the Board's inspectors.[13]

16. PCAOB standards require an auditor to assemble for retention a complete and final set of audit documentation as of a date not more than 45 days after the report release date.[14] PCAOB standards also provide that "[a]udit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[15]

17. In late September 2018, Jung learned that the Component Audit would be inspected by the PCAOB. On or around October 4, 2018, Jung learned that revenue and accounts receivable would be focus areas for the inspectors' review of the Component Audit.

18. To prepare for the inspection, Jung participated in a review of the work papers for the Component Audit. As a result of that review, Jung noted the issue with the accounts receivable work; he also came to understand that KPMG Korea's documentation for the Component Audit did not include a management representation letter or an independence confirmation.

19. In response to those discoveries, Jung and the Component Lead Partner improperly added work papers to the documentation for the Component Audit. First, Jung: (a) created work papers documenting accounts receivable testing that was not performed at the time of the Component Audit; and (b) improperly added those work papers to the audit documentation. Second, Jung improperly added a management representation letter to the audit documentation. Third, Jung and the Component Lead Partner created an independence confirmation and executed it in a manner that made it appear as if the independence confirmation had been completed during the Component Audit. The Component Lead Partner then directed other available engagement team members to execute the independence confirmation and, to the extent that other engagement team members were unavailable, Jung and the Component Lead Partner added signatures appearing to be from the unavailable

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12 PCAOB Rule 4006, *Duty to Cooperate with Inspectors.*

13 *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 Fed App'x 918 (9th Cir. 2018).

14 *See* AS 1215.14-.15, *Audit Documentation*.

15 *Id.* at .16.

engagement team members. Jung and the Component Lead Partner improperly added the newly created independence confirmation to the audit documentation.

20. None of these documents, which were added to the audit documentation shortly before the inspection and more than ten months after the documentation completion date for the Component Audit, indicated the date the information was added, the name of the person who prepared the additional documentation, or the reason for adding it, in violation of PCAOB standards.[16]

21. The Board's inspectors began field work in early-December 2018. During field work, the inspectors met with Jung and other KPMG Korea auditors and asked about certain aspects of the audit documentation, including audit documentation that appeared to be for procedures performed in connection with the prior-year audit.

22. In response, Jung represented to the inspectors that additional accounts receivable work was documented and included in hard-copy work papers that had not yet been provided to the inspectors. Neither Jung nor anyone else on the engagement team, however, disclosed to the inspectors that they had improperly added accounts receivable work papers to the audit documentation shortly before the inspection.

23. Jung's actions—including improperly adding newly created and backdated work papers to the complete and final set of audit documentation, and providing misleading information to the Board's inspectors—violated PCAOB audit documentation standards, and constituted a failure to cooperate with a PCAOB inspection.[17]

IV.

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

16 *See id.*

17 *See id.* and PCAOB Rule 4006.

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jung is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[18]

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

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $40,000 upon Jung. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay this civil money penalty within twenty days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter that identifies Jung as a respondent in these proceedings, sets forth the title and PCAOB Release Number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***Respondent understands that failure to pay the civil money penalty described above may***

[18] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Jung. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 16, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG Inc., Cornelis Van Niekerk, and Coenraad Basson,

Respondents.

PCAOB Release No. 105-2022-015

August 29, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) imposing civil money penalties in the amounts of $200,000 on KPMG Inc. ("KPMG-SA"), $50,000 on Cornelis Van Niekerk ("Van Niekerk"),[1] and $25,000 on Coenraad Basson ("Basson");

(2) requiring KPMG-SA to undertake and certify the completion of certain improvements to its system of quality control;

(3) barring Van Niekerk from being an associated person of a registered public accounting firm;[2] and

(4) suspending Basson from being an associated person of a registered public accounting firm for a period of one year from the date of this Order.

In this Order, KPMG-SA, Van Niekerk, and Basson are collectively referred to as "Respondents." The Board is imposing these sanctions on the basis of Respondents' conduct in connection with KPMG-SA's use of audit work performed by KPMG Chartered Accountants Zimbabwe ("KPMG-Zimbabwe"), a firm that was not registered with the Board and played a

[1] Based on his conduct, Van Niekerk's civil money penalty in this settlement would have been $100,000. The Board determined to accept Van Niekerk's offer of settlement and impose a lower penalty after considering Van Niekerk's financial resources.

[2] Van Niekerk may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

substantial role in KPMG-SA's 2015 through 2017 audits of Issuer A. Specifically, the Board finds that KPMG-SA and Van Niekerk failed to reasonably supervise KPMG-Zimbabwe under the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and that Respondents violated PCAOB rules and standards in connection with the audits of Issuer A.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondents pursuant to Section 105(c) of the Act and PCAOB Rules 5200(a)(1) and (2).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, Respondents each consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds[4] that:

A. Respondents

1. **KPMG Inc.** is an incorporated company organized under the laws of the Republic of South Africa with headquarters in Johannesburg, South Africa. KPMG-SA is a member firm of

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

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

the KPMG global organization of independent member firms affiliated with KPMG International Limited ("KPMG International Network"). KPMG-SA registered with the Board on May 19, 2004.

2. **Cornelis Van Niekerk** was, at all relevant times, a partner of KPMG-SA and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). He served as the engagement partner for KPMG-SA's audits of Issuer A's 2015, 2016, and 2017 financial statements.

3. **Coenraad Basson** was, at all relevant times, a partner of KPMG-SA and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). He served as the engagement quality reviewer for KPMG-SA's audits of Issuer A's 2015, 2016, and 2017 financial statements.

B. Other Relevant Entities

4. KPMG Chartered Accountants Zimbabwe is a firm organized under the laws of Zimbabwe and headquartered in Harare, Zimbabwe. KPMG-Zimbabwe is a member firm in the KPMG International Network. KPMG-Zimbabwe has never been registered with the Board. At all relevant times, KPMG-Zimbabwe was a public accounting firm, as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii), and an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). At all relevant times, KPMG-Zimbabwe was also the statutory auditor of Subsidiary X (as defined below).

5. Issuer A was a Channel Islands corporation and an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Issuer A's largest subsidiary ("Subsidiary X") represented 100% of Issuer A's consolidated revenues and approximately 85-95% of its consolidated assets from 2015 through 2017.

C. Summary

6. KPMG-SA's use of an unregistered firm, KPMG-Zimbabwe, during the 2013 and 2014 audits of Issuer A was the subject of a U.S. Securities and Exchange Commission ("Commission") enforcement order against the firm, dated March 13, 2018. Despite being on notice that KPMG-Zimbabwe's participation in the Issuer A audits potentially implicated regulatory issues, Respondents failed to take appropriate steps to assure that KPMG-Zimbabwe's participation in the 2015 through 2017 audits of Issuer A would be consistent with PCAOB registration requirements.

7. Moreover, when it came to Respondents' attention near the end of the 2017 audit that KPMG-Zimbabwe's audit hours may have exceeded the threshold requiring registration with the Board, they responded by using a series of unreasonable adjustments to reduce KPMG-Zimbabwe's hours by 77%. KPMG-SA relied on the downward-adjusted hours to conclude that KPMG-Zimbabwe had not exceeded the PCAOB registration threshold.

8. KPMG-SA then reported KPMG-Zimbabwe's audit hours as 17% of the total audit hours in its Form AP filing with respect to the firm's 2017 Issuer A audit report.

9. Due to their failures to adequately supervise, plan, and review KPMG-Zimbabwe's participation in the 2015 through 2017 audits, Respondents failed to reasonably supervise an associated person under the Act and violated PCAOB rules and standards.

D. Background Concerning the Audits of Issuer A

10. KPMG-SA served as Issuer A's auditor for the 2013 through 2017 fiscal years. During those same years, KPMG-Zimbabwe served as the statutory auditor for certain subsidiaries of Issuer A, including Subsidiary X. KPMG-SA used KPMG-Zimbabwe's audit work with respect to Subsidiary X during its audits of Issuer A's 2013 through 2017 financial statements.

i. The 2013 and 2014 Audits

11. During the 2013 and 2014 Issuer A audits, KPMG-SA used the work and inter-firm reporting of KPMG-Zimbabwe, which audited the financial statements of Subsidiary X pursuant to AS 1205, *Part of Audit Performed by Other Independent Auditors* (formerly AU § 543).[5] KPMG-SA issued its 2013 and 2014 audit reports for Issuer A on May 15, 2014, and March 27, 2015, respectively.

12. In the months following its issuance of the 2014 audit report, KPMG-SA and KPMG-Zimbabwe learned that the Commission had commenced an investigation into the 2013

[5] As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. *See* Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules, PCAOB Release No. 2015- 002 (Mar. 31, 2015); *see also* PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering (January 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondents' conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

and 2014 audits of Issuer A. KPMG-SA and KPMG-Zimbabwe ultimately submitted offers of settlement in connection with the Commission's investigation in late 2017.

13. On March 13, 2018, the Commission issued: (1) an order sanctioning KPMG-SA for, *inter alia*, failing to comply with AS 1205 and AS 1015, *Due Professional Care in the Performance of Work* (formerly AU § 230),[6] in using the audit work of an unregistered firm, KPMG-Zimbabwe, that played a substantial role in the 2013 and 2014 audits of Issuer A;[7] and (2) an order sanctioning KPMG-Zimbabwe for playing a substantial role, without being registered with the Board (in violation of Section 102 of the Act), in the preparation of KPMG-SA's 2013 and 2014 Issuer A audit reports.[8]

ii. The 2015 Through 2017 Audits

14. KPMG-SA changed its approach to the audit of Issuer A beginning with the 2015 fiscal year.

15. KPMG-SA continued serving as Issuer A's auditor for the 2015 through 2017 fiscal years, and KPMG-Zimbabwe continued to be responsible for the statutory audit of Subsidiary X. KPMG-SA also continued to use KPMG-Zimbabwe's audit work with respect to Subsidiary X. However, KPMG-SA began supervising KPMG-Zimbabwe's work under AS 1201, *Supervision of the Audit Engagement* (formerly AS No. 10), instead of using the work and inter-firm reporting of KPMG-Zimbabwe under AS 1205.

16. With respect to the 2015 and 2016 audits, KPMG-SA's work papers documented that "KPMG Zimbabwe performed the audit of [Subsidiary X] under the direction and supervision of [KPMG-SA]." With respect to the 2017 audit, KPMG-SA documented that "KPMG Zimbabwe was engaged to assist [KPMG-SA] with the performance of the audit field work as part of KPMG Zimbabwe's engagement to audit the statutory annual financial statements as at 31 December 2017."

17. KPMG-SA's work papers further documented that engagement partner Van Niekerk and the KPMG-Zimbabwe engagement partner for the statutory audits of Subsidiary X ("Zimbabwe Partner") were the "responsible partner[s]" for the 2015 through 2017 Subsidiary X audits. In addition to the Zimbabwe Partner, a manager and several junior audit staff from

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[6] *See* discussion *supra*, at n.5, concerning this Order's citation of the Board's reorganized standards for purposes of clarity.

[7] *KPMG Inc.*, Exchange Act Release No. 82860, 2018 WL 1288628 (SEC Mar. 13, 2018).

[8] *KPMG*, Exchange Act Release No. 82862, 2018 WL 1288630 (SEC Mar. 13, 2018).

KPMG-Zimbabwe also worked on the 2015 through 2017 Subsidiary X audits, along with certain KPMG-SA personnel.

18. During each of these audits, KPMG-Zimbabwe prepared and reviewed most of the work papers with respect to the Subsidiary X audit. At least one KPMG-SA partner or manager then reviewed nearly all of the work papers prepared by KPMG-Zimbabwe.

19. KPMG-SA issued audit reports on Issuer A's 2015, 2016, and 2017 financial statements on March 30, 2016, March 30, 2017, and March 29, 2018, respectively. These audit reports were included in Form 20-Fs that Issuer A filed with the Commission.

a. KPMG-Zimbabwe's Substantial Role in the 2015 and 2016 Audits

20. KPMG-SA's 2015 and 2016 work paper files each included a memorandum, reviewed by Van Niekerk, that noted KPMG-Zimbabwe was not registered with the PCAOB and "if a component auditor plays a substantial role in the performance of the group [Issuer A] audit, that component auditor is required to be registered with the PCAOB."[9] The memorandum went on to state that KPMG-SA would perform "additional reviews" of KPMG-Zimbabwe's work and be involved in the "direction/planning, supervision and performance of

[9] Section 102(a) of the Act requires an accounting firm that "prepare[s] or issue[s], or [that] participate[s] in the preparation or issuance of, any audit report with respect to any issuer, broker, or dealer" to register with the Board. 15 U.S.C. § 7212(a). Section 106(a)(2) of the Act provides that "[t]he Board may, by rule, determine that a foreign public accounting firm (or a class of such firms) . . . plays such a substantial role in the preparation and furnishing of such reports for particular issuers, brokers, or dealers, that it is necessary or appropriate, in light of the purposes of this Act and in the public interest or for the protection of investors, that such firm (or class of firms) should be treated as a public accounting firm (or firms) for purposes of registration under, and oversight by the Board in accordance with, this subchapter." 15 U.S.C. § 7216(a)(2). PCAOB Rule 2100, *Registration Requirements for Public Accounting Firms*, requires an accounting firm that "plays a substantial role in the preparation or furnishing of an audit report with respect to any issuer" to register with the Board. Thus, by virtue of Section 106(a)(2) and Rule 2100, Section 102(a) is applicable to foreign accounting firms that play a substantial role in an issuer audit.

PCAOB Rule 1001(p)(ii) defines the phrase "play a substantial role in the preparation or furnishing of an audit report" to include, among other things, the performance of "material services that a public accounting firm uses or relies on in issuing all or part of its audit report." *See* PCAOB Rule 1001(p)(ii)(1). Note 1 to the rule defines "material services" to mean "services, for which the engagement hours or fees constitute 20% or more of the total engagement hours or fees, respectively, provided by the principal auditor in connection with the issuance of all or part of its audit report."

the [Subsidiary X] audit." The memorandum further stated that KPMG-SA would "take responsibility of the [Subsidiary X] audit file."

21. While they changed KPMG-SA's audit approach to supervise KPMG-Zimbabwe's work, KPMG-SA and Van Niekerk failed during the 2015 and 2016 audits to perform adequate analysis in support of their view that KPMG-SA's supervision of the Subsidiary X audit work performed by KPMG-Zimbabwe would obviate any substantial role issue.[10]

22. Specifically, during the 2015 and 2016 audits, KPMG-SA and Van Niekerk did not document any consideration of the "substantial role" definition in PCAOB Rule 1001(p)(ii) or the note thereto indicating that a firm plays a substantial role if it incurs more than 20% of the total audit hours or fees.

23. KPMG-SA and Van Niekerk also failed to adequately perform planning to ensure that KPMG-Zimbabwe's 2015 or 2016 audit hours and fees would be less than 20% of the total hours and fees. KPMG-SA and Van Niekerk failed to perform any analysis of the hours or fees that they expected to be, or that actually were, incurred by KPMG-Zimbabwe during the 2015 and 2016 audits.

24. KPMG-Zimbabwe's audit hours and fees in connection with the 2015 and 2016 audits of Issuer A ultimately exceeded 20% of the total audit hours and fees, respectively.

b. KPMG-Zimbabwe's Substantial Role in the 2017 Audit

25. On December 14, 2017, Basson sent Van Niekerk an excerpt of guidance concerning the 20% hours and fees threshold for substantial role purposes.

26. Van Niekerk forwarded Basson's email to the Zimbabwe Partner and stated that, in connection with the upcoming 2017 Issuer A audit, "the audit fees/hours of KPMG Zimbabwe should NOT exceed 20%." Van Niekerk proposed that KPMG-SA and KPMG-Zimbabwe should revise how they split the Issuer A audit fee such that KPMG-Zimbabwe's fee would fall below the 20% substantial role threshold.

27. KPMG-SA and Van Niekerk, however, did not take additional steps to estimate or project KPMG-Zimbabwe's expected audit hours. KPMG-SA and Van Niekerk did not otherwise

[10] In fact, neither the Act nor PCAOB rules exempt an unregistered firm from compliance with registration requirements simply because it is supervised by a registered firm.

perform specific planning procedures to ensure that KPMG-Zimbabwe's hours would remain below the 20% substantial role threshold.

28. On March 13, 2018, the Commission issued its orders sanctioning KPMG-SA and KPMG-Zimbabwe. The same day, Basson requested that Van Niekerk "prepare a final memo to conclude that KPMG Zim[babwe] did not play a substantial role on the [Issuer A] audit." Basson stated the "key criteria" was that KPMG-Zimbabwe's fees or hours could not exceed the 20% substantial role threshold. Basson further stated: "This is important as the AP forms are due soon after signing of the opinion and will require this year that the hours of all participating offices, ie KPMG Zim[babwe] be disclosed."

29. Three days later, Van Niekerk asked the Zimbabwe Partner to "provide us with the hours spent on [Subsidiary X], split between group reporting and statutory audit." The term "group reporting" referred to the consolidated Issuer A audit that was required to be performed in accordance with PCAOB standards, as opposed to the Subsidiary X statutory audit that was not performed under PCAOB standards.

30. At the time of Van Niekerk's March 16 email, the majority of the 2017 Issuer A audit had been completed.

31. On March 19, the Zimbabwe Partner sent Van Niekerk a spreadsheet showing an estimated allocation of 30% of KPMG-Zimbabwe's hours to the Issuer A audit and 70% to the Subsidiary X statutory audit, with minor adjustments made for certain individuals. The Zimbabwe Partner's spreadsheet resulted in an allocation of 463 hours to the Issuer A audit and 1,270 hours to the statutory audit. The Zimbabwe Partner's spreadsheet stated that the statutory audit allocation "reflect[ed] the hour[s] to complete the statutory audit," while the Issuer A hours allocation reflected "an incremental amount considered to be relevant for additional documentation" for the Issuer A audit. Thus, the Zimbabwe Partner's spreadsheet excluded from KPMG-Zimbabwe's Issuer A audit hours *any* work performed for the statutory audit, even though some of the statutory audit work also was used for the Issuer A audit.

32. On March 22, Van Niekerk sent the Zimbabwe Partner an email advising him that "[w]e are faced with a significant problem in that the hours worked by the Zimbabwe team members far exceed the 20% threshold even if we assume that only 30% of their time was spent on group reporting."

33. Later that same day, a KPMG-SA engagement team member sent Van Niekerk a new analysis, distinct from the hours allocation in the spreadsheet previously sent by the Zimbabwe Partner. The new analysis reduced KPMG-Zimbabwe's total hours based on several factors, including KPMG-SA's own estimates of time that KPMG-Zimbabwe spent on statutory

audit work that was outside the scope of the Issuer A audit and of purported "non-productive" time included in KPMG-Zimbabwe's recorded hours. This new analysis showed KPMG-Zimbabwe's hours at 26%, and the engagement team member told Van Niekerk that he would "work on it tomorrow morning and see if I can work out the last 6%."

34. The engagement team member next excluded time that he estimated KPMG-Zimbabwe had spent on audit procedures that were not required for the Issuer A audit. The engagement team member then updated Van Niekerk that he was "finding it difficult now, I have reduced the ZIM hours to 24% as it stands."

35. On March 26, Van Niekerk sent KPMG-SA's hours analysis to the Zimbabwe Partner, noting that KPMG-Zimbabwe's hours "should not be more than 20% (Currently 24%)." He noted that "[w]e are still 69 hours short."

36. Van Niekerk also advised the Zimbabwe Partner that he had adjusted KPMG-Zimbabwe's hours based on "the following arguments": (1) a reduction for statutory audit work on Issuer A affiliates that were "not relevant for group reporting"; (2) a reduction for all of the Zimbabwe Partner's non-tax hours; (3) a reduction for the "excess time" recorded by KPMG-Zimbabwe based on the difference in average time per work paper recorded by KPMG-Zimbabwe and the average time per work paper recorded by KPMG-SA; and (4) a reduction for "[c]ertain activities" that were completed only for purposes of the Subsidiary X statutory audit.

37. KPMG-SA subsequently removed the time charged by a KPMG-Zimbabwe manager who worked on the Subsidiary X statutory audit. On March 27, Van Niekerk sent the "updated" hours analysis to the Zimbabwe Partner. Van Niekerk wrote that "[w]e are within the 20% threshold based on the calculation . . . Can you please review and let me have you[r] approval."

38. On March 28, Van Niekerk emailed the KPMG-SA hours analysis to Basson. Van Niekerk told Basson that the Zimbabwe Partner "wants to discuss" because he "cannot seem to agree with the non-productive hours." The "non-productive hours" were calculated based on the assumption that it should have taken KPMG-Zimbabwe the same amount of time to prepare a work paper as KPMG-SA, regardless of the amount of testing performed or documentation involved in the preparation of each work paper.[11]

[11] KPMG-SA justified this assumption, in part, on the belief that the KPMG-Zimbabwe team had charged all of its weekend hours while located onsite at the client, potentially including hours that they may not have actually been working on the audit.

39. That same day, Van Niekerk, Basson, and the Zimbabwe Partner participated in a conference call concerning KPMG-SA's hours analysis. KPMG-SA issued its audit report for Issuer A the following day.

40. About two weeks later, on April 11, Van Niekerk emailed the Zimbabwe Partner, copying Basson, and asked that he "[p]lease let me have the [Subsidiary X] hours following your review and analysis as was resolved on the conference call. We need to submit the AP form by Tuesday next week."

41. The Zimbabwe Partner sent Van Niekerk a revised analysis that reclassified a portion of the non-productive hours adjustment to a new adjustment for KPMG-Zimbabwe's travel time in connection with the audit. The Zimbabwe Partner also attempted to justify the non-productive hours adjustment by noting that KPMG-Zimbabwe personnel were subject to "delays in receiving information" from Subsidiary X.

42. Based on the approach agreed to by Van Niekerk, Basson, and the Zimbabwe Partner on March 28 and the revised analysis provided by the Zimbabwe Partner, the KPMG-SA engagement team ultimately prepared a work paper calculating KPMG-Zimbabwe's percentage of the Issuer A audit hours. The work paper documented six categories of downward adjustments that Respondents used to effect a three-quarters reduction in the number of hours originally recorded by KPMG-Zimbabwe (from 1,733 hours to 402 hours).

43. Absent these adjustments, KPMG-Zimbabwe's audit hours would have significantly exceeded 20% of the total audit hours.

44. Respondents lacked an objectively reasonable basis for or means of calculating the adjustments that they used to reduce KPMG-Zimbabwe's audit hours.

45. Nevertheless, the KPMG-SA engagement team prepared, and Van Niekerk signed off on, a work paper concluding that KPMG-Zimbabwe did not perform material services, and thus did not "trigger the 'substantial role' definition," based on KPMG-SA's calculation that KPMG-Zimbabwe's adjusted hours and fees each fell below the 20% substantial role threshold.

46. On April 19, 2018, KPMG-SA filed a Form AP with respect to its 2017 Issuer A audit report and reported that KPMG-Zimbabwe had incurred 17% of the total 2017 Issuer A audit hours.[12]

E. KPMG-SA and Van Niekerk Failed to Reasonably Supervise KPMG-Zimbabwe and Violated PCAOB Rules and Standards During the 2015 Through 2017 Audits of Issuer A

47. During the 2015 and 2016 audits of Issuer A, KPMG-Zimbabwe incurred hours and fees that exceeded 20% of the total audit hours and fees. During the 2017 audit of Issuer A, KPMG-Zimbabwe again exceeded 20% of the total audit hours. Accordingly, KPMG-Zimbabwe played a substantial role in each of the 2015 through 2017 audits without being registered with the Board, in violation of Section 102(a) of the Act and PCAOB Rule 2100.

48. KPMG-SA and Van Niekerk failed to reasonably supervise or plan KPMG-Zimbabwe's participation in the 2015 through 2017 audits in a manner designed to avoid violations of Section 102(a) and PCAOB Rule 2100. Moreover, during his engagement quality review, Basson failed to appropriately evaluate the failure to adequately plan the 2017 audit, despite being aware of the reductions made to KPMG-Zimbabwe's hours. Their conduct fell short of their obligation to reasonably supervise KPMG-Zimbabwe and violated PCAOB rules and standards.

i. KPMG-SA and Van Niekerk Failed to Reasonably Supervise KPMG-Zimbabwe

49. Section 105(c)(6) of the Act provides that the Board may impose sanctions on a registered accounting firm or upon the firm's supervisory personnel, if the Board finds that (1) the firm has failed to reasonably supervise an associated person, either as required by the rules of the Board relating to auditing or quality control standards, or otherwise, with a view to preventing violations of the Act or the rules of the Board; and (2) such associated person commits a violation of the Act or Board rules.

50. Under Section 2(a)(9) of the Act, the term "person associated with a registered public accounting firm" includes "any . . . entity that, in connection with the preparation or issuance of any audit report—(i) shares in the profits of, or receives compensation in any other form from, that firm; or (ii) participates as agent or otherwise on behalf of such accounting firm in any activity of that firm." Because it performed audit work at the direction, and under the

[12] KPMG-SA did not separately calculate KPMG-Zimbabwe's participation in the Issuer A audit for Form AP reporting purposes, and relied, instead, on its calculation of audit hours for substantial role purposes.

supervision, of KPMG-SA, KPMG-Zimbabwe acted as an "entity that, in connection with the preparation or issuance of [the Issuer A] audit report[,] . . . participate[d] as agent or otherwise on behalf of [KPMG-SA]." Accordingly, KPMG-Zimbabwe was an "associated person" of KPMG-SA during the 2015 through 2017 audits.

51. KPMG-SA had a responsibility to reasonably supervise its associated persons during the 2015 through 2017 Issuer A audits. Likewise, Van Niekerk, as the engagement partner, had supervisory responsibility and was a supervisory person of KPMG-SA for those audits. KPMG-SA and Van Niekerk knew that the Commission was investigating KPMG-Zimbabwe's participation in the 2013 and 2014 audits.

52. KPMG-SA and Van Niekerk failed to reasonably supervise KPMG-Zimbabwe during the 2015 and 2016 audits of Issuer A with a view to preventing violations of the mandatory registration requirement set forth in Section 102(a) of the Act and PCAOB Rule 2100. Rather, they allowed KPMG-Zimbabwe, while unregistered, to play a substantial role in the 2015 and 2016 audits without performing an analysis of the mandatory registration requirement or taking adequate steps to ensure that KPMG-Zimbabwe's participation in the audit would not constitute a substantial role.

53. By the time of the 2017 audit of Issuer A, KPMG-SA and Van Niekerk knew that KPMG-SA had submitted an offer of settlement to the Commission that included sanctions against the firm for its reliance on KPMG-Zimbabwe's work in the 2013 and 2014 audits. During the 2017 audit, they also became aware that the Commission had issued an order accepting KPMG-SA's offer of settlement and imposing the sanctions. Yet KPMG-SA and Van Niekerk failed to reasonably supervise KPMG-Zimbabwe during the 2017 audit with a view to preventing violations of the registration requirement.

54. Specifically, KPMG-SA and Van Niekerk allowed KPMG-Zimbabwe to play a substantial role in the 2017 audit without taking adequate steps to conduct the audit in a manner that ensured KPMG-Zimbabwe would not violate PCAOB registration requirements. Moreover, upon becoming aware that KPMG-Zimbabwe's recorded hours exceeded the 20% substantial role threshold, KPMG-SA and Van Niekerk engaged in an outcome-driven exercise that yielded unreasonable downward adjustments to KPMG-Zimbabwe's hours.

55. Because KPMG-Zimbabwe incurred more than 20% of the total audit hours and fees during the 2015 and 2016 audits, and more than 20% of the total audit hours during the 2017 audit, KPMG-Zimbabwe performed material services used by KPMG-SA in issuing its audit reports. KPMG-Zimbabwe therefore violated Section 102(a) and Rule 2100 by playing a substantial role in the 2015 through 2017 audits without being registered with the Board.

56. Accordingly, KPMG-SA and Van Niekerk failed to reasonably supervise KPMG-Zimbabwe under Section 105(c)(6) of the Act with respect to the nature of KPMG-Zimbabwe's participation in the 2015 through 2017 audits of Issuer A.

ii. KPMG-SA and Van Niekerk Violated PCAOB Rules and Standards

57. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[13]

58. PCAOB standards provide that, as part of audit planning, the auditor should establish an overall audit strategy.[14] The auditor should take into account "[t]he factors that are significant in directing the activities of the engagement team" and "[t]he nature, timing, and extent of resources necessary to perform the engagement."[15] "The auditor should modify the overall audit strategy and the audit plan as necessary if circumstances change significantly during the course of the audit."[16] PCAOB standards require that "[d]ue professional care is to be exercised in the planning and performance of the audit and the preparation of the report."[17]

59. In establishing the overall audit strategy for the 2015 through 2017 audits, KPMG-SA and Van Niekerk failed to adequately take into account: (1) the significant fact that KPMG-Zimbabwe was an unregistered firm that was being investigated by the Commission for or had just been identified as having improperly played a substantial role for the same client; and (2) the nature of the resources necessary to perform the audit, insofar as those resources included the involvement of an unregistered firm. As a result of these failures, KPMG-SA and Van Nierkerk did not engage in adequate planning to ensure that KPMG-Zimbabwe would not violate PCAOB registration requirements.

60. When the extent of KPMG-Zimbabwe's participation came to light near the end of the 2017 audit, KPMG-SA and Van Niekerk exacerbated their initial planning failures by not modifying the audit strategy and audit plan to ensure compliance with the relevant regulatory

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[13] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[14] AS 2101.08, *Audit Planning*.

[15] AS 2101.09.

[16] AS 2101.15.

[17] AS 1015.01, *Due Professional Care in the Performance of Work*.

requirements.[18] Instead, they made unreasonable downward adjustments to KPMG-Zimbabwe's audit hours.

61. Accordingly, KPMG-SA and Van Niekerk violated AS 2101. KPMG-SA and Van Niekerk also violated AS 1015 by failing to exercise due professional care in planning KPMG-Zimbabwe's participation in the 2015 through 2017 Issuer A audits.

F. Basson Violated PCAOB Rules and Standards During the 2017 Audit of Issuer A

62. PCAOB standards provide that the engagement quality reviewer should "[e]valuate the significant judgments that relate to engagement planning."[19] Thus, the engagement quality reviewer should evaluate "[t]he consideration of the firm's recent engagement experience with the company."[20] The engagement quality reviewer must perform his or her responsibilities with due professional care.[21]

63. During the 2017 Issuer A audit, Basson knew that the Commission had issued a settled enforcement order sanctioning KPMG-SA for its use of KPMG-Zimbabwe's work in the 2013 and 2014 audits. Basson also knew or should have known that Van Niekerk and the engagement team had responded to hours calculations indicating that KPMG-Zimbabwe had played a substantial role in the 2017 audit by making unreasonable downward adjustments to KPMG-Zimbabwe's audit hours.

64. Basson failed to appropriately evaluate whether Van Niekerk and the engagement team had adequately planned to conduct the 2017 audit in a manner such that KPMG-Zimbabwe would not violate PCAOB registration requirements. Basson likewise failed to evaluate whether Van Niekerk and the engagement team appropriately responded during the course of the audit to circumstances indicating that KPMG-Zimbabwe had played a substantial role in the 2017 audit.

65. By failing to adequately evaluate these significant judgments relating to engagement planning, and by providing a concurring approval of issuance without performing

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18 *See* AS 2101.05 ("Planning is not a discrete phase of an audit but, rather, a continual and iterative process that . . . continues until the completion of the current audit").

19 AS 1220.10, *Engagement Quality Review*.

20 *Id*.

21 AS 1220.12.

his engagement quality review with due professional care as to such significant judgments, Basson violated AS 1220.

G. KPMG-SA Violated PCAOB Quality Control Standards

66. PCAOB quality control standards require that a firm "shall have a system of quality control for its accounting and auditing practice" and describes "elements of quality control and other matters essential to the effective design, implementation, and maintenance of the system."[22] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[23]

67. KPMG-SA failed to establish adequate policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel met applicable regulatory requirements when using other accounting firms. As discussed above, KPMG-SA's lack of adequate policies and procedures related to the use of other accounting firms' work resulted in KPMG-Zimbabwe's participation in the 2015 through 2017 audits of Issuer A exceeding the substantial role threshold, despite the firm and engagement team's knowledge that KPMG-Zimbabwe's participation in the audits presented a potential registration issue.

68. As demonstrated by its failure to remedy, in any of three subsequent audits, the regulatory violations caused by KPMG-Zimbabwe's participation in the 2013 and 2014 Issuer A audits, KPMG-SA failed to establish adequate policies to provide reasonable assurance that the work performed by engagement personnel would meet applicable regulatory requirements when using other accounting firms. Accordingly, KPMG-SA violated QC § 20 during the period of the 2015 through 2017 audits.

H. KPMG-SA Violated the Form AP Filing Rule

69. PCAOB Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form." The Form AP Instructions for "Part IV – Responsibility for the Audit Is Not Divided" provide that "[a]ctual audit hours should be used if available. If actual

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22 QC § 20.01.

23 QC § 20.17.

audit hours are unavailable, the Firm may use a reasonable method to estimate the components of this calculation."

70. On April 19, 2018, KPMG-SA filed a Form AP disclosing that KPMG-Zimbabwe had incurred 17% of the total 2017 Issuer A audit hours. KPMG-SA's disclosure was based on the unreasonable downward adjustments to KPMG-Zimbabwe's audit hours discussed above.

71. Because KPMG-SA's disclosure of the audit hours incurred by KPMG-Zimbabwe was based on unreasonable calculation methods, KPMG-SA violated Rule 3211.

IV.

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

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Cornelis Van Niekerk is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[24]

B. Pursuant to PCAOB Rule 5302(b), Cornelis Van Niekerk may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Coenraad Basson is suspended, for one year from the date of this Order, from being an

[24] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Van Niekerk. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[25]

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

1. KPMG Inc., $200,000; and

2. Cornelis Van Niekerk, $50,000; and

3. Coenraad Basson, $25,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. KPMG Inc., Van Niekerk, and Basson shall pay these civil money penalties within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***Respondent Cornelis Van Niekerk understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm***.

E. Pursuant to Sections 105(c)(4)(G) of the Act and PCAOB Rules 5300(a)(9), the Board orders that:

1. Review by KPMG Inc. Within six months of the date of this Order, KPMG Inc. shall review and evaluate its quality control or other policies and procedures to provide the firm with reasonable assurance that its

[25] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act, discussed *supra*, at n.24, will apply with respect to Basson.

personnel and other associated persons comply with applicable regulatory requirements when the firm uses audit work performed or supervised by other accounting firms.

2. Reporting. Within six months of the date of this Order, KPMG Inc. shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the area specified in paragraph E.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG Inc. or, if KPMG Inc. concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the firm believes changes are not warranted. In addition, KPMG Inc. shall submit any additional information and evidence concerning the Report, the information in the Report, and KPMG Inc.'s compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within twelve months of the date of this Order, KPMG Inc.'s head of quality assurance shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that KPMG Inc. has implemented all of the modifications and additions to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG Inc.'s adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG Inc. shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. KPMG Inc. understands that a failure to satisfy these undertakings may constitute a violation of Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 29, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Hay & Watson and Essop Mia, CPA

Respondents.

PCAOB Release No. 105-2022-017

September 13, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Hay & Watson (the "Firm"), a registered public accounting firm, and Essop Mia, CPA ("Mia");

(2) revoking the registration of Hay & Watson;

(3) barring Mia from being associated with a registered public accounting firm; and

(4) imposing a $50,000 civil money penalty jointly and severally upon the Firm and Mia (collectively, "Respondents").

The Board is imposing these sanctions on the basis of its findings that Respondents violated PCAOB rules and standards by improperly altering work papers and then providing them to Board inspectors in connection with a Board inspection.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **Hay & Watson** is the business name of three entities, including Essop Mia Limited, a public accounting firm headquartered in Vancouver, British Columbia. Essop Mia Limited (d/b/a Hay & Watson) is licensed to practice public accounting in, among other places, British Columbia, Canada (license no. C026186). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Essop Mia, CPA** is the owner and managing partner of Essop Mia Limited, a Chartered Professional Accountant under the laws of British Columbia, Canada (license no. C026186), and, at all relevant times was, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Mia served as the engagement partner on the Firm's audits and reviews of Issuer A for the fiscal years ended August 31, 2018 through August 31, 2021.

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

[2] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (a) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (b) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Issuer

3. **Issuer A** is an Ontario, Canada corporation headquartered in Sherman Oaks, California. According to public filings, Issuer A is a holding company engaged in various aspects of the oil and gas industry. Issuer A was, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Issuer A was, at all relevant times, the Firm's only issuer audit client.

C. Summary

4. This matter concerns Respondents' failure to comply with PCAOB rules and standards related to audit documentation and the obligation to cooperate with a Board inspection.

5. Mia and the Firm failed to assemble a final set of audit documentation as of the documentation completion date in connection with the Firm's audit of Issuer A's August 31, 2019 financial statements ("2019 Audit"). Instead, Mia, and others acting at his direction, continued to improperly alter, add to, and backdate work papers months after the documentation completion date.

6. Respondents subsequently violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, by providing the altered work papers to the Board's inspectors without disclosing that they had been altered.

D. Respondents Violated PCAOB Rules and Standards

7. PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[3] As set out below, Respondents failed to comply with PCAOB rules and standards.

i. Documentation Violations

a. Alterations

8. PCAOB auditing standards require that an auditor assemble for retention as of a date not more than 45 days after the report release date ("documentation completion date") a complete and final set of audit documentation.[4] While information may be added to the work papers after the documentation completion date, the new documentation must disclose the

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[3] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[4] *See* AS 1215.15, *Audit Documentation*.

date the information was added, the name of the person who prepared the additional documentation, and the reason for adding the information to the work papers after the documentation completion date.[5]

9. The Firm issued its audit report for the 2019 Audit on December 15, 2019, which was included in Issuer A's Form 10-K filed on December 16, 2019. As a result, the 45-day period for the Firm to complete its documentation for the 2019 Audit ended no later than January 29, 2020.

10. Mia and the Firm, however, did not assemble a complete and final set of audit documentation for retention within 45 days following the report release date for the 2019 Audit. Instead, at Mia's direction, members of the Firm continued to modify the 2019 Audit work papers after the documentation completion date.

11. Mia, and members of the Firm acting at his direction, created or modified at least 68 documents after the documentation completion date for the 2019 Audit, including 42 in September 2020 and 18 in October 2020. Of these 68 documents, at least four documents were created after January 29, 2020 and added to the 2019 Audit file.

12. Notwithstanding the modifications and additions to the 2019 Audit file, Respondents failed to properly document who added the information to the work papers after the documentation completion date, as well as when and why the information was added.

b. Backdating

13. PCAOB rules require that audit documentation "contain sufficient information to enable an experienced auditor, having no previous connection with the engagement," to understand, among other things, the timing of the procedures performed, evidence obtained, and conclusions reached, and to determine not just who performed and reviewed the work but also "the date such work was completed" and "the date of such review."[6]

14. Members of the Firm, at Mia's direction, improperly backdated at least 30 work papers in the 2019 Audit file by adding signoffs in the Firm's audit documentation software during September and October 2020 that incorrectly indicated the work papers were prepared or completed before issuance of the 2019 Audit report. Also, although he did not backdate his own signoffs, Mia signed off on a total of 339 work papers in the 2019 Audit file after the

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5 *See id*. at .16.

6 *See id*. at .06.

documentation completion date, including 326 that were signed off on October 24, 2020, such that an experienced auditor would not understand when Mia completed his review.

ii. Noncooperation with a Board Inspection

15. PCAOB rules require that registered public accounting firms and associated persons "shall cooperate with the Board in the performance of any Board inspection."[7] This cooperation obligation includes an obligation not to provide misleading documents or information in connection with, or otherwise to interfere with, the Board's inspection processes.[8] An auditor provides misleading information if he or she fails to disclose that documentation presented to inspectors as having existed at the time of the audit was, in fact, subsequently altered or created.[9]

16. On August 3, 2020, Board inspectors contacted Mia, the Firm's designated Board contact, to inform him that the Firm had been identified for inspection as part of the Board's triennial inspection program. A few days later, Board inspectors informed Mia that the 2020 inspection of the Firm would take place remotely during the week of November 2, 2020, and that Mia should plan to make audit work papers available to Board inspectors the week of October 26, 2020.

17. Respondents received formal notice of the inspection on August 14, 2020, in a letter reiterating that field work would begin on November 2, 2020. On October 13, 2020, Board inspectors informed Mia that they had selected Issuer A (the Firm's only issuer client) for inspection and identified the areas of focus for that engagement.

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[7] PCAOB Rule 4006.

[8] *See, e.g., Kabani & Co., Inc.,* Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 Fed App'x 918 (9th Cir. 2018) (sustaining Board finding that respondents failed to cooperate with inspection where improper work paper alterations "interfered with the PCAOB's ability to fulfill its regulatory function of ensuring that auditors comply with their professional responsibilities"); *Dale Arnold Hotz, CPA, Jyothi Nuthulaganti Manohar, CPA, and Michael Jared Fadner, CPA*, PCAOB Rel. No. 105-2012-008, ¶ 7 (Nov. 13, 2012) (Rule 4006 "includes an obligation not to provide misleading documents or information in connection with the Board's inspection processes." (internal quotation omitted)).

[9] *See, e.g., Elliot D. Kim, CPA,* PCAOB Rel. No. 105-2018-010 (May 23, 2018) (respondent failed to cooperate with inspection when he remained silent during discussion with inspectors of document that he had improperly altered); *José Fernandez Alves*, PCAOB Rel. No. 105-2016-039 (Dec. 5, 2016) (respondent failed to cooperate when he failed to disclose during meeting with inspectors that he had learned that certain documents had been improperly altered); *Renata Coelho de Sousa Castelli*, PCAOB Rel. No. 105-2016-040 (Dec. 5, 2016) (same).

18. On October 25, 2020, Mia provided the 2019 Audit file to Board inspectors in connection with the inspection. During the inspection, Board inspectors identified that the 2019 Audit file contained work paper modifications after the documentation completion date, and Mia provided inspectors with a written explanation, prepared during the inspection, for why the changes had occurred. Mia's explanation addressed changes made to the 2019 Audit file between January 29, 2020 and May 11, 2020, but failed to address the changes made in September and October 2020.

19. As a result, Mia did not identify the existence of, or include any explanation in the 2019 Audit file for, the work papers that had been modified in September and October 2020. Nor did Mia inform Board inspectors that signoffs on numerous work papers had been backdated in September and October 2020 to falsely indicate that the signoffs had occurred prior to issuance of the audit report.

20. Accordingly, by providing the improperly altered work papers to Board inspectors, Respondents violated PCAOB Rule 4006.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Hay & Watson and Essop Mia are hereby censured;

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

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Essop Mia is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[10] and

[10] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Mia. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed jointly and severally upon Hay & Watson and Essop Mia. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondents shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm or the person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***By consenting to this Order, Hay & Watson and Essop Mia acknowledge that a failure to pay the civil money penalty described above may alone be grounds to deny any request for leave to file an application for registration or a petition to terminate a bar pursuant to PCAOB Rule 5302(c).***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 13, 2022

management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Yarel + Partners,

Respondent.

PCAOB Release No. 105-2022-019

October 4, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring Yarel + Partners, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $35,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Yarel + Partners** is a general partnership located in Tel-Aviv, Israel. The Firm is the Israeli affiliate of BKR International, an association of independent accounting and business advisory firms. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

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

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

3. The Firm audited the financial statements of Enlivex Therapeutics Ltd. ("Enlivex") as of and for the years ended December 31, 2017, 2018, 2019, and 2020. For Enlivex's 2017 and 2018 financial statements, the Firm issued an audit report dated March 28, 2019, which was included in Enlivex's Form 20-F filed with the SEC on April 30, 2019. For Enlivex's 2018 financial statements, the Firm issued an audit report dated January 23, 2020, which was included in Enlivex's Form 20-F/A filed with the SEC on January 23, 2020 and January 31, 2020. For Enlivex's 2018 and 2019 financial statements, the Firm issued an audit report dated April 2, 2020, which was included in Enlivex's Form 20-F filed with the SEC on April 30, 2020. For Enlivex's 2019 and 2020 financial statements, the Firm issued an audit report dated April 20, 2021, which was included in Enlivex's Form 20-F filed with the SEC on April 30, 2021. For Enlivex's 2020 and 2021 financial statements, the Firm issued an audit report dated April 25, 2022, which was included in Enlivex's Form 20-F filed with the SEC on April 29, 2022.

4. The Firm audited the financial statements of Todos Medical Ltd. as of and for the year ended December 31, 2021. The Firm issued an audit report dated March 31, 2022, which was included in Todos Medical Ltd.'s Form 10-K filed with the SEC on March 31, 2022.

5. Over a three-year period, the Firm failed to file six required Form APs for the above filings by the 35th day after the date the audit reports were first included with the filings made with the SEC, in violation of PCAOB Rule 3211.

6. The Firm belatedly filed the aforementioned Form APs on June 12, 2022, after receiving notice of deficiencies from the Division of Enforcement and Investigations.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $35,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United

States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a)***;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including PCAOB Rule 3211 and that Form APs are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***The Firm understands that the failure to satisfy these undertakings may***

constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 4, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Shanghai Perfect C.P.A. Partnership,

Respondent.

PCAOB Release No. 105-2022-020

October 4, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring Shanghai Perfect C.P.A. Partnership, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $20,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Shanghai Perfect C.P.A. Partnership** is a partnership located in Shanghai, People's Republic of China. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm audited the financial statements of ChinaCache International Holdings Ltd. as of and for the year ended December 31, 2020, for which the Firm issued an audit report dated May 17, 2021, which was included in ChinaCache International Holdings Ltd.'s Form 20-F filed with the SEC on May 17, 2021.

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

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

4. The Firm audited the financial statements of Mercurity Fintech Holding Inc. ("Mercurity") as of and for the years ended December 31, 2017, 2018, 2019 and 2020. For Mercurity's 2017, 2018, and 2019 financial statements, the Firm issued an audit report dated June 12, 2020, which was included in Mercurity's Form 20-F filed with the SEC on June 12, 2020. For Mercurity's 2020 financial statements, the Firm issued an audit report dated April 28, 2021, which was included in Mercurity's Form 20-F filed with the SEC on April 28, 2021.

5. Over a two-year period, the Firm failed to file three required Form APs for the above filings by the 35th day after the date the audit reports were first included with the filings made with the SEC, in violation of PCAOB Rule 3211.

6. The Firm belatedly filed the aforementioned Form APs on June 17, 2022, after receiving notice of the deficiencies from the Division of Enforcement and Investigations.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***Respondent understands that its failure to pay the civil money penalty described above may***

result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a);

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including PCAOB Rule 3211 and that Form APs are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 4, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of James Pai CPA PLLC,

Respondent.

PCAOB Release No. 105-2022-021

October 4, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring James Pai CPA PLLC, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $20,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **James Pai CPA PLLC** is a limited liability corporation located in New York, New York. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm audited the financial statements of Sino United Worldwide Consolidated Ltd. ("Sino United") as of and for the years ended December 31, 2018, 2019, 2020, and 2021. For Sino United's 2018 and 2019 financial statements, the Firm issued an audit report dated May 25, 2020, which was included in Sino United's Form 10-K filed with the SEC on May 26, 2020. For Sino United's 2019 and 2020 financial statements, the Firm issued an audit report

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

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

dated March 30, 2021, which was included in Sino United's Form 10-K filed with the SEC on March 30, 2021. For Sino United's 2020 and 2021 financial statements, the Firm issued an audit report dated March 31, 2022, which was included in Sino United's Form 10-K filed with the SEC on March 31, 2022.

4. Over a two-year period, the Firm failed to file three required Form APs for the above filings by the 35th day after the date the audit reports were first included with the filings made with the SEC, in violation of PCAOB Rule 3211.

5. The Firm belatedly filed the aforementioned Form APs on July 29, 2022, after receiving notice of the deficiencies from the Division of Enforcement and Investigations.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a)***;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including PCAOB Rule 3211 and that Form APs are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 4, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Liebman Goldberg & Hymowitz LLP,

Respondent.

PCAOB Release No. 105-2022-022

October 4, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring Liebman Goldberg & Hymowitz LLP, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $20,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Liebman Goldberg & Hymowitz LLP** is a limited liability partnership located in Garden City, New York. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm audited the financial statements of RetinalGenix Technologies Inc. ("RetinalGenix") as of and for the years ended December 31, 2019, 2020, and 2021. For RetinalGenix's 2019 and 2020 financial statements, the Firm issued an audit report dated June 24, 2021, which was included in RetinalGenix's Form S-1 filed with the SEC on August 5, 2021, Form S-1/A filed with the SEC on October 1, 2021, Form S-1 filed with the SEC on January 21, 2022, and Form S-1/A filed with the SEC on January 26, 2022. For RetinalGenix's 2020 and 2021

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

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

financial statements, the Firm issued an audit report dated April 15, 2022, which was included in RetinalGenix's Form 10-K filed with the SEC on April 15, 2022.

4. The Firm audited the financial statements of Fuel Doctor Holdings, Inc. as of and for the year ended December 31, 2021, for which the Firm issued an audit report dated April 18, 2022, which was included in Fuel Doctor Holdings, Inc.'s Form 10-K filed with the SEC on April 18, 2022.

5. The Firm failed to file the required Form AP for the above Form S-1 and S-1/A filings by the 10th day after the date the audit report was first included with the filings made with the SEC, in violation of PCAOB Rule 3211. The Firm also failed to file the two required Form APs for the above Form 10-K filings by the 35th day after the date the audit reports were first included with the filing made with the SEC, in violation of PCAOB Rule 3211.

6. The Firm belatedly filed the aforementioned Form APs on June 14, 2022, July 7, 2022, and July 28, 2022, after receiving notice of deficiencies from the Division of Enforcement and Investigations.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting

Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a)***;

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including PCAOB Rule 3211 and that Form APs are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 4, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Spielman Koenigsberg & Parker, LLP,

Respondent.

PCAOB Release No. 105-2022-024

October 18, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Spielman Koenigsberg & Parker, LLP ("SKP" or "Respondent"), a registered public accounting firm;

(2) revoking SKP's registration;[1]

(3) imposing on SKP a $150,000 civil money penalty; and

(4) requiring SKP to undertake remedial measures concerning quality control and training directed toward satisfying requirements applicable to audits and reviews of issuers before filing, and to provide evidence of such measures with, any future registration application.

The Board is imposing these sanctions on SKP on the basis of its findings that SKP violated PCAOB rules and standards, including quality control standards, in connection with the audits of two issuer audit clients from 2018 to 2021.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit

[1] SKP may reapply for registration after five years from the date of this Order.

reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Spielman Koenigsberg & Parker, LLP** is a partnership organized under the laws of the state of New York and located in New York, New York. At all relevant times, SKP was registered with the state of New York (Certified Public Accountancy Partnership No. 041869). SKP registered with the Board, pursuant to Section 102 of the Act and PCAOB rules, on May 30, 2006.

B. Issuers

2. PVH Associates Investment Plan and PVH Associates Investment Plan for Residents of the Commonwealth of Puerto Rico (collectively, the "PVH Plans") are defined contribution plans covering certain salaried and hourly employees of PVH Corp., a Delaware

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

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (a) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (b) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

corporation headquartered in New York, New York. The PVH Plans were each, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). SKP's audits of the PVH Plans included audits of their financial statements as of and for the years ended December 31, 2017, 2018, 2019, and 2020 (respectively, the "2017 Audits," "2018 Audits," "2019 Audits," and "2020 Audits"). The PVH Plans are the only issuer clients that SKP has ever audited.

C. Relevant Person

3. Jonathan B. Taylor, CPA ("Taylor"), is a partner of SKP. Taylor served as the engagement partner for SKP's audits of the financial statements of the PVH Plans as of and for the years ended December 31, 2017 through 2020. At all relevant times, Taylor also served as SKP's partner in charge of technical and quality review.[4]

D. Summary

4. This matter concerns SKP's failure to comply with PCAOB quality control standards during 2018-2021, including with respect to audit documentation. Among other failures, SKP's system of quality control failed to prevent or detect efforts by Taylor and other SKP personnel to improperly alter approximately half of the work papers for the 2019 Audits after they learned of an upcoming PCAOB inspection (the "Inspection"). These improperly altered work papers were then provided to the inspectors.

5. SKP also failed to obtain engagement quality reviews ("EQRs") of its audits of the PVH Plans for multiple years. Moreover, the firm failed to timely file several Form APs, and filed several materially inaccurate Form 2s, with the PCAOB.

E. SKP Violated PCAOB Rules and Standards

6. PCAOB rules require that registered public accounting firms comply with applicable auditing and related professional practice standards.[5] As set out below, SKP failed to comply with PCAOB rules and standards.

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[4] *See Jonathan B. Taylor, CPA*, PCAOB Rel. No. 105-2022-025 (Oct. 18, 2022).

[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

i. Quality Control

7. PCAOB rules require that a registered firm comply with PCAOB quality control standards, which require that a firm "shall have a system of quality control for its accounting and auditing practice" and describe "elements of quality control and other matters essential to the effective design, implementation, and maintenance of the system."[6] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[7]

8. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[8] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[9] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[10]

9. As noted above, the PVH Plans are the only issuer clients the firm has ever audited. Having decided to perform audits of issuers, however, SKP was obligated to design and implement policies and procedures, including monitoring procedures, to provide reasonable assurance of compliance with regulatory requirements applicable to issuer audits. SKP failed to do so.

10. Prior to 2020, SKP documented its audit quality control policies and procedures using a questionnaire received by the firm in connection with an audit peer review program. Taylor populated that questionnaire with certain cursory descriptions of SKP's audit practice. As implemented by SKP, the policies and procedures described in the completed questionnaire did not comply with PCAOB quality control standards. In 2020, SKP put into place a set of "SKP Quality Control Policies and Procedures," assembled by Taylor, which were also deficient and failed to provide the necessary reasonable assurance.

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6 PCAOB Rule 3400T; QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

7 QC § 20.17.

8 QC § 20.08.

9 *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; see also QC § 20.20.

10 *See* QC § 20. 20.c-.d; QC § 30.02.c-.d.

11. Significantly, SKP's quality control policies and procedures in 2018-2021 were not suitably designed and effectively applied to provide reasonable assurance that the work performed by its engagement personnel met PCAOB audit documentation requirements. For example, SKP's quality control policies and procedures did not address whether or how its engagement personnel could add, modify, or delete audit documentation following the documentation completion date.[11] SKP's quality control policies and procedures did not address the need to retain records relevant to the audit for a seven-year period after conclusion of an issuer audit.[12] SKP also failed to design or implement other policies and procedures to prevent or detect improper alterations of audit documentation after the documentation completion date.[13] These quality control failures increased the risk that work papers might be improperly altered after the documentation completion date.[14]

12. In anticipation of the Inspection and after the documentation completion date, Taylor coordinated an extensive effort involving several SKP professionals to improperly alter and backdate the work papers for the 2019 Audits before providing them to the PCAOB inspectors. This effort, which lasted over a period of months in 2020 and 2021, and which directly interfered with the integrity of the PCAOB's Inspection, involved substantial revisions to multiple work papers—including changes to existing key work papers and the addition of audit programs and other work papers—in violation of PCAOB audit documentation requirements.

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[11] *See* AS 1215.15-.16, *Audit Documentation* ("A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Circumstances may require additions to audit documentation after the report release date. Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it." (italics in original)).

[12] Regulation S-X, Rule 2-06, 17 C.F.R. § 210.2-06.

[13] Starting with the 2018 Audits, SKP personnel prepared, assembled, and kept the work papers for audits of the PVH Plans in electronic form as part of a software database file. Though the software database file had a feature that, when activated, made the database file "read-only"—allowing it to be opened and viewed but not modified—SKP audit personnel did not routinely use that software feature, and did not activate that feature for the work papers assembled for the 2018-2020 Audits.

[14] *See Galaz, Yamazaki, Ruiz Urquiza, S.C.*, PCAOB Rel. No. 105-2016-044 (Dec. 5, 2016) at 7 ("Not only did those failures to timely archive work papers for PCAOB Audits violate AS3 [AS 1215], they also increased the risk that the work papers might be improperly altered after the documentation completion date.").

13. As part of this effort, Taylor contacted members of management at PVH Corp. to request and obtain additional audit evidence related to the 2019 Audits. Taylor, as well as the other SKP professionals whose efforts he was coordinating, documented the additional client information that they obtained, and the results of additional procedures performed—without complying with PCAOB audit documentation requirements—before making work papers available to the inspectors. Taylor and the other SKP professionals improperly added or altered approximately half of the work papers for the 2019 Audits in anticipation of the inspection, without ever disclosing those changes to the inspectors

14. SKP's failure to detect this extensive effort to improperly alter and backdate audit documentation reflects the deficient nature of SKP's quality control monitoring policies and procedures.

15. SKP's quality control policies and procedures with respect to EQRs in 2018-2021 were also deficient. Specifically, those policies and procedures failed to provide reasonable assurance that EQRs were performed for the audits of the PVH Plans in multiple consecutive years (see below section E.ii, "Engagement Quality Reviews"). SKP's failure to identify the repeated failure over several years to obtain EQRs reflects the deficient nature of SKP's quality control monitoring policies and procedures.

16. In addition, SKP's repeated failure to ensure timely filed Form APs and accurately filed Form 2s (see below section E.iii, "PCAOB Reporting") demonstrates that the firm lacked adequate policies and procedures to obtain reasonable assurance of compliance with regulatory requirements.[15] Once again, SKP's failure to identify the repeated failure to timely and accurately file required Form APs and Form 2s, respectively, reflects the deficient nature of SKP's quality control monitoring policies and procedures.

17. Accordingly, SKP failed to comply with QC §§ 20-30.

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[15] *See WWC, P.C.*, PCAOB Rel. No. 105-2022-006 (Apr. 19, 2022) at 13 ("WWC's repeated Form AP and annual report violations—which ranged from the omission of required information to late filings and failures to file at all—demonstrate that the firm lacked sufficient policies and procedures to ensure that these forms would be accurate and timely filed, in compliance with applicable regulatory requirements.").

ii. Engagement Quality Reviews

18. PCAOB standards require that EQRs be performed on all audits.[16] A firm "may grant permission to the client to use the engagement report only after the engagement quality reviewer provides concurring approval of issuance."[17]

19. SKP failed to obtain EQRs in the 2017-2020 Audits of the PVH Plans. In each instance, SKP improperly permitted the issuance of its audit reports without obtaining concurring approval of issuance. As a result, SKP violated AS 1220.

iii. PCAOB Reporting

20. SKP has repeatedly failed to timely file Form APs with the PCAOB and, moreover, has filed several materially inaccurate Form 2s with the PCAOB.

a. Form APs

21. PCAOB rules require that a registered firm file a Form AP for "each audit report it issues for an issuer."[18] A Form AP is timely filed if the form is "filed by the 35th day after the date the audit report is first included in a document filed with the Commission."[19]

22. SKP's audit reports for the 2019 Audits were first included in documents filed with the Commission on June 24, 2020, when the PVH Plans filed their Form 11-Ks for 2019. SKP accordingly was required to file Form APs for the 2019 Audits by July 29, 2020, but failed to file them until February 4, 2021—more than six months late—and only after PCAOB inspectors alerted the firm to the fact those forms had not been filed.

23. SKP's audit reports for the 2017 Audits and 2018 Audits were first included in documents filed with the Commission on June 29, 2018, and June 27, 2019, respectively. SKP accordingly was required to file Form APs by August 3, 2018, for the 2017 Audits and by August 1, 2019, for the 2018 Audits. But SKP failed to file Form APs for those audits until February 16, 2022—over three-and-half years late for the 2017 Audits and over two-and-a-half years late for the 2018 Audits.

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16 AS 1220.01, *Engagement Quality Review*.

17 AS 1220.13.

18 PCAOB Rule 3211(a), *Auditor Reporting of Certain Audit Participants*.

19 PCAOB Rule 3211(b).

24. As a result, SKP violated PCAOB Rule 3211.

b. Form 2s

25. PCAOB rules require that a registered firm "file with the Board an annual report on Form 2 by following the instructions to that form."[20] The Form 2 Instructions for "Part V – Offices and Affiliations" require that a registered firm state in response to Item 5.2.a.1. of Form 2 whether it has any "Membership or affiliation in or with any network, arrangement, alliance, partnership or association that licenses or authorizes . . . the use of a name in connection with the provision of audit services or accounting services."[21]

26. SKP has filed a Form 2 each year for several years, including in 2018-2021. In each of the Form 2s that SKP filed in 2018-2021, SKP answered "No" in response to Item 5.2.a.1.

27. SKP knew or should have known that answer was inaccurate. SKP, since January 2015, has been a member of Russell Bedford International ("RBI"), which publicly describes itself—and is described by SKP—as a network of independent or independently owned firms. SKP entered into an agreement with RBI in January 2015 that, among other things, licensed SKP to use the RBI name in connection with SKP's audit and accounting services. SKP understood that RBI not only authorized, but encouraged, use of the RBI name and branding in connection with those services.

28. As a result, SKP violated PCAOB Rule 2200.

IV.

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

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

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[20] PCAOB Rule 2200, *Annual Report*.

[21] *Form 2 – Annual Report Form, General Instructions*, https://pcaobus.org/about/rules-rulemaking/rules/form_2, Part V – Offices and Affiliations, Item 5.2.

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Spielman Koenigsberg & Parker, LLP is revoked;

C. After five years from the date of this Order, Spielman Koenigsberg & Parker, LLP may reapply for registration by filing an application for registration pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $150,000 is imposed on Spielman Koenigsberg & Parker, LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Spielman Koenigsberg & Parker, LLP shall pay the civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Spielman Koenigsberg & Parker, LLP as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***By consenting to this Order, Spielman Koenigsberg & Parker, LLP acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any reapplication for registration pursuant to PCAOB Rule 2101. Spielman Koenigsberg & Parker, LLP shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional(s) or any payment made pursuant to any insurance policy, with regard to any amounts that Spielman Koenigsberg & Parker, LLP shall pay pursuant to this Order.***

E. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Spielman Koenigsberg & Parker, LLP is required:

1. before filing with the Board any future registration application, (a) to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing SKP with reasonable assurance of compliance with regulatory requirements applicable to audits and

reviews of issuers;[22] (b) to establish a policy of ensuring training of personnel, whether internal or external, on an annual or more frequent regular basis, concerning requirements applicable to audits and reviews of issuers; and (c) to ensure training pursuant to that policy on at least one occasion; and

2. to provide with any future registration application a written certification of compliance with the above undertakings, written evidence of compliance in the form of a narrative, exhibits sufficient to demonstrate compliance, and such additional evidence of and information concerning compliance as the staff of the Division of Registration and Inspections may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 18, 2022

[22] *See* PCAOB Rule 1001(i)(iii), *Definitions of Terms Employed in Rules* ("The term 'issuer' means an issuer (as defined in Section 3 of the Exchange Act), the securities of which are registered under Section 12 of that Act, or that is required to file reports under Section 15(d) of that Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn.").

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Jonathan B. Taylor, CPA,

Respondent.

PCAOB Release No. 105-2022-025

October 18, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Jonathan B. Taylor, CPA ("Taylor" or "Respondent");

(2) barring Taylor from being associated with a registered public accounting firm; and

(3) imposing a $150,000 civil money penalty on Taylor.

The Board is imposing these sanctions on Taylor on the basis of its findings that Taylor violated PCAOB rules and standards, including ethics standards, in connection with two PCAOB inspections, a PCAOB investigation, and several audits of two issuers. Taylor also directly and substantially contributed to violations by a registered public accounting firm of PCAOB reporting requirements and quality control standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) and (3) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Jonathan B. Taylor, CPA** is, and at all relevant times was, a certified public accountant licensed by the state of New York (license no. 072733). Taylor is a partner at registered public accounting firm Spielman Koenigsberg & Parker, LLP ("SKP") and served as the engagement partner for SKP's audits of the financial statements of PVH Associates Investment Plan and PVH Associates Investment Plan for Residents of the Commonwealth of Puerto Rico (collectively, the "PVH Plans"). At all relevant times, Taylor also served as SKP's partner in charge of technical and quality review. Taylor is, and at all relevant times was, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entity

2. Spielman Koenigsberg & Parker, LLP is a partnership organized under the laws of the state of New York and located in New York, New York. At all relevant times, SKP was registered with the state of New York (Certified Public Accountancy Partnership No. 041869). The firm registered with the Board, pursuant to Section 102 of the Act and PCAOB rules, on May 30, 2006.

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (a) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (b) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

C. Issuers

3. PVH Associates Investment Plan and PVH Associates Investment Plan for Residents of the Commonwealth of Puerto Rico are defined contribution plans covering certain salaried and hourly employees of PVH Corp., a Delaware corporation headquartered in New York, New York. The PVH Plans were each, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). SKP's audits of the PVH Plans included audits of their financial statements as of and for the years ended December 31, 2015, 2016, 2017, 2018, 2019, and 2020 (respectively, the "2015 Audits," "2016 Audits," "2017 Audits," "2018 Audits," "2019 Audits," and "2020 Audits"). At all relevant times, the PVH Plans were SKP's only issuer clients.[3]

D. Summary

4. In anticipation of a PCAOB inspection in 2021 ("2021 Inspection"), Taylor coordinated a months-long effort involving other SKP professionals to alter and backdate audit work papers, and then made those work papers available to the inspectors. Taylor made false statements to the inspectors about whether those work papers had been improperly altered, even after they pointed out modification dates appearing in the firm's audit software that suggested the contrary. Following commencement of a PCAOB investigation regarding this conduct, Taylor provided false and misleading information to PCAOB investigators. Taylor misled investigators regarding whether engagement quality reviews ("EQRs") were performed, when and what kinds of alterations were made to work papers, and whether SKP had certain documents in its possession. Taylor also represented that his productions on SKP's behalf in response to document demands from the investigators were complete—while withholding thousands of responsive documents, including documents that evidenced Taylor's misconduct.

5. This matter also concerns misconduct by Taylor in the audits reviewed by the inspectors, as well as in earlier and later audits of the PVH Plans. Taylor knew that EQRs of those audits had not been performed, yet repeatedly authorized the issuance of audit reports without concurring approval. Taylor also misrepresented to inspectors during the 2021 Inspection, as well as during a separate PCAOB inspection three years earlier, that EQRs had been performed.

6. In addition, Taylor was responsible for audit quality control at SKP. Yet SKP's audit quality control policies and procedures were deficient in a number of respects, including with respect to monitoring, audit documentation, EQRs, and compliance with regulatory

[3] *See Spielman Koenigsberg & Parker, LLP*, PCAOB Rel. No. 105-2022-024 (Oct. 18, 2022).

requirements. Taylor directly and substantially contributed to SKP's failure to maintain an adequate quality control system with respect to issuer audits.

E. Taylor Violated PCAOB Rules and Standards

7. PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[4] As set out below, Taylor failed to comply with PCAOB rules and standards.

i. Audit Documentation

a. Alterations

8. PCAOB standards state that "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[5] They also state that audit documentation "must not be deleted or discarded after" that date, and that documentation added after that date "must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[6]

9. The audit report dates and report release dates for the 2019 Audits were June 23, 2020. The documentation completion date for the 2019 Audits was August 7, 2020. Consequently, SKP and Taylor were required to assemble a final set of audit documentation by August 7, 2020, and, thereafter, could not add audit documentation without disclosing in writing why, when, and by who each addition was made, and could not delete audit documentation for any reason.

10. Though the 2019 Audits consisted of two individual audits, one for each of the PVH Plans, SKP personnel assembled a single set of documentation for the two audits. They did so because a significant portion of the audit planning and procedures was common to both audits. SKP personnel prepared, assembled, and kept the work papers for the 2019 Audits in electronic form as part of a software database file. Though the software database file had a feature that, when activated, made the database file "read-only"—allowing it to be opened and viewed but not modified—Taylor and other SKP audit personnel did not routinely use that

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[4] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*; PCAOB Rule 3500T, *Interim Ethics and Independence Standards*.

[5] AS 1215.15, *Audit Documentation* (italics in original).

[6] AS 1215.16.

software feature, and did not activate that feature for the work papers assembled for the 2018-2020 Audits.[7]

11. Taylor improperly altered the work papers for the 2019 Audits after the documentation completion date in violation of AS 1215. He and other SKP professionals did so during three separate periods of time. The first occurred between late August 2020 and October 2020, when an SKP audit staff person working with Taylor ("SKP Professional #1") added key work papers to the database file, including a "Supervision, Review and Approval" form, engagement acceptance and continuance forms, and work papers reflecting materiality calculations and internal control walkthroughs. SKP Professional #1 also took 13 completed audit programs from an entirely unrelated audit and, after swapping the name of that unrelated client with one or both of the names of the PVH Plans, replaced text in those programs with descriptions of purported work related to the 2019 Audits.

12. Taylor knew that the documentation for the 2019 Audits was not complete and that SKP Professional #1 continued to make additions and modifications to the audit file after the documentation completion date. On September 3, 2020, for example, Taylor emailed SKP Professional #1, writing, "Please let me know what you are working [on]. How much is left for PVH AIP plans[?]" Taylor, appreciating the extent of the alteration work, reminded SKP Professional #1 that the two of them needed to start work on a different audit engagement the following week. These alterations and communications occurred almost a month after the August 7, 2020 documentation completion date.

13. On December 7, 2020, the PCAOB's Division of Registration and Inspections ("DRI") notified Taylor that it would inspect SKP's issuer audit practice. Between that date and February 2021—when the PCAOB inspectors completed their fieldwork—Taylor and other SKP professionals communicated with, answered queries from, and made documentation available to PCAOB inspectors. It was during this period that Taylor and other SKP personnel undertook a second series of alterations, and that Taylor coordinated a sustained effort over a period of months to add and modify work papers for the 2019 Audits. Those alterations included extensive revisions to multiple work papers, including changes to the 13 audit programs added in the first period of alterations; the addition of other key work papers, such as a going concern checklist and a signed management representation letter obtained from the client for the first time in February 2021; the addition of work papers to reflect the performance of additional

[7] The 2018 Audits were the earliest audits of the PVH Plans for which SKP prepared and assembled electronic work papers. The work papers for prior audits of the PVH Plans were paper documents.

testing, including in audit areas identified by the inspectors as focus areas; and the addition of preparation and completion signoffs by SKP Professional #1 and review signoffs by Taylor.

14. During this second period, Taylor contacted members of management at PVH Corp. to request and obtain additional audit evidence. That evidence included the signed management representation letter, management explanations for certain variances in plan investment income and plan participant payments, and access to a PVH Corp. database so that SKP professionals could perform additional testing. Taylor and the SKP professionals incorporated certain of these client-supplied items into the audit work papers, and used others to perform and document new audit procedures, so that they could then make available the recently prepared documentation to PCAOB inspectors. On February 1, 2021, for example, after a telephone call with management at PVH Corp., Taylor prepared a written summary of management's explanations for the variances in income and participant payments, emailed that summary to an SKP professional ("SKP Professional #2"), and directed SKP Professional #2 to "document [it] in the workpapers" as SKP's "analytical review."

15. Taylor coordinated this effort to transform the audit work papers in advance of the PCAOB inspection. He frequently requested updates and participated in numerous email exchanges and discussions with other SKP personnel about the alterations. Taylor also sent emails directing next steps—at times to all the participating personnel in a group message, and at other times to specific individuals about specific tasks.

16. The improper alterations made following notification of the PCAOB inspection were so extensive that the work papers provided to the inspectors effectively reflected a different audit than the one originally performed. As these efforts came to a close, an SKP professional ("SKP Professional #3") emailed Taylor: "There are a lot of changes being made but I think we are as good as were [sic] are going to get without redoing the entire audit." Taylor replied by emphasizing that SKP Professional #3 and the other professionals should take the time needed to complete the alterations: "Based on my discussions with the PCAOB, I think we can get through Wednesday if we need additional time." In all, Taylor and the other SKP professionals improperly added or altered approximately half of the work papers for the 2019 Audits.

17. In the third period, following inspection fieldwork, eight more workpapers were added or modified on two occasions. The first involved one work paper and occurred in April 2021, around the time SKP was arranging for and submitting work papers for a peer review of its audits by another firm. The second involved seven work papers and occurred in September 2021, just before SKP provided the work papers to the PCAOB's Division of Enforcement and Investigations ("DEI") in response to a request to produce the final set of audit documentation for the 2019 Audits.

18. Following the alterations over all three periods, approximately 76 of 145 total work papers had been added after the documentation completion date, and approximately 12 other work papers that had existed as of the documentation completion date had been modified after that date.

19. As a result, Taylor violated AS 1215.

b. Backdating

20. PCAOB rules require that audit documentation "contain sufficient information to enable an experienced auditor, having no previous connection with the engagement," to understand, among other things, the timing of the procedures performed, evidence obtained, and conclusions reached, and to determine not just who performed and reviewed the work but also "the date such work was completed" and "the date of such review."[8] PCAOB ethics standards also require that, in the performance of any professional service, an associated person maintain integrity and "not knowingly misrepresent facts," which includes any instance in which such a person "[s]igns, or permits or directs another to sign, a document containing materially false and misleading information."[9]

21. Taylor and other SKP professionals backdated multiple work papers for the 2019 Audits in violation of AS 1215 and PCAOB ethics standards. Even though Taylor and other SKP professionals created or modified most of the work papers for the 2019 Audits between late August 2020 and September 2021, approximately 80 of the 145 work papers bear false signoffs indicating that they were prepared or completed before the June 23, 2020 report date, and approximately 79 bear false signoffs indicating that they were reviewed before that date. The backdated documentation include dates on a database index page ("Index Page") indicating when SKP Professional #1 and Taylor, respectively, had prepared and reviewed each work paper, as well as dates typed as part of the text in certain work papers indicating when the two professionals had completed and reviewed the work papers.

22. Taylor and other SKP professionals backdated many of these signoffs in February 2021, as they knew the work papers would soon be provided to the PCAOB inspectors. On

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[8] *See* AS 1215.06.

[9] ET § 102.01, *Integrity and Objectivity* ("In the performance of any professional service, a member shall maintain objectivity and integrity, shall be free of conflicts of interest, and shall not knowingly misrepresent facts or subordinate his or her judgment to others."); ET § 102.02 ("A member shall be considered to have knowingly misrepresented facts in violation of rule 102 [ET section 102.01] when he or she knowingly . . . c. Signs, or permits or directs another to sign, a document containing materially false and misleading information.").

February 8, 2021, for example, SKP Professional #3 emailed Taylor, "I may need you to sign off on some workpapers mostly 7000.01, 7000.05, and the internal control section with the narrative/walkthroughs." Taylor subsequently did so.

23. As a result, Taylor violated AS 1215 and ET § 102.

ii. Inspection Noncooperation

24. PCAOB rules require that "every associated person of a registered public accounting firm, shall cooperate with the Board in the performance of any Board inspection."[10] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information" to the PCAOB's inspectors.[11] In violation of that cooperation obligation, as well as PCAOB ethics standards, Taylor provided false and misleading information to the PCAOB's inspectors in connection with two different inspections.

25. In 2018, DRI conducted an inspection of SKP and reviewed the 2016 Audits. Taylor stated in an "Issuer Information Form" submitted to DRI that EQRs had been performed for the 2016 Audits, when he knew no EQR had been performed for either of the 2016 Audits. In the same form, Taylor identified another SKP partner as having performed the two EQRs and, where the form called for the number of hours spent performing those EQRs, falsified time increments to indicate that the EQRs had been performed.

26. During the 2021 Inspection, Taylor again provided false information to PCAOB inspectors about EQRs. Taylor prepared and provided to DRI six different documents wherein he stated falsely that EQRs had been performed for the 2019 Audits: an Issuer Information Form, two successively revised versions of that form, a "Data Request Form," a response to a comment form issued by the inspectors, and a different version of a Supervision, Review and Approval form for the 2019 Audits than the one contained in the assembled work papers. Five of those six documents falsely named another SKP partner as having performed EQRs, and three of them contained fabricated time increments supposedly spent by that partner in performing the EQRs.

27. Later during the 2021 Inspection, Taylor submitted to the inspectors an Additional Information Form that contained the same false statements about EQRs, but this time about the 2018 Audits. As with the 2019 Audits, Taylor falsely stated that EQRs had been

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[10] PCAOB Rule 4006, *Duty to Cooperate With Inspectors*.

[11] *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), petition for review denied, *Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018).

performed in the 2018 Audits, that the same other SKP partner had performed them, and that this partner had spent a specified number of hours performing each of them.

28. During the 2021 Inspection, Taylor repeatedly provided other false and misleading information to the PCAOB's inspectors. As noted above, Taylor knew the work papers for the 2019 Audits had been improperly altered and backdated. But he made those work papers available to the inspectors without disclosing the alterations or backdating. Indeed, on February 23, 2021, Taylor supplied screenshots of the Index Page to the inspectors that showed the backdated signoffs, yet failed to inform them that those signoffs had been backdated.

29. In addition, Taylor made or supplied several false statements to the inspectors about the integrity of the work papers for the 2019 Audits and the signoff dates they contained. Taylor signed and made available to inspectors the Supervision, Review and Approval form for the 2019 Audits, which stated (emphasis added): "The audit documentation evidences which elements of the audit work I reviewed *and when my review occurred*." Taylor also completed and submitted to the inspectors on SKP's behalf a Data Request Form stating that there had been no "changes made to the audit documentation subsequent to the documentation completion date." Similarly, Taylor stated during a quality control interview with the inspectors that no modifications had been made to the work papers for the 2019 Audits after the documentation completion date.

30. Moreover, when the inspectors reviewed the Index Page, they saw that it displayed not only the dates on which each work paper was purportedly prepared and reviewed, but also the date on which each work paper was "Last Modified." They also noted that many of these Last Modified dates fell after the August 7, 2020 documentation completion date. In a separate discussion with Taylor following the quality control interview, the inspectors asked Taylor why that was so. They also asked him, specifically, whether the corresponding work papers had been altered after that date. Taylor told the inspectors that he did not know why any of the Last Modified dates post-dated the documentation completion date and that none of the work papers had been altered after August 7, 2020.

31. Furthermore, Taylor made false and misleading statements to the inspectors about SKP's failure to timely file Form APs (see below section F.ii, "PCAOB Reporting"). Taylor told the inspectors that SKP had prepared and kept a Form AP for the 2019 Audits but merely never filed it, and that SKP "was relying on an administrative professional to timely file the Form AP" but that "this administrator did not properly file the form." In fact, SKP's records at the time did not contain a copy of any Form AP for the 2019 Audits, nor had SKP tasked any administrative professional—or anyone other than Taylor—with filing Form APs.

32. As a result, Taylor violated PCAOB Rule 4006 and ET § 102.

iii. Enforcement Noncooperation

33. PCAOB rules state that the Board may institute a disciplinary proceeding if it appears that an associated person "may have failed to comply with an accounting board demand," "may have knowingly made any false material declaration or made or used any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration," "may have abused the Board's processes for the purpose of obstructing an investigation," or "may otherwise have failed to cooperate with an investigation."[12]

34. Taylor repeatedly provided false and misleading information to PCAOB investigators about improper alterations to the work papers for the 2019 Audits. In response to questions in an accounting board demand ("ABD"), he stated that no work papers had been added—and that no "material/significant adjustments" had been made—to the final set of work papers for the 2019 Audits after August 7, 2020.

35. Taylor also provided false and misleading information to PCAOB investigators about what documents SKP maintained and how it maintained them. Taylor told investigators that SKP did not maintain any location where work papers were saved or stored other than the audit software database, when in fact Taylor knew that he and other audit personnel regularly saved, stored, worked with, and communicated with each other about large numbers of work papers on a computer drive at SKP known as the N Drive. Moreover, Taylor told investigators that draft work papers for the 2019 Audits did not exist, when in fact they did exist on the N Drive, which Taylor knew or should have known when he made that misrepresentation.

36. Taylor also provided false and misleading information to PCAOB investigators about EQRs. In the investigation, he identified another partner at SKP as having performed the EQRs of the 2019 Audits, when he knew that partner had never done any work concerning the PVH Plans. He also told the investigators that he had asked that same partner if he had documents responsive to an ABD, when—at the time Taylor made those statements—that partner was not even aware of a PCAOB investigation concerning SKP.

37. Taylor also identified another accounting firm as having performed EQRs for the 2017 and 2020 Audits, when he knew that firm (the "Inspecting Firm") had performed post-issuance inspections as part of a peer review program and not EQRs for the purpose of providing concurring approval of issuance in accordance with PCAOB requirements. Faced with

[12] PCAOB Rule 5110, *Noncooperation with an Investigation*.

an ABD that called for documents and information concerning EQRs, when he knew none had been performed, Taylor contacted the Inspecting Firm, obtained from the Inspecting Firm what he knew were post-issuance inspection documents for the 2015 and 2020 Audits of the PVH Plans, and produced these to PCAOB investigators claiming they were documents evidencing EQRs for, respectively, the 2017 and 2020 Audits.

38. In addition, Taylor made misrepresentations to PCAOB investigators about the Form APs for the 2019 Audits substantially similar to those he had made to PCAOB inspectors. Specifically, he asserted that although Form APs for the 2019 Audits had not been submitted, "there was a copy of the form in the SKP records," and that the reason for SKP's failure to file Form APs was "the misunderstanding of the specific filing procedures by the administrative professional that was tasked with filing the form."

39. Moreover, Taylor failed to produce thousands of emails related to the PVH Plans and the 2021 Inspection that were responsive to an ABD. Those emails included many that made clear the scope of the effort to alter work papers in advance of the 2021 Inspection. Even after PCAOB investigators asked Taylor why the only inspection-related emails he had produced on SKP's behalf were ones for which he was a sender or recipient, and asked him to search for additional inspection-related communications, Taylor represented to the investigators that "SKP has completed a search of all communications and not found any additional correspondence or electronic communications other than what was . . . previously provided to the PCAOB."

40. In February 2022, having still failed to produce thousands of emails and relevant time entries called for by an ABD, Taylor provided investigators with a false written certification that SKP had produced all responsive documents in its possession.

41. As a result, Taylor violated PCAOB Rule 5110 and ET § 102.

F. Taylor Contributed to SKP's Violations of PCAOB Rules and Standards

42. In addition to Taylor's improper actions in connection with the PCAOB's inspections and investigation of SKP, Taylor also directly and substantially contributed to various violations by SKP of PCAOB requirements concerning EQRs, reporting, and quality control.

i. Engagement Quality Reviews

43. PCAOB standards require that EQRs be performed on all audits.[13] A firm "may grant permission to the client to use the engagement report only after the engagement quality reviewer provides concurring approval of issuance."[14] PCAOB rules also state that an associated person of a registered firm "shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation" by that firm of applicable law, rules, or professional standards.[15]

44. SKP failed to obtain EQRs of its audits of the PVH Plans, including the 2017-2020 Audits. In each instance, SKP released its audit report for use by one of the PVH Plans without concurring approval of issuance. As a result, SKP repeatedly violated AS 1220.

45. Taylor knew in connection with each of the 2017-2020 Audits that he had taken no steps to arrange for an EQR and that he had authorized the issuance of SKP's audit report without concurring approval of issuance. Accordingly, Taylor took and omitted to take actions knowing that those acts and omissions would directly and substantially contribute to violations by SKP of AS 1220. As a result, Taylor violated PCAOB Rule 3502.

ii. PCAOB Reporting

46. Taylor repeatedly violated PCAOB Rule 3502 by directly and substantially contributing to SKP's repeated failures to timely file Form APs, and to the firm's repeated filings of materially inaccurate Form 2s, with the PCAOB.

a. Form APs

47. PCAOB rules require that a registered firm file a Form AP for "each audit report it issues for an issuer."[16] A Form AP is timely filed if the form is "filed by the 35th day after the date the audit report is first included in a document filed with the Commission."[17]

48. SKP's audit reports for the 2019 Audits were first included in documents filed with the Commission on June 24, 2020. But Taylor did not file Form APs for the 2019 Audits on

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13 AS 1220.01, *Engagement Quality Review*.

14 AS 1220.13.

15 PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

16 PCAOB Rule 3211(a), *Auditor Reporting of Certain Audit Participants*.

17 PCAOB Rule 3211(b).

SKP's behalf until February 4, 2021, more than six months late, and only after PCAOB inspectors alerted Taylor to the fact those forms had not been filed.

49. Similarly, Taylor, on SKP's behalf, filed Form APs for the 2017 Audits more than three-and-a-half years late and for the 2018 Audits more than two-and-a-half years late. He did so only after receiving from DEI an ABD addressed to SKP calling for a written statement of whether SKP intended to file Form APs for the 2017 and 2018 Audits.

50. As a result, SKP repeatedly violated PCAOB Rule 3211, and Taylor directly and substantially contributed to those violations. Taylor knew of the Form AP requirement, having signed and caused SKP to timely file Form APs for the 2016 Audits. Indeed, Taylor prepared or caused to be prepared, signed on SKP's behalf, and caused SKP to file, every form filed by SKP with the PCAOB since the firm's registration. Moreover, Taylor was SKP's only partner with audits subject to Form AP filing requirements and bore responsibility for PCAOB form filings by virtue of his role as engagement partner.[18] Accordingly, Taylor knowingly or recklessly caused SKP's violations, and thus violated PCAOB Rule 3502.

b. Form 2s

51. PCAOB rules require that a registered firm "file with the Board an annual report on Form 2 by following the instructions to that form."[19] The Form 2 Instructions for "Part V – Offices and Affiliations" require that a registered firm state in response to Item 5.2.a.1. of Form 2 whether it has any "Membership or affiliation in or with any network, arrangement, alliance, partnership or association that licenses or authorizes . . . the use of a name in connection with the provision of audit services or accounting services."[20]

52. In each of the Form 2s that Taylor filed on SKP's behalf in 2018-2021, SKP answered "No" in response to Item 5.2.a.1. SKP and Taylor knew or should have known that

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[18] Quality control policies and procedures in place at SKP since January 1, 2020, impose responsibility for complying with "applicable legal and regulatory requirements" in connection with audit engagements on the engagement partner—and thus Taylor, with respect to audits of the PVH Plans. Furthermore, an inspection comment form response prepared and submitted by Taylor to inspection staff that described remedial actions purportedly adopted by SKP as of March 2021 identified the "Engagement Partner" as responsible for monitoring "the applicable due date" of Form APs and for reviewing Form APs before filing.

[19] PCAOB Rule 2200, *Annual Report*.

[20] *Form 2 – Annual Report Form, General Instructions*, https://pcaobus.org/about/rules-rulemaking/rules/form_2, Part V – Offices and Affiliations, Item 5.2.

answer was inaccurate. Since January 2015, SKP has been a member of Russell Bedford International ("RBI"), which publicly describes itself—and is described by SKP—as a network of independent or independently owned firms. SKP entered into an agreement with RBI in January 2015 that, among other things, licensed and authorized SKP to use the RBI name in connection with SKP's audit and accounting services. SKP understood that RBI not only authorized, but encouraged, use of the RBI name and branding in connection with those services.

53. As a result, SKP repeatedly violated PCAOB Rule 2200, and Taylor directly and substantially contributed to those violations. As noted above, Taylor prepared, signed on SKP's behalf, and caused SKP to file every form—including every Form 2—filed by SKP with the PCAOB since the firm's registration. Accordingly, Taylor knowingly or recklessly caused SKP's violations, and thus violated PCAOB Rule 3502.

iii. Quality Control

54. Taylor directly and substantially contributed to SKP's violations of PCAOB quality control standards from 2018 to 2021.

55. PCAOB rules require that a registered firm comply with PCAOB quality control standards, which require that a firm "shall have a system of quality control for its accounting and auditing practice" and describe "elements of quality control and other matters essential to the effective design, implementation, and maintenance of the system."[21] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[22]

56. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[23] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[24] Under

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21 PCAOB Rule 3400T; QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

22 QC § 20.17.

23 QC § 20.08.

24 *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[25]

57. Prior to 2020, SKP documented its audit quality control policies and procedures using a questionnaire received by the firm in connection with an audit peer review program. Taylor populated that questionnaire with certain cursory descriptions of SKP's audit practice. As implemented by SKP, the policies and procedures described in the completed questionnaire did not comply with PCAOB quality control standards. In 2020, SKP put into place a set of "SKP Quality Control Policies and Procedures" assembled by Taylor, which were also deficient and failed to provide the necessary reasonable assurance.

58. Significantly, SKP's quality control policies and procedures in 2018-2021 were not suitably designed and effectively applied to provide reasonable assurance that the work performed by its engagement personnel met PCAOB audit documentation requirements. For example, SKP's quality control policies and procedures did not address whether or how its engagement personnel could add, modify, or delete audit documentation following the documentation completion date.[26] SKP's quality control policies and procedures did not address the need to retain records relevant to the audit for a seven-year period after conclusion of an issuer audit.[27] SKP also failed to design or implement other policies and procedures to prevent or detect improper alterations of audit documentation after the documentation completion date. These quality control failures increased the risk that work papers might be improperly altered after the documentation completion date.[28]

59. Moreover, SKP's failure to detect multiple rounds of improper work paper alterations by Taylor and other SKP professionals, including an effort lasting several weeks in advance of a PCAOB inspection and encompassing the performance and documentation of additional procedures months after the documentation completion date, reflects the deficient nature of SKP's quality control monitoring policies and procedures.

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25 *See* QC § 20. 20.c-.d; QC § 30.02.c-.d.

26 *See id.* .16.

27 Regulation S-X, Rule 2-06, 17 C.F.R. § 210.2-06.

28 *See Galaz, Yamazaki, Ruiz Urquiza, S.C.*, PCAOB Release No. 105-2016-044 (Dec. 5, 2016) at 7 ("Not only did those failures to timely archive work papers for PCAOB Audits violate AS3 [AS 1215], they also increased the risk that the work papers might be improperly altered after the documentation completion date.").

60. SKP's quality control policies and procedures with respect to EQRs in 2018-2021 were also deficient. Specifically, those policies and procedures failed to provide reasonable assurance that EQRs were performed for the audits of the PVH Plans in multiple consecutive years (see above section F.i, "Engagement Quality Reviews"). SKP's failure to identify the repeated failure over several years to obtain EQRs reflects the deficient nature of SKP's quality control monitoring policies and procedures.

61. In addition, SKP's repeated failure to ensure timely filed Form APs and accurately filed Form 2s (see above section F.ii, "PCAOB Reporting") demonstrates that the firm lacked adequate policies and procedures to obtain reasonable assurance of compliance with regulatory requirements.[29] Once again, SKP's failure to identify the repeated failure to timely and accurately file required Form APs and Form 2s reflects the deficient nature of SKP's quality control monitoring policies and procedures.

62. As the firm's partner in charge of technical and quality review, Taylor was responsible for audit quality control and knew or should have known of SKP's obligations under PCAOB quality control standards. That role, as described in the questionnaire that addressed SKP's pre-2020 quality control policies and procedures, included "providing guidance, answering questions, monitoring compliance, and resolving matters with respect to independence, integrity, and objectivity." Notwithstanding his responsibilities, Taylor failed to take steps to design and implement an adequate system of quality control for SKP's issuer audits. As a result, Taylor knowingly or recklessly caused SKP's quality control violations, and thus violated PCAOB Rule 3502.

IV.

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

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[29] *See WWC, P.C.*, PCAOB Release No. 105-2022-006 (Apr. 19, 2022) at 13 ("WWC's repeated Form AP and annual report violations—which ranged from the omission of required information to late filings and failures to file at all—demonstrate that the firm lacked sufficient policies and procedures to ensure that these forms would be accurate and timely filed, in compliance with applicable regulatory requirements.").

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jonathan B. Taylor, CPA, is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[30]

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $150,000 is imposed on Jonathan B. Taylor, CPA. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Taylor shall pay the civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Taylor as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. ***By consenting to this Order, Taylor acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any request for leave to petition to terminate a bar pursuant to PCAOB Rule 5302(c). Taylor shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional(s) or any payment made pursuant to any***

[30] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Taylor. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

insurance policy, with regard to any amounts that Taylor shall pay pursuant to this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 18, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG S.p.A. (Italy),

Respondent.

PCAOB Release No. 105-2022-026

October 19, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG S.p.A. ("KPMG Italy," the "Firm," or "Respondent"); and

(2) imposing a civil money penalty in the amount of $75,000 upon the Firm.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to file an accurate Form AP concerning the Firm's audit of Natuzzi S.p.A. ("Natuzzi") for the fiscal year ended December 31, 2017, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

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

these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG S.p.A. (Italy)** is a corporation headquartered in Milan, Italy. It is a member firm of the KPMG International Limited global network of firms ("KPMG Global"). At all relevant times, KPMG Italy was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for one issuer client—Natuzzi.

B. Issuer

2. Natuzzi S.p.A. ("Natuzzi") is an Italian corporation headquartered in Santeramo in Colle, Italy. Its public filings disclose that it is a producer and designer of luxury furniture. Natuzzi was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG Italy issued audit reports that Natuzzi included in its Form 20-Fs filed with the U.S. Securities and Exchange Commission ("Commission") for fiscal years ended December 31, 2017, 2018 and 2019 (the "Natuzzi Audits").

C. Other Relevant Entities

3. KPMG Romania SRL ("KPMG Romania") is a limited liability company headquartered in Bucharest, Romania. It is a member firm of KPMG Global. At all relevant times, KPMG Romania was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, it was licensed by the Romanian Chamber of Chartered Accountants (Lic. No. 000151/26.01.2000), but not licensed to perform local statutory audits in Romania.

4. KPMG Audit SRL ("KPMG Audit") is a limited liability company headquartered in Bucharest, Romania. It is also a member firm of KPMG Global. At all relevant times, KPMG Audit was the sole KPMG-affiliated firm that performed statutory and non-statutory audits in Romania, including international engagements pursuant to PCAOB standards. At all relevant times, it was registered with the Camera Auditorilor Financiari Din Romania

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

(autorizatie/certificat No. 9). KPMG Audit is not now, and never has been, registered with the Board.

D. Respondent Failed to File an Accurate Form AP in Violation of PCAOB Rule 3211

5. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.

6. In particular, Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

7. The Form AP Instructions for "Part IV – Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm" that incurs more than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP.[2]

8. During the Natuzzi Audits, KPMG Italy used the work of KPMG Audit each year to perform a portion of the audit. Following each of the Natuzzi Audits, KPMG Italy filed a Form AP pursuant to Rule 3211.

9. In the Form AP for the FY 2017 Natuzzi audit, KPMG Italy failed to identify KPMG Audit as a participant in the audit. Instead, KPMG Italy incorrectly identified PCAOB registrant KPMG Romania as an other participating accounting firm even though KPMG Romania played no role in the audit.

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[2] In the adopting release for Rule 3211, the Board indicated that information provided on Form AP was intended to "help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

10. Accordingly, KPMG Italy violated PCAOB Rule 3211 in connection with the FY 2017 Natuzzi audit.

11. Ten months later, in March 2019, in connection with the FY 2018 Natuzzi audit, KPMG Italy made inquiries of KPMG Audit in connection with its upcoming Form AP filing. In response to those inquiries, KPMG Italy was informed that although KPMG Romania was registered with the PCAOB, it had not used its PCAOB registration in ten years and was not performing any audit work. Further, KPMG Italy was informed that KPMG Audit was the operational entity in Romania and had, in fact, provided the services in connection with the FY 2018 Natuzzi audit.

12. Consequently, KPMG Italy correctly identified KPMG Audit as the participating other accounting firm in the Form AP for the FY 2018 Natuzzi audit, and again the following year in connection with the FY 2019 Natuzzi audit.

13. KPMG did not, however, promptly correct its earlier Form AP filing for the FY 2017 Natuzzi Audit in which it has misidentified KPMG Romania as an other participating accounting firm. It was not until February 15, 2021, nearly two years after being informed that KPMG Romania had not used its PCAOB registration for ten years, that KPMG Italy filed an amended Form AP for the FY 2017 Natuzzi audit and identified the unregistered firm KPMG Audit as the participating other accounting firm in Romania.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $75,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight

Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 19, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG Accountants N.V. (Netherlands),

Respondent.

PCAOB Release No. 105-2022-027

October 19, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG Accountants N.V. ("KPMG Netherlands," the "Firm," or "Respondent"); and

(2) imposing a civil money penalty in the amount of $50,000 upon the Firm.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to file an accurate Form AP concerning the Firm's audit of ING Groep N.V. ("ING") for fiscal year ended December 31, 2018, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG Netherlands has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG Accountants N.V. (Netherlands)** is a limited liability corporation headquartered in Amstelveen, Noord-Holland, Netherlands. It is a member firm of the KPMG International Limited global network of firms ("KPMG Global"). At all relevant times, KPMG Netherlands was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for six issuer clients.

B. Issuer

2. ING Groep N.V. ("ING") is a Dutch public limited liability company headquartered in Amsterdam, Netherlands. Its public filings disclose that it provides retail and wholesale banking services. ING was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG Netherlands issued an audit report that ING included in its Form 20-F filed with the U.S. Securities and Exchange Commission ("Commission") for the year ended December 31, 2018 ("FY 2018").

C. Other Relevant Entities

3. KPMG Audyt Sp. z o.o. ("KPMG Audyt ZOO") is a limited liability corporation company headquartered in Warsaw, Poland. It is a member firm of KPMG Global. At all relevant times, KPMG Audyt ZOO was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

4. KPMG Audyt spółka z ograniczoną odpowiedzialnością sp.k. ("KPMG Audyt SPK") is a limited liability partnership headquartered in Warsaw, Poland. It is also a member firm of KPMG Global. KPMG Audyt SPK is not now, and never has been, registered with the Board.

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

D. Respondent Failed to File an Accurate Form AP in Violation of PCAOB Rule 3211

5. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.

6. In particular, Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

7. The Form AP Instructions for "Part IV – Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm" that incurs more than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP.[2]

8. During the FY 2018 ING audit, KPMG Netherlands used the work of unregistered firm KPMG Audyt SPK to perform a portion of the audit. Following the audit, KPMG Netherlands filed a Form AP pursuant to Rule 3211.

9. In the Form AP for the FY 2018 ING audit, KPMG Netherlands failed to identify KPMG Audyt SPK as a participant in the audit. Instead, KPMG Netherlands incorrectly identified PCAOB registrant KPMG Audyt ZOO as an other participating accounting firm, even though KPMG Audyt ZOO played no role in the audit.

10. Accordingly, KPMG Netherlands violated PCAOB Rule 3211 in connection with the FY 2018 ING audit.

11. KPMG Netherlands eventually corrected the above-described error by filing an amended Form AP on April 7, 2020 for the FY 2018 ING audit, but not until nearly a year after

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[2] In the adopting release for Rule 3211, the Board indicated that information provided on Form AP was intended to "help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

its original Form AP filing. The amended filing identified the unregistered firm KPMG Audyt SPK as an other participating accounting firm on the audit.[3]

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 19, 2022

[3] The Form AP/A reported KPMG Audyt SPK as "KPMG Auditing Spółka z ograniczoną odpowiedzialnością Sp.k."

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG LLP (Canada),

Respondent.

PCAOB Release No. 105-2022-028

October 19, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG LLP ("KPMG Canada," the "Firm," or "Respondent"); and

(2) imposing a civil money penalty in the amount of $150,000 upon the Firm.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to file accurate Form APs concerning the Firm's audits of Celestica Inc. ("Celestica") for fiscal years ended December 31, 2017, 2018, and 2019, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*. Specifically, in its Form AP submissions relating to its audits of Celestica for those years, the Firm misidentified a component auditor that performed 5% or more of the work on the relevant audits.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG Canada has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG LLP (Canada)** is a limited liability partnership headquartered in Toronto, Ontario, Canada. It is a member firm of the KPMG International Limited global network of firms ("KPMG Global"). At all relevant times, KPMG Canada was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for more than 65 issuer clients.

B. Issuer

2. Celestica Inc. ("Celestica") is a Canadian corporation headquartered in Toronto, Ontario, Canada. Its public filings disclose that it is a manufacturer and supply chain service provider in various industry sectors, including aerospace, defense, and communications. Celestica was, at all relevant times, an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG Canada issued audit reports that Celestica included in its Form 20-Fs filed with the U.S. Securities and Exchange Commission ("Commission") for fiscal years 2017, 2018 and 2019.

C. Other Relevant Entities

3. KPMG Romania SRL ("KPMG Romania") is a limited liability company headquartered in Bucharest, Romania. It is a member firm of KPMG Global. At all relevant times, KPMG Romania was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, it was licensed by the Romanian Chamber of Chartered Accountants (Lic. No. 000151/26.01.2000), but not licensed to perform local statutory audits in Romania.

4. KPMG Audit SRL ("KPMG Audit") is a limited liability company headquartered in Bucharest, Romania. It is also a member firm of KPMG Global. At all relevant times, KPMG Audit was the sole KPMG-affiliated firm that performed statutory and non-statutory audits in Romania, including international engagements pursuant to PCAOB standards. At all relevant

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

times, it was registered with the Camera Auditorilor Financiari Din Romania (autorizatie/certificat No. 9). KPMG Audit is not now, and never has been, registered with the Board.

D. Respondent Failed to File Accurate Form APs in Violation of PCAOB Rule 3211

5. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.

6. In particular, Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

7. The Form AP Instructions for "Part IV – Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm" that incurs more than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP.[2]

8. In connection with KPMG Canada's audits of Celestica's 2017, 2018, and 2019 financial statements (the "Celestica Audits"), KPMG Canada used the work of KPMG Audit each year to perform a portion of the audit. Following each of the Celestica Audits, KPMG Canada filed a Form AP pursuant to Rule 3211.

9. In each Form AP filing for the Celestica Audits, KPMG Canada failed to identify KPMG Audit as a participant in the audits. Instead, KPMG Canada incorrectly identified PCAOB registrant KPMG Romania as an other participating accounting firm, even though KPMG Romania played no role in any of the Celestica Audits.

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[2] In the adopting release that included proposed Rule 3211, the Board indicated that information provided on Form AP was intended to "help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

10. Accordingly, KPMG Canada repeatedly violated PCAOB Rule 3211 in connection with the Celestica Audits.

11. On March 18, 2021, nearly three years after making its first incorrect Form AP filing for the Celestica Audits, KPMG Canada filed three amended Form APs (on Form AP/A)—one for each of the Celestica Audits. Each Form AP/A identified the unregistered firm KPMG Audit as the participating other accounting firm in Romania.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $150,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 19, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Hall & Company Certified Public Accountants & Consultants, Inc. and Anthony J. Price, CPA,

Respondents.

PCAOB Release No. 105-2022-029

November 3, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Hall & Company Certified Public Accountants & Consultants, Inc. ("Hall & Co." or "Firm") and Anthony J. Price, CPA ("Price") (collectively, "Respondents");

(2) imposing civil money penalties in the amounts of $30,000 on Hall & Co.[1] and $25,000 on Price;

(3) in the event Hall & Co. submits any future registration application[2] and as a condition to the Board granting such an application, requiring the Firm to undertake certain remedial measures, including that it establish quality control policies and procedures to give the Firm reasonable assurance that issuer audits and reviews are conducted in accordance with applicable professional standards; and

(4) limiting Price's activities, for a period of two years from the date of this Order, by prohibiting him from administering a registered firm's system of quality control, including responsibilities for the design and maintenance of its policies and procedures.

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[1] Based on its conduct, Hall & Co.'s civil money penalty in this settlement would have been $150,000. The Board determined to accept the Firm's offer of settlement and impose a lower penalty after considering the Firm's financial resources, and the fact that it ceased operations as of December 31, 2020.

[2] The Firm has filed a Form 1-WD seeking leave to withdraw from registration with the Board, which the Board has determined to grant as of the date of this Order.

The Board is imposing these sanctions on the basis of its findings that: (1) the Firm violated PCAOB rules and quality control standards by failing to implement and maintain quality control procedures to ensure that its personnel complied with applicable professional standards; and (2) Price violated PCAOB Rule 3502 by directly and substantially contributing to the Firm's violations of PCAOB rules and quality control standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted Offers of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents each consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **Hall & Company Certified Public Accountants & Consultants, Inc**., is an S Corporation organized under the laws of the State of California, and headquartered in Irvine,

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

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

California. At all relevant times, the Firm was licensed in the State of California (License No. 5034). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Anthony J. Price, CPA**, is a certified public accountant licensed by the State of California (License No. 82793). At all relevant times, Price was Director of Audit and Quality Control for the Firm, a member of its client acceptance and continuance committee, and an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). He also served as the engagement quality review partner for Hall & Co.'s audits of The Crypto Company, as described below.

B. Issuer

3. **The Crypto Company** ("TCC") was, at all relevant times, a Nevada corporation headquartered in California. TCC's public filings disclose that it created products to facilitate investing in digital assets, such as cryptocurrencies, and also that it invested and traded in cryptocurrencies. At all relevant times, TCC was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).[5]

C. Summary

4. This matter concerns the Firm's failure to comply with PCAOB rules and quality control standards requiring the Firm to establish appropriate quality control policies and procedures with respect to acceptance and continuance of clients and engagements, personnel management, and engagement performance. Specifically, the Firm's system of quality control did not provide reasonable assurance that: (1) the Firm undertook only those engagements that the Firm could reasonably expect to be completed with professional competence, and appropriately considered the risks associated with providing professional services in the particular circumstances; (2) work was assigned to personnel having the degree of technical training and proficiency required in the circumstances, and Firm personnel participated in general and industry-specific continuing professional education and other professional development activities that enabled them to fulfill responsibilities assigned; and (3) the work performed by engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality.

5. This matter also concerns Price's direct and substantial contribution to the Firm's violations of PCAOB rules and quality control standards. As the partner in charge of the audit department and the partner responsible for quality control, Price had primary responsibility for

[5] The Board has made no determination concerning whether TCC's financial statements were presented, in all material respects, in conformity with generally accepted accounting principles.

maintaining quality control policies and procedures applicable to the Firm's accounting and auditing practice. Price also had a direct role in the client acceptance and continuance approval process for TCC and in the assignment of personnel to the audit of TCC.

D. Background

6. The Firm registered with the Board in September 2013, but did not issue a public company audit opinion until March 2016. In February 2016, staff from another audit firm, including Price, joined Hall & Co. to build its public issuer audit practice, whereupon the Firm had approximately ten issuer audit clients. During 2017, the Firm accepted four new issuer audit clients, including TCC, and had approximately fourteen issuer audit clients in total.

7. Upon his arrival at Hall & Co. in February 2016, Price was responsible for developing the Firm's quality control manual applicable to issuer audits. He prepared the documentation of the Firm's quality control policies and procedures, merging policies and procedures from his old firm with those existing at Hall & Co. Although the stated approach of the Firm was to be selective and accept issuer audit clients for which the Firm would be able to perform quality audits, Hall & Co. failed to have policies and procedures sufficient to provide reasonable assurance that the Firm undertook only those engagements that it could reasonably expect to complete with professional competence. In addition, although the Firm's quality control policies and procedures noted the Firm's use of certain standardized practice aids, the policies did not adequately address circumstances, such as in audits requiring specialized skills and knowledge, where relevant practice aids did not exist or needed to be supplemented.

8. On June 9, 2017, Croe, Inc., an issuer that was a fitness apparel manufacturer, completed a reverse merger with TCC, which had been a private company. In late July 2017, Hall & Co. accepted TCC as an audit client, and on August 25, 2017, the Firm consented to the inclusion of its audit report on TCC's pre-merger financial statements for the period from March 9, 2017 to June 7, 2017 in a Form 8-K filing with the U.S. Securities and Exchange Commission ("SEC" or "Commission"). On September 20, 2017, TCC engaged Hall & Co. to audit TCC's post-merger financial statements for the period ending December 31, 2017 ("2017 Audit"). On April 2, 2018, Hall & Co. issued an audit report containing its unqualified opinion on TCC's financial statements for the period ended December 31, 2017, in TCC's Form 10-K filing with the Commission. At that time, TCC was one of the Firm's largest audit engagements.

9. At the time of the 2017 Audit's acceptance and continuance, TCC's only business operations related to the acquisition, holding, and trading of a portfolio of cryptocurrency. Digital assets, including cryptocurrencies, and distributed ledgers were emerging technologies.

Cryptocurrency ownership, and parties to its transfer, were relatively anonymous, and organizations providing cryptocurrency services were largely unregulated.[6]

10. TCC, whose market capitalization was, at one point, approximately $12 billion,[7] reported in its post-merger financial statements that it held more than eleven different cryptocurrencies, which were significant to its assets and revenue, and that its mission was to provide investors with a diversified exposure to cryptocurrency markets. These cryptocurrencies were purchased or traded using various types of software and hardware-based wallets on various unregulated cryptocurrency trading platforms, often called cryptocurrency "exchanges." TCC did not maintain accounting records of its cryptocurrency transactions, and instead relied on a third-party service website that maintained records of all transactions carried out on unregulated cryptocurrency exchange trading platforms. In late December 2017, the SEC suspended trading of TCC's stock due to, among other things, questions concerning potentially manipulative transactions in TCC's stock.[8]

E. The Firm Violated PCAOB Rules and Quality Control Standards

11. PCAOB rules require a registered public accounting firm and its associated persons to comply with PCAOB quality control standards.[9] These standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice.[10] A firm's system of quality control provides a critical foundation and infrastructure for a firm's audit quality as it should "ensure that services are competently delivered and adequately supervised."[11] "A system of quality control is broadly defined as a

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6 *See generally* SEC Chair Jay Clayton, *Statement on Cryptocurrencies and Initial Coin Offerings* (Dec. 11, 2017), https://www.sec.gov/news/public-statement/statement-clayton-2017-12-11; SEC, *Investor Alert: Bitcoin and Other Virtual Currency-Related Investments* (May 7, 2014), https://www.investor.gov/introduction-investing/general-resources/news-alerts/alerts-bulletins/investor-alerts/investor-39.

7 TCC's stock traded at approximately $18 per share on December 1, 2017, and rose to approximately $575 per share on December 18, 2017, when the SEC suspended TCC's stock trading.

8 *See* Order of Suspension of Trading, *In the Matter of The Crypto Company*, File No. 500-1 (SEC Dec. 18, 2017), https://www.sec.gov/litigation/suspensions/2017/34-82347-o.pdf.

9 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

10 *See* Quality Control Standard 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

11 QC § 20.02.

process to provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality."[12]

12. As described below, the Firm failed to meet the quality control standards that required policies and procedures to provide reasonable assurance concerning competence and proficiency in client acceptance and continuance, personnel management, and engagement performance.

i. Hall & Co.'s System of Quality Control Failed to Provide Reasonable Assurance with Respect to Acceptance and Continuance of Clients and Engagements

13. PCAOB quality control standards require that a registered public accounting firm establish quality control policies and procedures for deciding whether to accept or continue a client relationship and whether to perform a specific engagement for that client.[13] Such policies and procedures should provide reasonable assurance that the firm undertakes only those engagements that the firm can reasonably expect to be completed with professional competence, and appropriately considers the risks associated with providing professional services in the particular circumstances.[14]

14. Throughout the relevant time period, the Firm failed to have in place adequate policies and procedures to decide whether to accept or continue a client relationship and whether to perform a specific engagement for that client. Specifically, the Firm's policies and procedures failed to provide reasonable assurance that the Firm undertook only those engagements that it could reasonably expect to be completed with professional competence. In addition, the Firm's policies and procedures failed to provide reasonable assurance that it appropriately considered the risks associated with providing professional services in the particular circumstances.

15. The Firm executed an engagement letter with TCC in connection with the 2017 Audit in September 2017, more than two months prior to the approval of continuance of that specific engagement by the Firm's client acceptance and continuance committee and in violation of the Firm's quality control procedures and policies. Price learned about this within two days of the execution of the engagement letter with TCC—months before the committee, on which he served, decided in December 2017 to perform the 2017 Audit of TCC's post-merger financial statements.

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12 QC § 20.03.

13 QC § 20.14.

14 QC § 20.15.

16. In addition, the Firm's engagement acceptance procedures appeared perfunctory and failed to appropriately demonstrate that it considered the risks associated with providing professional services in these particular circumstances. For example, to support its acceptance and continuance decision for the 2017 Audit, the Firm documented the factors it considered in a standardized client acceptance evaluation form. The factors to be addressed in the form included whether the Firm could reasonably expect the 2017 Audit to be completed with professional competence. Although the Firm checked the boxes and provided "yes" or "no" responses to the standard questions in the form, the Firm did not consider the risks associated with providing professional services to TCC in light of the fact that cryptocurrencies were significant to TCC's assets and revenue. There was no indication that the Firm considered whether it could reasonably expect to complete the TCC engagement with professional competence, or the risks associated with providing audit services to TCC in the specific circumstances despite the complex issues that would require specialized skills and knowledge to audit. Instead, the Firm summarily concluded it had the required technical skills and expertise in TCC's business model and that it had sufficient competent professional staff available to perform the engagement, even though it did not.

17. The Firm therefore violated PCAOB rules and quality control standards by failing to have adequate policies and procedures related to (1) client acceptance and continuance sufficient to provide reasonable assurance that it undertook only those engagements that it could reasonably expect to be completed with professional competence, and (2) appropriately considering the risks associated with providing professional services in the particular circumstances. These failures resulted in, or contributed to, the Firm's acceptance of a client relationship with TCC, an issuer engaged in a new, complex business, even though the Firm's public auditing practice was relatively new and its personnel lacked prior experience or training in audits involving similarly complex, unusual, or unfamiliar transactions.

ii. Hall & Co.'s System of Quality Control Failed to Provide Reasonable Assurance with Respect to Personnel Management

18. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that work is assigned to personnel having the degree of technical training and proficiency required in the circumstances, and its personnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned.[15] A firm's quality control policies and procedures should ordinarily address certain competencies

[15] QC § 20.13.

for the practitioner-in-charge of an engagement, including technical proficiency, familiarity with the industry, and understanding of the organization's information technology ("IT") systems.[16]

19. At all relevant times, the Firm failed to maintain effective policies and procedures to provide it with reasonable assurance that work was assigned to personnel with the required technical training and proficiency, or that personnel assigned to the engagement would develop appropriate proficiency in relevant matters to fulfill their assigned responsibilities.

20. These failures resulted in, or contributed to, the Firm's failure during the acceptance and continuance process regarding the 2017 TCC Audit to assess whether any of its audit personnel had experience auditing digital assets, including cryptocurrencies or cryptography, or adequate knowledge concerning the cryptocurrency exchange trading platforms for these types of digital assets or the distributed ledger technology, itself.

21. Despite the known risks concerning the TCC engagement, Price and the Firm assigned an engagement partner and other personnel to the 2017 Audit, including Price as the engagement quality review partner, all of whom did not have the requisite degree of technical training and proficiency required under the circumstances. Moreover, the engagement partner had limited experience as an engagement partner on issuer audits prior to the 2017 Audit. Under these circumstances, it was not reasonable for the Firm and Price to assign an engagement partner to this audit who also had little previous experience serving as the practitioner-in-charge of issuer audits.

22. The engagement team also lacked expertise relevant to gaining an understanding of cryptocurrency transactions, or to gaining an understanding of organizations' IT systems, in order to adequately perform audit services for a company like TCC with substantial investments in cryptocurrency. The only personnel assigned to the 2017 Audit who had any cryptocurrency experience was the engagement team's most junior staff member, an individual who was not a certified public accountant and had minimal public company audit experience. That staff member's experience with cryptocurrencies was limited to internet-based searches and personal trading of cryptocurrencies that he commenced during the 2017 Audit.

23. The Firm's policies and procedures also failed to provide it with reasonable assurance that personnel participated in general and industry-specific continuing professional education and other professional development activities that enabled them to fulfill

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[16] QC § 40.08, *The Personnel Management Element of a Firm's System of Quality Control-Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

responsibilities assigned.[17] As a result, the engagement team for the 2017 Audit did not participate in any specific training or professional development activities related to cryptocurrency. Moreover, the personnel assigned to the 2017 Audit neither obtained adequate training nor developed sufficient proficiency related to cryptocurrency before issuing the audit report for TCC's 2017 financial statements.

iii. Hall & Co.'s System of Quality Control Failed to Provide Reasonable Assurance with Respect to Engagement Performance

24. A registered public accounting firm should also establish quality control policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[18] Quality control policies and procedures for engagement performance encompass all phases of the design and execution of an engagement.[19] Such policies and procedures provide reasonable assurance that personnel refer to appropriate authoritative literature or other sources and consult, on a timely basis, with individuals within or outside the firm, including when dealing with complex, unusual, or unfamiliar issues.[20]

25. At all relevant times, the Firm failed to establish policies and procedures sufficient to provide it with reasonable assurance that the work performed by its engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality. These failures resulted in, or contributed to, the Firm not meeting applicable professional standards and not consulting when appropriate with individuals within or outside the Firm during the 2017 Audit.

26. The engagement team for the 2017 Audit identified many risks of material misstatement in TCC's financial statements.[21] The engagement team documented fraudulent financial reporting opportunities arising from the unregulated nature of cryptocurrency exchanges and the lack of formal policies or procedures on recording gains or losses, along with traders' ability to adjust transaction records. It further identified fraud risks from an entity (such as TCC) recording in its financial statements cryptocurrency that it did not own, and trading

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17 QC § 20.13.

18 QC § 20.17.

19 QC § 20.18.

20 QC § 20.19; *see also* AS 2101.04 and .16 (in planning the audit, the auditor "should determine whether specialized skill or knowledge is needed to perform appropriate risk assessments, plan or perform audit procedures, or evaluate audit results").

21 *See* AS 2110.04, *Identifying and Assessing Risks of Material Misstatement.*

cryptocurrency "off-exchange" without generating any records of such transactions. As a result, the engagement team identified fraud risks for the amount recorded from realized and unrealized gains and losses on sales and holdings of cryptocurrency. It also identified significant risks relating to whether TCC's investments in cryptocurrency existed, were owned, and were properly valued.

27. However, the flaws in the Firm's quality control policies and procedures resulted in, or contributed to, the engagement team not establishing an overall audit strategy and developing an audit plan in the 2017 Audit to obtain a sufficient understanding of TCC and its environment in order to design sufficient audit responses to address the significant and fraud risks it had identified. For example, the Firm's audit methodology did not sufficiently consider circumstances requiring specialized skills and knowledge; thus, the engagement team's efforts to understand the business were limited to obtaining an article giving a general overview of the evolution of cryptocurrency and a TCC-prepared market research presentation. The engagement team also determined that no consultation outside of the Firm was required with respect to planning and performing procedures in the 2017 Audit, notwithstanding the Firm's lack of experience in auditing issuers engaged in cryptocurrency transactions.

28. Furthermore, the engagement team's planning documentation and related communications to the audit committee for the 2017 Audit concluded no specialized skills or knowledge were needed, despite being aware that TCC's investment activities in cryptocurrencies, which relied on new technology, required specialized skills. In addition, notwithstanding the engagement team's identification of significant risks of material misstatement related to the digital nature of cryptocurrency, and its lack of experience in auditing cryptocurrencies, the engagement team unreasonably concluded no specialized IT skills were needed to address those risks.[22] Consequently, the engagement team inappropriately concluded no service organization's services were a part of TCC's information system to account for its cryptocurrency despite TCC's use of exchange trading platforms to provide custodial services and its reliance on the third-party website to maintain its records. The engagement team also failed to gain a sufficient understanding of TCC's internal control over financial reporting to appropriately plan its audit, including TCC's use of service organizations for cryptocurrency investments.[23]

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[22] *See id.*; *see also* AS 2110.18.

[23] *See* AS 2110.18, .28, and .B1; AS 2601.07, *Consideration of an Entity's Use of a Service Organization*.

F. Price Directly and Substantially Contributed to Hall & Co.'s Violations

29. A person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.[24]

30. As described above, Price directly and substantially contributed to the Firm's violations of PCAOB rules and quality control standards. As the Director of Audit and Quality Control for the Firm, Price was principally responsible for developing and maintaining quality control policies and procedures applicable to the Firm's auditing practice. At the time of the 2017 Audit, Price knew or was reckless in not knowing that his role, which involved leading the quality control function for a new and inexperienced public auditing practice, required greater attention to the risks inherent in performing engagements involving complex, unusual, or unfamiliar issues outside the Firm's prior experience or professional competence.

31. Price had a central role in the Firm's approval of TCC as a client and in the Firm's decision to perform the 2017 Audit, failing to identify and evaluate the risks of undertaking the audit, and assigning to the audit personnel without requisite technical training and experience. Specifically, Price learned within two days that the Firm had executed an engagement letter for the 2017 Audit in September 2017, long before the Firm's client acceptance and continuance committee, on which he served, approved the continued engagement of TCC to perform the 2017 Audit. Thus, Price was on notice that the Firm had executed the engagement letter without having performed the evaluation called for by the Firm's policies and procedures. Price also contributed to accepting TCC as an audit client, despite having failed to implement or maintain effective quality control procedures, as Director of Audit and Quality Control, to ensure the Firm had personnel with sufficient technical training and proficiency to complete the audit. Indeed, Price assigned the engagement partner and himself as the engagement quality reviewer to the 2017 Audit, although neither he nor the assigned engagement partner had any experience relevant to auditing issuers transacting in cryptocurrencies. Price also failed to understand whether engagement team personnel had participated in professional development activities that could enable them to fulfill the responsibilities he assigned to them.

32. In connection with these responsibilities, Price took, or omitted to take, actions knowing, or recklessly not knowing, that those acts or omissions would directly and

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[24] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

substantially contribute to the Firm's violations of PCAOB rules and quality control standards for its issuer auditing practice, in violation of PCAOB Rule 3502.

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Hall & Co. and Anthony J. Price are hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $30,000 on Hall & Co., and a civil money penalty on Anthony J. Price of $25,000. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

C. Respondents shall each pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Hall & Co. or Anthony J. Price as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

1. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of

compensatory damages in any private action brought against any Respondent based on substantially the same facts as set out in the findings in this Order.

2. By consenting to this Order, Hall & Co. understands that failure to pay the civil money penalty imposed upon it may alone be grounds to deny any application, pursuant to PCAOB Rule 2106, for registration with the Board.

3. By consenting to this Order, Anthony J. Price understands that failure to pay the civil money penalty imposed upon him may result, pursuant to PCAOB Rule 5304(b), in summary suspension, following written notice to Respondent at the address on file with the PCAOB at the time of the issuance this Order, and a summary bar, if the civil money penalty is not paid within 90 days of such notice.

D. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Hall & Co. is required:

1. before filing with the Board any future registration application, to (a) establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing Hall & Co. with reasonable assurance of compliance with regulatory requirements applicable to audits and reviews of issuers, brokers, and dealers;[25] (b) to establish a policy of ensuring training of personnel, whether internal or external, on an annual or more frequent regular basis, concerning requirements applicable to audits and reviews of issuers; and (c) to ensure training pursuant to that policy on at least one occasion; and

2. to provide with any future registration application a written certification of compliance with the above requirements, written evidence of compliance in the form of a narrative, exhibits sufficient to demonstrate compliance, and such additional evidence of and information concerning compliance as the staff of the Division of Registration and Inspections may reasonably request.

E. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two years from the date of this Order, Anthony J. Price will not have

[25] *See* PCAOB Rule 1001(b)(iii) (defining "broker"); Rule 1001(d)(iii) (defining "dealer"); Rule 1001(i)(iii) (defining "issuer").

responsibilities for the design or maintenance of a registered firm's quality control policies and procedures under PCAOB standards, including, but not limited to, (1) deciding whether to accept or continue a client relationship and whether to perform a specific engagement for that client; and (2) assigning personnel to particular engagements.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 3, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG LLP (United Kingdom),

Respondent.

PCAOB Release No. 105-2022-031

December 6, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG LLP ("KPMG UK," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $600,000 on KPMG UK; and

(3) requiring KPMG UK to undertake and certify the completion of certain improvements to its system of quality control.

The Board is imposing these sanctions on the basis of its findings that, in connection with four audits of an issuer from 2017 through 2020, KPMG UK used audit work performed by KPMG Audit SRL, a Romanian KPMG affiliate that was not registered with the Board yet played a substantial role in each of the four audits. Specifically, the Board finds that KPMG UK failed to reasonably supervise KPMG Audit SRL, failed to comply with the Board's requirements for communicating with audit committees, and violated the Board's quality control standards. In addition, in connection with audits of multiple issuers, the Firm made numerous inaccurate Form AP filings with the Board, several of which indicated that PCAOB-registered firms had participated in KPMG UK audits when in fact unregistered firms had participated.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rules 5200(a)(1) and (2).

I.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG UK has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

II.

On the basis of KPMG UK's Offer, the Board finds that:

A. Respondent

1. **KPMG LLP** is a limited liability partnership organized under the laws of the United Kingdom and headquartered in London, United Kingdom. It is a member firm of the KPMG International Limited global network of firms ("KPMG Global"). At all relevant times, KPMG UK was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for 13 or more issuer audit clients.

B. Issuers

2. Endava PLC ("Endava," formerly "Endava Ltd.") is a public limited company incorporated under the laws of England and Wales with its principal place of business in London, United Kingdom. Endava's public filings disclose that it is a software and technology services provider. At all relevant times, Endava was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG UK issued audit reports that Endava included in a Form F-1 filed with the U.S. Securities and Exchange Commission ("Commission") for the fiscal year ("FY") ended June 30, 2017, and Form 20-Fs for FY 2018, 2019, and 2020, respectively (collectively, the "Endava Audits").

3. Barclays Bank PLC ("Barclays Bank") is a public limited company incorporated under the laws of England and Wales with its principal place of business in London, United Kingdom. Barclays Bank's public filings disclose that it is a wholly-owned subsidiary of Barclays PLC, and is a banking and financial services provider. At all relevant times, Barclays Bank was an

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

issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG UK issued an audit report that Barclays Bank included in its Form 20-F filed with the Commission for the fiscal year ended December 31, 2019.

4. Barclays PLC is a public limited company incorporated under the laws of England and Wales with its principal place of business in London, United Kingdom. Barclays PLC's public filings disclose that it is a global financial services provider engaged in wholesale, retail, and investment banking, and wealth and investment management services. At all relevant times, Barclays PLC was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG UK issued an audit report that Barclays PLC included in its Form 20-F filed with the Commission for the fiscal year ended December 31, 2019.

5. British American Tobacco p.l.c. ("BAT") is a public limited company incorporated under the laws of England and Wales with its principal place of business in London, United Kingdom. BAT's public filings disclose that it manufactures and sells cigarettes, tobacco, and other nicotine products. At all relevant times, BAT was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG UK issued an audit report that BAT included in its Form 20-F filed with the Commission for the fiscal year ended December 31, 2019.

6. Micro Focus International plc ("Micro Focus") is a public limited company incorporated under the laws of England and Wales with its principal place of business in Newbury, United Kingdom. Micro Focus' public filings disclose that it is a global enterprise software provider. At all relevant times, Micro Focus was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG UK issued an audit report that Micro Focus included in its Form 20-F filed with the Commission for the fiscal year ended October 31, 2020.

C. Other Relevant Entities

7. KPMG Romania SRL ("KPMG Romania") is a limited liability company headquartered in Bucharest, Romania. At all relevant times, KPMG Romania was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, it was licensed by the Romanian Chamber of Chartered Accountants (Lic. No. 000151/26.01.2000), but not licensed to perform local statutory audits in Romania.

8. KPMG Audit SRL ("KPMG Audit") is a limited liability company headquartered in Bucharest, Romania. At all relevant times, KPMG Audit was the sole KPMG-affiliated firm that performed statutory and non-statutory audits in Romania, including international engagements pursuant to PCAOB standards. At all relevant times, it was registered with the Camera

Auditorilor Financiari Din Romania (autorizatie/certificat No. 9). KPMG Audit is not now, and never has been, registered with the Board.[2]

9. KPMG ("KPMG India," a/k/a KPMG Assurance and Consulting Services LLP) is a limited liability partnership headquartered in Mumbai, India. At all relevant times, KPMG India was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

10. KPMG India Private Limited ("KPMG India Private") is a company limited by shares headquartered in Mumbai, India. KPMG India Private provided assurance services on estimates of fair value to KPMG UK during the FY 2018 Endava audit. KPMG India Private is not now, and never has been, registered with the Board.

11. B S R & Co. LLP ("B S R & Co.") is a limited liability partnership headquartered in Mumbai, India. At all relevant times, B S R & Co. was registered with the Board pursuant to Section 102 of the Act and PCAOB Rules.

12. B S R & Associates LLP ("B S R & Associates") is a limited liability partnership headquartered in Bengaluru, India. B S R & Associates provided assurance services to KPMG UK during the FY 2020 Micro Focus Audit. B S R & Associates is not now, and never has been, registered with the Board.

13. KPMG Romania, KPMG Audit, KPMG India, KPMG India Private, B S R & Co., and B S R & Associates are all member firms of KPMG Global.

D. Summary

14. This matter concerns KPMG UK's repeated violations of PCAOB rules and standards in connection with its use of, and reporting on, the work of other accounting firms.

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[2] KPMG Audit submitted a registration application to the Board in late 2021, which was subsequently disapproved by Board order. *See In re Registration Application of KPMG Audit SRL*, PCAOB Rel. No. 101-2022-002 (July 7, 2022). In the order, the Board found that the firm had violated Section 102(a) of the Act and PCAOB Rule 2100 by playing a substantial role in the Endava Audits. The Board's order provided that with respect to any new application for registration after the longer of one year from the date of the order, or a six-month period following the date upon which a cooperative agreement is entered into between the PCAOB and Autoritatea pentru Supravegherea Publica a Activitatii de Audit Statutar ("ASPAAS") (or any relevant Romanian regulator) that allows for PCAOB inspections in Romania, the Board will not issue a notice of hearing to determine whether to approve or disapprove such application based solely on the violations that are the subject of the findings in the order.

15. *First*, KPMG UK improperly allowed its unregistered Romanian affiliate, KPMG Audit, to play a substantial role in four consecutive audits of the financial statements of issuer client Endava from 2017 through 2020. KPMG UK knew that KPMG Audit was required to register with the Board before it played a substantial role in any issuer audits. KPMG UK, however, failed to take adequate steps to ensure that KPMG Audit's participation in the Endava Audits was consistent with PCAOB registration requirements, that is, that KPMG Audit did not "play a substantial role" in the Endava Audits.[3]

16. KPMG Audit's participation in the Endava Audits far exceeded the substantial role threshold each year from 2017 through 2020, including one year in which KPMG Audit incurred 74% of the total audit hours. Due to its inadequate planning and oversight of KPMG Audit's participation in the Endava Audits, KPMG UK failed to reasonably supervise an associated person pursuant to Section 105(c)(6) of the Act and failed to comply with PCAOB rules and standards concerning due professional care and audit planning.

17. *Second*, in each audit year at issue, KPMG UK failed to communicate to Endava's audit committee that KPMG Audit had played a substantial role in the Endava Audits despite not being registered with the PCAOB. In fact, during the FY 2020 audit of Endava, KPMG UK incorrectly communicated to Endava's audit committee that KPMG Romania, not KPMG Audit, had participated in the audit. Due to its inaccurate communications, KPMG UK violated PCAOB standards governing communications with audit committees.

18. *Third*, the repeated violations described above demonstrate that, from 2017 through 2020, KPMG UK failed to establish and implement adequate quality control policies and procedures, including monitoring procedures, concerning the use of the work of other accounting firms, in violation of PCAOB quality control standards.

19. *Finally*, KPMG UK failed to file accurate Form APs in connection with audits of multiple issuers from 2017 through 2020, in violation of PCAOB rules. Specifically, the Firm failed to report KPMG Audit's participation in the FY 2017 through FY 2019 audits of Endava and its FY 2019 BAT audit. Instead, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*, KPMG UK incorrectly reported that PCAOB-registered firm KPMG Romania, not KPMG Audit, had participated in those audits.[4] In addition, KPMG UK's Form APs for its FY 2018 Endava and FY 2019 Barclays Bank and Barclays PLC audits identified KPMG India, a PCAOB-registered firm, as having participated in the audits when it had not done so. Further, in

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[3] *See* PCAOB Rule 1001(p)(ii), *Play a Substantial Role in the Preparation or Furnishing of an Audit Report* (defining what it means to play a substantial role).

[4] With respect to the FY 2020 audit of Endava, KPMG UK identified KPMG Audit as the other participating accounting firm in its 2020 Form AP, filed October 15, 2020, at a 30% to 40% level.

its Form AP for the FY 2020 Micro Focus audit, KPMG UK incorrectly attributed to PCAOB registrant B S R & Co. work that was in fact performed by B S R & Associates, a firm not registered with the PCAOB. KPMG UK ultimately corrected these errors by filing amended Form APs.

E. Requirements Related to Playing a Substantial Role in an Audit

20. Section 102(a) of the Act makes it "unlawful" for an accounting firm that is not registered with the Board "to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any issuer, broker, or dealer."[5]

21. In addition, Section 106(a)(2) of the Act states:

> The Board may, by rule, determine that a foreign public accounting firm (or a class of such firms) that does not issue audit reports nonetheless plays such a substantial role in the preparation and furnishing of such reports for particular issuers, brokers, or dealers, that it is necessary or appropriate, in light of the purposes of this Act and in the public interest or for the protection of investors, that such firm (or class of firms) should be treated as a public accounting firm (or firms) for purposes of registration under, and oversight by the Board in accordance with, this subchapter.[6]

22. In furtherance of these provisions, the Board adopted Rule 2100, *Registration Requirements for Public Accounting Firms*, which requires any accounting firm, foreign or domestic, that "plays a substantial role in the preparation or furnishing of an audit report with respect to any issuer, broker, or dealer" to register with the Board.

23. PCAOB Rule 1001(p)(ii) defines the phrase "play a substantial role in the preparation or furnishing of an audit report" to mean, among other things, "perform[ing] material services that a public accounting firm uses or relies on in issuing all or part of its audit report." The phrase "material services" means "services, for which the engagement hours or fees constitute 20% or more of the total engagement hours or fees, respectively, provided by the principal auditor in connection with the issuance of all or part of its audit report."[7]

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5 15 U.S.C. § 7212(a).

6 15 U.S.C. § 7216(a)(2).

7 Rule 1001(p)(ii), at Note 1.

F. Background

24. In connection with each of the Endava Audits, KPMG UK and KPMG Audit entered into a Multi-Firm Engagement ("MFE") agreement that governed KPMG Audit's participation in those audits. The MFE agreements made clear both the identity of the Romanian firm that would be participating in the Endava Audits and the significance of that participation.

25. For example, an MFE agreement, dated November 8, 2018, detailed that KPMG Audit personnel who would work on the FY 2019 Endava audit included an audit partner, director, manager, senior in charge, and any other personnel deemed necessary by KPMG UK. That MFE agreement also expressly stated that KPMG Audit "is performing [the] audit of significant elements of the Endava Limited group consolidated accounts" and estimated that KPMG Audit would receive €175,000 in fees for its work.

26. The MFE agreements between KPMG UK and KPMG Audit did not indicate that any Romanian affiliate of KPMG other than KPMG Audit would participate in the Endava Audits.

27. Pursuant to the MFE agreements, KPMG Audit participated in the Endava Audits and invoiced KPMG UK for services rendered. For the FY 2017, 2018, and 2019 audits of Endava, KPMG Audit exceeded the 20% substantial role threshold in terms of both total hours and total fees. For the FY 2020 Endava audit, KPMG Audit exceeded the 20% substantial role threshold for total hours. As shown in the table below, KPMG Audit's hours incurred on the Endava Audits ranged from 36% to 74% of the total audit hours and KPMG Audit's fees ranged from 16% to 34% of the total audit fees.[8]

[8] During the Endava Audits, KPMG UK structured the Endava Audits so that its engagement team was required to directly supervise the work of KPMG Audit pursuant to AS 1201, *Supervision of the Audit Engagement*.

Substantial Role Audit	% Total Audit Hours Incurred by KPMG Audit	% Total Audit Fees Apportioned to KPMG Audit
Audit of Endava's FY 2017 financial statements	63%	34%
Audit of Endava's FY 2018 financial statements	74%	22%
Audit of Endava's FY 2019 financial statements	61%	21%
Audit of Endava's FY 2020 financial statements	36%	16%

28. With respect to the Endava Audits, KPMG UK failed to take adequate steps to plan or supervise the audits in a manner that would ensure that only firms registered with the PCAOB played a substantial role in the audits. To the extent any personnel at KPMG UK believed that KPMG Romania, a PCAOB-registered firm, was the entity providing services in connection with the Endava Audits, any such belief was contradicted by the MFE agreements that KPMG UK had entered into with KPMG Audit, by the invoices that KPMG Audit sent to KPMG UK for its work, and by various other communications between the two firms. Moreover, even after KPMG Audit personnel put KPMG UK on notice in October 2019 that KPMG UK had been identifying the wrong Romanian affiliate in its Form AP filings with the PCAOB, KPMG UK still failed to take any steps to determine whether KPMG Audit was eligible to play a substantial role on the Endava Audits.

G. KPMG UK Failed to Reasonably Supervise KPMG Audit and Violated PCAOB Rules and Standards

29. During each of the Endava Audits, KPMG Audit incurred more than 20% of the total engagement hours. KPMG Audit's fees also amounted to more than 20% of the total engagement fees in the FY 2017, 2018, and 2019 audits of Endava. Accordingly, KPMG Audit played a substantial role in each of the Endava Audits without being registered with the Board, in violation of Section 102(a) of the Act and PCAOB Rule 2100.

30. KPMG UK failed to reasonably supervise KPMG Audit's participation in the Endava Audits in a manner designed to avoid violations of Section 102(a) of the Act and PCAOB Rule 2100, and KPMG UK likewise failed to properly plan the audits.

i. KPMG UK Failed to Reasonably Supervise KPMG Audit

31. Section 105(c)(6) of the Act provides that the Board may impose sanctions on a registered public accounting firm if the Board finds that (1) the firm has failed reasonably to

supervise an associated person, either as required by the rules of the Board relating to auditing or quality control standards, or otherwise, with a view to preventing violations of the Act or the rules of the Board; and (2) such associated person commits a violation of the Act or Board rules.

32. Under Section 2(a)(9) of the Act, the term "person associated with a registered public accounting firm" includes "any . . . entity that, in connection with the preparation or issuance of any audit report—(i) shares in the profits of, or receives compensation in any other form from, that firm; or (ii) participates as agent or otherwise on behalf of such accounting firm in any activity of that firm."

33. KPMG Audit invoiced KPMG UK for the services it provided in connection with the Endava Audits. Thus, KPMG Audit "receive[d] compensation" from KPMG UK in connection with the preparation and issuance of KPMG UK's audit reports. In addition, because it performed audit work at the direction, and under the supervision, of KPMG UK, KPMG Audit acted as an "entity that, in connection with the preparation or issuance of [KPMG UK's] audit report[s,] . . . participate[d] as agent or otherwise on behalf of [KPMG UK]." Accordingly, KPMG Audit was an "associated person" of KPMG UK during the FY 2017 to 2020 Endava Audits.

34. KPMG UK had a responsibility to reasonably supervise its associated persons during its issuer audits. It failed to do so.

35. During the Endava Audits, KPMG UK knew that PCAOB standards required substantial role participants to be registered. Indeed, Firm guidance specifically stated: "Any public accounting firm that prepares or issues the auditors' report with respect to any issuer (including foreign private issuers), broker, or dealer, or 'plays a substantial role in the preparation or furnishing of the auditors' report' with respect to any issuer, broker, or dealer, must register with the PCAOB." Related Firm guidance also provided the relevant definitions contained in PCAOB Rule 1001(p)(ii). Firm guidance for completing Form AP templates during the FY 2019 and 2020 audits of Endava similarly indicated that for "significant component auditors [KPMG UK is] required to use registered audit firms."

36. Despite this guidance, KPMG UK failed to take adequate steps to ensure that the Romanian affiliate it used to play a substantial role in the Endava Audits was registered with the Board. As noted above, KPMG UK knew, or should have known, from its MFEs, KPMG Audit's invoices, and other communications with KPMG Audit that KPMG Audit was the other accounting firm in Romania under KPMG UK's supervision. KPMG UK also knew or should have known from readily available public information, such as the PCAOB website, that KPMG Audit was not registered with the Board. However, KPMG UK failed to accurately determine throughout the Endava Audits which KPMG affiliate firm in Romania it was supervising, information that was necessary to ensure compliance with applicable professional standards, regulatory requirements, and the Firm's standards of quality.

37. That failure continued even after personnel from KPMG Audit in October 2019 informed a member of the KPMG UK Endava engagement team that KPMG Audit was not registered, that it was the only KPMG-affiliated entity conducting audits in Romania, and that KPMG Romania was "more of a holding company." Despite having been provided that information, KPMG UK continued to use KPMG Audit to play a substantial role in the FY 2020 Endava audit.

38. Because KPMG Audit incurred more than 20% of the total audit hours during the Endava Audits and accounted for more than 20% of the total audit fees in the FY 2017 to 2019 audits of Endava, it performed material services used by KPMG UK in issuing KPMG UK's audit reports. KPMG Audit therefore violated Section 102(a) of the Act and Rule 2100 by playing a substantial role in the Endava Audits without being registered with the Board.

39. As detailed above, KPMG UK failed to reasonably supervise KPMG Audit under Section 105(c)(6) of the Act with a view to preventing KPMG Audit's violations of the registration requirements.

ii. KPMG UK Violated PCAOB Rules and Standards

40. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[9]

41. PCAOB standards provide that, as part of audit planning, the auditor should establish an overall audit strategy.[10] The auditor should take into account "[t]he factors that are significant in directing the activities of the engagement team" and "[t]he nature, timing, and extent of resources necessary to perform the engagement."[11] PCAOB standards also require that "[d]ue professional care . . . be exercised in the planning and performance of the audit and the preparation of the report."[12]

42. In establishing the overall audit strategy for the Endava Audits, KPMG UK failed to adequately take into account: (1) the fact that KPMG Audit was an unregistered firm whose substantial role participation in the Endava Audits would constitute a violation of PCAOB rules, as KPMG UK knew or should have known; (2) the nature of the resources necessary to perform

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9 PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

10 AS 2101.08, *Audit Planning*.

11 AS 2101.09.

12 AS 1015.01, *Due Professional Care in the Performance of Work*.

the audits, insofar as those resources included the involvement of an unregistered firm; and (3) for the FY 2020 audit, the fact that, prior to the execution of the FY 2020 MFE, KPMG Audit had communicated to certain KPMG UK personnel that it was not registered with the PCAOB, that it was the only KPMG-affiliated operational entity in Romania conducting audits, and that the PCAOB-registered firm KPMG Romania was merely a holding company.[13] As a result of these failures, KPMG UK did not engage in adequate planning to ensure that KPMG Audit would not violate PCAOB registration requirements.

43. Accordingly, KPMG UK violated AS 2101. KPMG UK also violated AS 1015 by failing to exercise due professional care in planning the Endava Audits.

H. KPMG UK Failed to Make Required Audit Committee Communications

44. AS 1301, *Communications with Audit Committees*, requires the auditor to communicate certain matters related to the conduct of an audit to the issuer's Audit Committee.[14] Among the matters that the auditor must communicate, as part of communicating the overall audit strategy, are: "The names, locations, and planned responsibilities of other independent public accounting firms or other persons, who are not employed by the auditor, that perform audit procedures in the current period audit."[15]

45. In adopting AS 1301, the Board explained the rationale for the provision governing identification of other independent public accounting firms:

> The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators . . . [T]he amount of detail the auditor generally would communicate to the audit committee regarding the participation of other auditors would be greater for

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13 *See* AS 2101.05 ("Planning is not a discrete phase of an audit but, rather, a continual and iterative process that . . . continues until the completion of the current audit.").

14 AS 1301.01.

15 AS 1301.10.d.

participants that perform a significant portion of the audit or that perform procedures related to significant risks.[16]

46. During the Endava Audits, KPMG UK failed to inform Endava's Audit Committee that KPMG Audit, an unregistered firm, had participated in each of the audits. During the FY 2020 Endava audit, KPMG UK also incorrectly communicated to Endava's audit committee that KPMG Romania would be participating in the audit. For example, in a slide deck presentation dated January 29, 2020, KPMG UK indicated that "KPMG UK and KPMG Romania SRL work as one team on the same audit file. This slide sets out split of work between the UK and Romania which is crucial to the audit."

47. As a result of the omissions and errors in KPMG UK's communications to Endava's Audit Committee, KPMG UK violated AS 1301 and AS 1015 during the Endava Audits.

I. KPMG UK Violated PCAOB Quality Control Standards

48. PCAOB rules require that a registered firm comply with PCAOB quality control standards.[17] Those standards require a firm to "have a system of quality control for its accounting and auditing practice."[18] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[19]

49. PCAOB quality control standards also recognize that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures relating to each of the other elements of quality control are suitably designed and are being effectively applied."[20] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[21]

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16 *Auditing Standard No. 16 – Communications with Audit Committees; Related Amendments to PCAOB Standards; and Transitional Amendments to AU SEC. 380*, PCAOB Release No. 2012-004, (Aug. 15, 2012), at A4-15.

17 PCAOB Rule 3400T, *Interim Quality Control Standards*.

18 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

19 QC § 20.17.

20 QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

21 *See* QC § 20.20.d; QC § 30.02.d.

50. KPMG UK failed to establish and implement adequate policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that the work performed by engagement personnel met applicable regulatory requirements related to using the work of other accounting firms.

51. Although KPMG UK had certain quality control policies and procedures in those areas, the Firm failed to implement and monitor them in an adequate manner. As a result, KPMG UK repeatedly used an unregistered firm to play a substantial role in the Endava Audits.

52. Accordingly, KPMG UK failed to comply with QC § 20 and QC § 30.

J. KPMG UK Failed to File Accurate Form APs in Violation of PCAOB Rule 3211

i. KPMG UK Failed to Make Accurate Form AP Filings for the FY 2017, 2018, and 2019 Audits of Endava

53. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.

54. In particular, Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

55. The Form AP Instructions for "Part IV – Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm" that incurs more than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP.[22]

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[22] In the adopting release for Rule 3211, the Board indicated that information provided on Form AP was intended to "help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

56. As described above, in connection with the Endava Audits, KPMG UK used the work of KPMG Audit each year to perform a portion of the audit. Following each of the Endava Audits, KPMG UK filed a Form AP pursuant to Rule 3211.

57. KPMG UK did not accurately report KPMG Audit's participation in its Form AP filings for the FY 2017, 2018, or 2019 audits of Endava. Instead, KPMG UK incorrectly indicated in those filings that KPMG Romania was the other participating accounting firm in its audits of Endava.

58. With respect to the Form AP filing for the FY 2019 Endava audit, KPMG UK's erroneous identification of KPMG Romania as playing a substantial role in the audit occurred just two days after KPMG Audit had informed certain KPMG UK personnel that KPMG Romania was not an operating entity and that KPMG Audit was not registered with the PCAOB. In fact, KPMG Audit shared that information with KPMG UK specifically in response to inquiries the Endava engagement team had made in connection with KPMG UK's upcoming Form AP filing. Despite being put on notice that KPMG Romania was not the entity that had played a substantial role in the FY 2019 audit, KPMG UK continued to misidentify it as having done so in its 2019 Form AP filing.

59. KPMG UK's Form AP filing for the FY 2018 Endava audit also incorrectly identified KPMG India, a PCAOB-registered firm, as participating at a 10% to less than 20% level in the audit. KPMG India did not, however, participate in the FY 2018 Endava audit. Rather, another India-based entity, KPMG India Private, which has never been registered with the PCAOB, did.

60. KPMG UK's failure to accurately report KPMG Audit's substantial role participation in the FY 2017, 2018, and 2019 audits of Endava, as well as its incorrect identification of KPMG Romania (for FY 2017 through 2019) and KPMG India (for FY 2018) as participating in the audits, constituted violations of PCAOB Rule 3211.

61. On February 17, 2021, nearly three years after making its first incorrect Form AP filing related to the Endava Audits, KPMG UK filed amended Form APs (using Form AP/A) for the FY 2017, 2018, and 2019 audits of Endava. Each Form AP/A correctly identified the unregistered firm KPMG Audit as the participating other accounting firm in Romania. KPMG UK failed to correct its identification of KPMG India as a participating other accounting firm in the FY 2018 audit of Endava until more than three years after making its original Form AP filing for that audit, when it filed another Form AP/A on August 4, 2022.

ii. KPMG UK Failed to Make Accurate Form AP Filings for its FY 2019 Barclays Bank and Barclays PLC Audits, FY 2019 BAT Audit, and FY 2020 Micro Focus Audit

62. KPMG UK also filed incorrect Form APs in connection with its FY 2019 Barclays Bank and Barclays PLC audits, its FY 2019 BAT audit, and its FY 2020 Micro Focus audit.

63. KPMG UK's Form AP filing for its FY 2019 Barclays Bank audit incorrectly identified KPMG India as participating in the audit when it did not. Instead, B S R & Co. had participated in the audit.

64. KPMG UK's Form AP filing for its FY 2019 Barclays PLC audit incorrectly identified KPMG India as participating in the audit when it did not. Instead, B S R & Co. had participated in the audit.

65. In the Form AP for its FY 2019 BAT audit, KPMG UK incorrectly identified KPMG Romania as having participated in the audit when it had not. Instead, unregistered KPMG Audit had participated in the audit.

66. In connection with the FY 2020 Micro Focus audit, KPMG UK used the work of two India-based firms, B S R & Co., which is registered with the PCAOB, and B S R & Associates, which is not. The participation of each of the India-based firms was at a level that required reporting on Form AP. In its Form AP for the FY 2020 Micro Focus audit, however, KPMG UK incorrectly identified B S R & Co. as the only India-based firm that participated, failing to identify B S R & Associates' participation.

67. KPMG UK eventually corrected the above-described errors by filing amended Form APs for its FY 2019 Barclays Bank, Barclays PLC, and BAT audits and its FY 2020 Micro Focus audit, but not until February 17, 2021, 10 months after the original filing in the case of BAT, March 28, 2022, 12 months after the original filing in the case of Micro Focus, and August 4, 2022, more than two years after the original filing in the cases of Barclays Bank and Barclays PLC.

68. Accordingly, KPMG UK also violated PCAOB Rule 3211 in connection with its Form AP filings for its FY 2019 Barclays Bank, Barclays PLC, and BAT audits and its FY 2020 Micro Focus audit.

III.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rules 5300(a)(5), KPMG LLP is censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty of $600,000 on KPMG LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by KPMG LLP. Within three months of the date of this Order, KPMG LLP shall review and evaluate its quality control policies and procedures to assess whether those policies and procedures provide the firm with reasonable assurance that its personnel and other associated persons comply with applicable regulatory requirements (a) when the firm uses audit work performed or supervised by other accounting firms and (b) when the firm makes required regulatory filings.

2. Reporting. Within three months of the date of this Order, KPMG LLP shall submit a written report to the Director of the Division of

Enforcement and Investigations summarizing the review and evaluation of the areas specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG LLP or, if KPMG LLP concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the firm believes changes are not warranted. In addition, KPMG LLP shall submit any additional information and evidence concerning the Report, the information in the Report, and KPMG LLP's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within six months of the date of this Order, KPMG LLP's managing partner shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that KPMG LLP has implemented all of the modifications and additions to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG LLP's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG LLP shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. KPMG LLP understands that a failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 6, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG LLP(United Kingdom),

Respondent.

PCAOB Release No. 105-2022-032

December 6, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon KPMG LLP ("KPMG UK," the "Firm," or "Respondent"). The Board is:

(1) censuring the Firm;

(2) imposing a $2 million civil money penalty on the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that KPMG UK violated PCAOB rules and quality control standards over several years in connection with the Firm's internal training program.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG LLP** is a limited liability partnership organized under the laws of the United Kingdom and headquartered in London, United Kingdom. It is a member firm of the KPMG International Limited global network of firms ("KPMG Global"). At all relevant times, KPMG UK was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for 13 or more issuer audit clients.

B. Summary

2. From at least 2018 until March 2021, KPMG UK violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing internal training tests, including tests designed to help the Firm's audit professionals satisfy the requirements for maintaining their professional certifications. Those quality control failures prevented the Firm from identifying that hundreds of Firm professionals, including personnel from an entity based in India that provides support for KPMG UK's issuer audit work, KPMG Resource Centre Private Limited ("KRC"), were involved in improper answer sharing—either by providing answers, or receiving answers without reporting such sharing—in connection with tests for mandatory internal training courses covering topics that included auditing, accounting, and professional independence. All of these professionals performed work for the Firm's Assurance practice.

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

C. KPMG UK Violated PCAOB Rules and Standards

i. Applicable PCAOB Rules and Quality Control Standards

3. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[2] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[3]

4. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[4] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[5] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[6]

5. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[7] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[8] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[9]

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2 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

3 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

4 QC § 20.09.

5 QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

6 QC § 20.13.c; QC § 40.02.c.

7 QC § 20.08.

8 *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

9 *See* QC § 20. 20.c-.d; QC § 30.02.c-.d.

ii. KRC's Support of KPMG UK's Issuer Audits

6. KRC is a service delivery center not registered with the PCAOB. KRC is half-owned by KPMG UK and provides issuer audit support services to various member firms of the KPMG Global network. Employees of KRC are assigned to support a specific KPMG Global network firm, so KRC employees assigned to support KPMG UK in its audits of issuers principally perform professional services on behalf of KPMG UK. Such KRC employees perform limited audit procedures on KPMG UK issuer audits under the direction of the KPMG UK audit engagement teams. These KRC employees perform professional services for which KPMG UK is responsible.

7. KPMG UK has an obligation to establish policies and procedures to provide the Firm with reasonable assurance that, among other things, these KRC employees perform all professional responsibilities with integrity, the employees have the degree of technical training and proficiency required to perform the work assigned to them, and the employees participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of regulatory agencies.[10]

iii. Training Requirements for KPMG UK and KRC Personnel

8. As part of KPMG UK's and KRC's personnel management systems, KPMG UK and KRC administer internal training programs for all of their professionals. KPMG UK and KRC designed their training programs to serve multiple purposes, including to provide personnel with technical instruction, to further their professional development, and to help employees satisfy some of the continuing professional education requirements imposed by the accountancy boards that license KPMG UK's and KRC's auditors. KPMG UK's and KRC's training requirements are intended to be relevant to, among other things, the independence of their personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. However, the training requirements can vary by a professional's position, role, and industry practice area. Both KPMG UK's and KRC's internal trainings often include a testing component.

9. Since at least 2018, KPMG UK and KRC have utilized online platforms to offer training to their personnel. The platforms enable KPMG UK and KRC to deliver, track, and record completion of mandatory training and testing. The platforms record the dates and times when personnel access and complete mandatory training and testing. For training courses with

[10] *See supra* at nn. 4-6; *see also* footnote 4 to QC § 20.03 (providing that "[t]he term *personnel* refers to all individuals who perform professional services for which the firm is responsible, whether or not they are CPAs").

a testing component, the firms do not credit personnel with completing the training until they satisfactorily pass the related test.

10. Since at least 2018, KPMG UK and KRC have required all personnel to take certain online courses, including courses containing content regarding professional independence and performing professional responsibilities with integrity. These courses include a testing component at the end. During the same period, KPMG UK and KRC also have administered a number of online courses related to auditing and accounting. The particular courses KPMG UK and KRC auditors must take vary based on their experience levels. Many of these audit-related courses include a testing component and are mandatory for the KPMG UK and KRC audit personnel.

iv. Failures by KPMG UK to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

11. Between 2018 and March 2021, KPMG UK had in place certain quality control policies and procedures intended to address integrity and personnel management. For example, with respect to integrity, the Firm's Code of Conduct generally advised personnel that the Firm does not "tolerate behavior . . . that is . . . unethical." However, those policies were not specifically designed to provide reasonable assurance that Firm personnel acted with integrity when taking internal training tests. With respect to only a limited set of exams administered in this period, KPMG UK formally advised its audit personnel that they should perform training tests on their own. But the Firm failed to communicate this expectation to KPMG UK or KRC personnel in connection with other training tests during this period. During this time period, KPMG UK also employed certain monitoring procedures related to internal training, but those procedures were limited to tracking completion of courses and related tests. The monitoring procedures were not designed to detect other compliance issues, such as answer sharing.

12. As described below, these policies and procedures were inadequate to prevent or detect the extensive answer sharing on training tests that occurred among KPMG UK and KRC personnel over multiple years.

v. Sharing of Answers to Training Tests at KPMG UK and KRC

13. From at least 2018 to March 2021, hundreds of KPMG UK personnel and KRC personnel assigned to support KPMG UK issuer audits were involved in improper answer sharing related to training tests. They shared answers primarily through emails attaching documents that contained answers to training test questions.

14. Instances of improper answer sharing primarily occurred in connection with tests that were a part of KPMG UK's and KRC's mandatory training. At KPMG UK, individuals engaged in answer sharing in connection with tests for trainings entitled Update for Auditors, IFRS, US Auditing Standards Periodic Update, and SEC Baseline. At KRC, individuals engaged in answer sharing in connection with tests for trainings entitled Audit Foundations, Update for Auditors, IT Auditing, US GAAP/ICOFR, and IFRS.

15. As illustrated by the misconduct described above, from at least 2018 to March 2021, KPMG UK failed to establish policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) KPMG UK personnel, and KRC personnel assigned to support KPMG UK audits of issuers, performed all professional responsibilities with integrity; (2) KPMG UK and KRC personnel to whom work was assigned for KPMG UK had the degree of technical training and proficiency required in the circumstances; and (3) KPMG UK personnel, and KRC personnel assigned to support KPMG UK audits of issuers, participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies. Accordingly, the Firm violated PCAOB quality control policies related to integrity and personnel management.[11]

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2 million is imposed on KPMG LLP. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. KPMG LLP shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Office of Finance, Public

[11] *See* QC § 20.09, .13.b-.c, .20; QC § 30.02; and QC § 40.02.b-.c.

Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (c) submitted under a cover letter which identifies KPMG LLP as the Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. With respect to any civil money penalty amounts that KPMG LLP shall pay pursuant to this Order, KPMG LLP shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of KPMG LLP's payment of the civil money penalty pursuant to this Order, in any private action brought against KPMG LLP based on substantially the same facts as set out in the findings in this Order; and

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), KPMG LLP is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (a) personnel perform all internal training and tests associated with such training with integrity; (b) personnel to whom work has been assigned have the degree of technical training and proficiency required in the circumstances; (c) personnel participate in general and industry-specific continuing professional education that enable them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies; and (d) the above-described policies and procedures are suitably designed and are being effectively applied.

2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1. above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a

narrative, and be supported by exhibits sufficient to demonstrate compliance. KPMG LLP shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 6, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG Assurance and Consulting Services LLP and Sagar Pravin Lakhani,

Respondents.

PCAOB Release No. 105-2022-033

December 6, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG Assurance and Consulting Services LLP ("KPMG India" or the "Firm"), a registered public accounting firm, and Sagar Pravin Lakhani ("Lakhani" and, together with KPMG India, "Respondents");

(2) suspending Lakhani from being an associated person of a registered public accounting firm for a period of one year from the date of this Order;

(3) imposing civil money penalties in the amounts of $1,000,000 on KPMG India and $75,000 on Lakhani; and

(4) requiring KPMG India to undertake and certify the completion of certain improvements to its system of quality control.

The Board is imposing these sanctions on the bases that, in connection with an issuer audit, (1) KPMG India violated PCAOB rules and quality control standards concerning audit documentation; and (2) Lakhani violated PCAOB rules and standards when he and certain other engagement team members signed off on blank placeholder work papers in the Firm's electronic audit software.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit

reports, that disciplinary proceedings be, and hereby are, instituted against Respondents pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (together, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, and except as provided herein in Section IV, Respondents each consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **KPMG Assurance and Consulting Services LLP** is a partnership organized under the laws of India and headquartered in Mumbai, India. KPMG India is a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited. KPMG India registered with the Board on January 18, 2005.

2. **Sagar Pravin Lakhani** was, at all relevant times, a partner of KPMG India and an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). He served as the engagement partner for KPMG India's integrated audit of the financial statements and internal control over financial reporting ("ICFR") of Issuer A for the fiscal year ended March 31, 2017.

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

[2] The Board finds that Lakhani's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Issuer

3. Issuer A is a company organized under the laws of India with headquarters in Mumbai, India. Issuer A is a banking company whose principal business activities are retail banking, wholesale banking, and treasury services. At all relevant times, Issuer A was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. This matter concerns KPMG India's violation of PCAOB quality control standards by failing to implement, communicate, and monitor adequate policies and procedures to provide reasonable assurance that Firm personnel would: (1) comply with PCAOB standards concerning appropriately documenting and dating their completion and review of work papers; (2) include all hard copy audit work papers in the complete and final set of audit documentation assembled for retention ("archived"); and (3) appropriately document any changes to archived hard copy work papers after the documentation completion date.[3]

5. In addition, this matter concerns Lakhani and certain other members of the Issuer A engagement team having signed off on blank electronic work papers during the 2017 Issuer A audit. After Lakhani or another member of the engagement team signed off as a preparer or reviewer on a blank work paper, that work paper subsequently could be replaced or modified without the sign-off date changing. In fact, many of the blank work papers on which Lakhani and his engagement team signed off during the 2017 Issuer A audit were replaced with completed versions of those work papers after KPMG India released its audit report and before the documentation completion date.

6. By signing off on blank work papers, Lakhani violated AS 1215, which requires that audit documentation for an engagement enable an experienced auditor, with no prior connection to the engagement, to determine the date on which audit work was completed and reviewed.[4] In addition, Lakhani violated AS 1201, *Supervision of the Audit Engagement*, by failing to adequately supervise the engagement team with respect to the use of blank work papers. As a result of this conduct, Lakhani also violated AS 1015, *Due Professional Care in the*

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[3] *See* AS 1215.15, *Audit Documentation* (defining "documentation completion date" as a date not more than 45 days after an auditor releases an audit report).

[4] AS 1215.06. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the 2017 Issuer A audit.

Performance of Work, which requires an auditor to exercise due professional care in performing an audit.

D. Background

7. KPMG India served as Issuer A's auditor for the 2017 fiscal year, and Lakhani served as the Firm's engagement partner for the 2017 Issuer A audit.

8. On July 31, 2017, KPMG India issued an audit report expressing an unqualified opinion on Issuer A's 2017 financial statements and ICFR. The Firm's audit report was included in a Form 20-F that Issuer A filed with the U.S. Securities and Exchange Commission on July 31, 2017.

i. KPMG India's eAudIT Software

9. At the time of the 2017 Issuer A audit, KPMG India's audit engagement teams used both hard copy work papers and electronic work papers to document their work.

10. Hard copy work papers were maintained in a paper binder, while electronic work papers were maintained in the Firm's proprietary audit software, called "eAudIT." Each member of a KPMG India audit engagement team had a copy of the Firm's eAudIT software on his or her laptop.

11. Work papers for the 2017 Issuer A audit were organized into four sections within eAudIT, each of which was maintained locally by a member of the engagement team on his or her respective laptop in a so-called "Master File." Each Master File remained on the applicable engagement team member's laptop until the documentation completion date, at which point it was uploaded to KPMG India's central eAudIT server.

12. To prepare or review electronic work papers, an engagement team member would connect his or her laptop to the laptop containing the Master File. Alternatively, both the laptop containing the Master File and the preparer or reviewer's laptop had to be connected to the internet for the preparer or reviewer to connect to the Master File.

13. The holder of the Master File also could extract selected work papers from the Master File and send those work papers to a preparer or reviewer via email in a so-called "eAudIT package." The recipient of the eAudIT package could create, review, edit, and/or sign off on work papers in the package; the recipient then could email the eAudIT package back to the holder of the Master File to be re-imported into the Master File.

14. The sign off date reflected for work papers prepared or reviewed in an eAudIT package was the date that the recipient of the package signed off on them, regardless of when the eAudIT package was re-imported into the Master File.

15. Once a preparer or reviewer's sign off on a work paper was electronically recorded in eAudIT—whether by connecting directly to the Master File or importing an eAudIT package—the Firm's eAudIT software allowed engagement team members to replace, modify, rename, and move that work paper without updating the sign off date to reflect the date it was replaced or modified.

16. KPMG India's Audit Manual ("KAM") contemplated that, "in limited circumstances, it may not be efficient or practicable to review audit documentation within eAudIT. In such circumstances, a reviewer may indicate review by signing or initialing and dating the audit documentation, either manually or through electronic sign-off (i.e. digital signature or a picture of the reviewer's manual signature)." KAM provided that the manual or electronic signature then would be "attached into the eAudIT file by a team member at a later date."

17. KAM also provided that there may be "certain time sensitive circumstances" in which work papers were reviewed via email and "it may not be practical to provide a manual or electronic sign-off (e.g. not having access to one's computer, scanning capabilities or an internet connection, and cell phones do not support the electronic sign-off process). In these limited situations an individual may document his or her review of the audit documentation in an email message sent to the engagement partner, manager or associate." The email documenting sign off would be "attached to the [eAudIT] file by a team member at a later date."

18. Aside from these "limited" and "time sensitive" circumstances, KAM did not contemplate review and sign off on audit documentation outside of eAudIT. Under no circumstances did KAM permit KPMG India personnel to sign off on blank work papers.

ii. The 2017 Issuer A Audit

19. During the 2017 Issuer A audit, engagement team members signed off on dozens of blank eAudIT work papers that served as placeholders.

20. Lakhani knew during the 2017 Issuer A audit that certain engagement team members had signed off on blank work papers in eAudIT, and he personally signed off on ten blank work papers.

21. Lakhani also knew that, when an engagement team member signed off as preparer or reviewer on a blank work paper in eAudIT, the sign off date would remain the same even if the blank work paper was later replaced by a draft or completed work paper. In other words, eAudIT would continue to reflect the date the blank work paper was signed off, not the date that the completed work paper was inserted into eAudIT.

22. For example, on July 12, 2017, an engagement team member emailed Lakhani an eAudIT package containing work papers on which other engagement team members had previously signed off. On July 13, Lakhani added his sign off to certain work papers in the package—including six blank work papers—and emailed the package back to its sender to be imported into the Master File.

23. The blank work papers on which Lakhani signed off subsequently were replaced in eAudIT with completed versions of those work papers, but Lakhani's sign off date remained July 13 based on the eAudIT package that he returned on July 13.

24. Lakhani's general practice was to sign off on a work paper after reviewing the information and conclusions documented therein. However, Lakhani did not document reviewing any draft or completed version of the blank work papers outside of eAudIT in the manner contemplated by the Firm's internal guidance concerning the "limited circumstances" in which work papers were reviewed outside of eAudIT—*i.e.*, via a manual, electronic, or email sign off on the underlying work paper.

25. The July 12, 2017 eAudIT package contained, in addition to the blank work papers, five other blank documents with filenames ending in "Extra 1.docx" or "Extra 2.docx." While Lakhani did not sign off on these "Extra" documents, the "Extra" documents contained sign offs of other engagement team members and were included in the eAudIT package returned by Lakhani on July 13.

26. Notwithstanding his awareness of the engagement team's use of the blank work papers and "Extra" documents, Lakhani did not have any specific discussions with the team about their use.

27. In late August 2017, several weeks after KPMG India issued its 2017 audit report for Issuer A on July 31, 2017, Lakhani performed an additional review of the work papers in eAudIT. Lakhani's August review occurred prior to the end of the documentation completion date of September 14, 2017.

28. In emails Lakhani sent to engagement team members concerning his August review, Lakhani identified dozens of eAudIT work papers as "blank." For example, in an email

dated August 26, 2017, Lakhani wrote "IT'S A BLANK DOC – I NEED TO REVIEW THIS" with respect to fourteen work papers. Indeed, Lakhani's August 26 email identified as still "BLANK" four of the blank work papers on which he had signed off as part of the July 12-13 eAudIT package.

29. Contemporaneous documentation indicates that drafts, some in near-final form, existed of at least some of the work papers that Lakhani identified as blank or missing during his August review. However, there was no manual, electronic, or email sign off evidencing when the work papers were completed and reviewed outside of eAudIT.

30. The eAudIT work papers that Lakhani identified as blank during his August review were replaced in eAudIT with completed versions of those work papers prior to the documentation completion date. No documents with an "Extra" filename ultimately were included in the final version of work papers that was uploaded to KPMG India's central eAudIT server as of the documentation completion date. The preparer and reviewer sign off dates on each of the replaced workpapers remained the same as it had been prior to replacement.

E. Lakhani Violated PCAOB Rules and Standards

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

i. Lakhani Violated PCAOB Audit Documentation Standards

32. PCAOB standards require that "[a]udit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement . . . [t]o determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review."[6]

33. As discussed above, Lakhani signed off on blank eAudIT placeholder work papers. The sign off dates on the blank work papers were not updated when they were subsequently modified or replaced with completed versions of the work papers. Nor did Lakhani document his review of any partially or fully completed versions of the blank work papers outside of eAudIT.

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[5] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[6] AS 1215.06.

34. Accordingly, because an experienced auditor, with no prior connection to the 2017 Issuer A engagement, would be unable to determine the date on which Lakhani reviewed the work that was ultimately reflected in the completed versions of the blank work papers, Lakhani violated AS 1215.

ii. Lakhani Failed to Adequately Supervise the Engagement Team

35. PCAOB standards provide that "the engagement partner is responsible for the proper supervision of the work of the engagement team members and for compliance with PCAOB standards."[7]

36. As part of his supervisory responsibilities, the engagement partner should "[r]eview the work of engagement team members to evaluate whether: (1) The work was performed and documented; (2) The objectives of the procedures were achieved; and (3) The results of the work support the conclusions reached."[8]

37. As discussed above, Lakhani knew during the 2017 Issuer A audit that (1) engagement team members were signing off on blank work papers and "Extra" documents in eAudIT; and (2) engagement team members could replace, rename, or move the blank work papers and "Extra" documents without updating the corresponding sign off dates.

38. However, Lakhani failed to exercise adequate supervision in light of the engagement team's use of the blank work papers and "Extra" documents. For example, Lakhani failed to take appropriate steps to ensure that the audit documentation would appropriately reflect the dates on which the engagement team had actually completed and reviewed its audit work.[9] Nor did he ensure compliance with KPMG India's internal guidance providing for the use of manual, electronic, or email sign offs in the "limited circumstances" in which a review of work papers occurred outside of eAudIT.

39. Accordingly, Lakhani violated AS 1201 by failing to supervise and review the engagement team's audit work in a manner sufficient to evaluate whether the work was appropriately performed and documented.

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7 AS 1201.03.

8 AS 1201.05(c).

9 *See* AS 1215.06.

iii. Lakhani Failed to Exercise Due Professional Care

40. PCAOB standards provide that "[d]ue professional care is to be exercised in the planning and performance of the audit and the preparation of the report."[10]

41. In violating AS 1215 by signing off on blank work papers, and in violating AS 1201 by failing to adequately supervise the use of blank work papers and "Extra" documents by members of the engagement team, Lakhani failed to exercise due professional care. Accordingly, Lakhani also violated AS 1015.

F. KPMG India Violated PCAOB Rules and Quality Control Standards

42. PCAOB rules require registered public accounting firms to comply with the Board's quality control standards.[11] PCAOB quality control standards, in turn, require each registered firm to effectively design, implement, and maintain a system of quality control to provide reasonable assurance that its personnel comply with applicable professional standards.[12] As part of this requirement, the firm should establish quality control policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[13] Among other areas, a firm's policies and procedures should address the documentation of each engagement in accordance with applicable professional standards.[14] In addition, a firm "should communicate its quality control policies and procedures to its personnel in a manner that provides reasonable assurance that those policies and procedures are understood and complied with."[15]

43. PCAOB quality control standards also provide that policies and procedures for monitoring "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality

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10 AS 1015.01.

11 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

12 QC §§ 20.01-.03, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

13 *See id*. at .17.

14 *See id*. at .18.

15 *See id*. at .23.

control . . . are suitably designed and are being effectively applied,"[16] and that "its system of quality control is effective."[17]

44. As noted above, PCAOB standards require audit documentation to reflect "who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review."[18] PCAOB standards further require an auditor to archive a complete and final set of audit documentation as of a date not more than 45 days after the report release date (*i.e.*, the documentation completion date).[19] Any documentation added after the documentation completion date "must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[20]

45. KAM provided guidance to KPMG India's associated persons about how to document their work in the "limited circumstances" where they reviewed work papers outside of eAudIT. However, the Firm failed to adequately communicate those restrictions to its personnel, as demonstrated by the Issuer A engagement team members' widespread use of and signing off on blank work papers in eAudIT and their failure to appropriately document their review of work papers outside of eAudIT.

46. In addition, notwithstanding the limitations of its eAudIT software, KPMG India failed to establish adequate safeguards that would have prevented (or detected) certain Issuer A engagement team members from modifying, replacing, or moving a work paper without appropriately updating the sign off date to reflect the dates on which the work was completed and reviewed.

47. KPMG India also failed to establish adequate policies and procedures concerning the archiving of hard copy work papers and the documentation of changes made to hard copy audit files after the documentation completion date.

48. As noted above, at the time of the 2017 Issuer A audit, KPMG India maintained work papers both in eAudIT and in hard copy. The engagement team failed to archive the hard copy work papers for the 2017 Issuer A audit by the end of the 45-day documentation

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16 QC § 20.20.

17 QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

18 AS 1215.06.

19 *See* AS 1215.14-.15.

20 *Id*. at .16.

completion period, in part because the Firm's policies and procedures did not require hard copy work papers to be maintained in a centralized location after the document completion date. As a result, engagement teams could modify or add hard copy work papers after the documentation completion date without appropriately documenting the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.

49. Indeed, certain members of the Issuer A engagement team made such modifications after the documentation completion date. Specifically, without Lakhani's knowledge, these engagement team members added at least four hard copy work papers to the Issuer A audit file after the documentation completion date, including one work paper that was prepared after the documentation completion date. The engagement team members added those hard copy work papers to the audit file in November 2017, shortly in advance of the PCAOB's inspection of the Firm, which included a review of the 2017 Issuer A audit engagement.

50. In addition, KPMG India's monitoring procedures were not sufficient to identify the use of blank work papers in eAudIT, the failure to timely archive hard copy work papers, or the failure to appropriately document changes to hard copy work papers after the documentation completion date, all in connection with the 2017 Issuer A audit.

51. The Firm's monitoring procedures also failed to provide the Firm with a means of identifying and communicating to its personnel circumstances or practices—such as the use of blank work papers—that may have necessitated changes to its documentation policies and procedures.[21]

52. Accordingly, KPMG India violated QC § 20 and QC § 30 by failing to implement, communicate, and monitor adequate policies and procedures to provide the Firm with reasonable assurance that its personnel complied with PCAOB audit documentation standards—including standards concerning documentation of the date audit work was completed, of the date audit work was reviewed, and of any changes to the work papers after the documentation completion date.

[21] *See* QC § 30.03 ("Procedures that provide the firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the firm's policies and procedures contribute to the monitoring element.").

IV.

53. KPMG India has represented to the Board that, since the events described in this Order, the Firm has disciplined certain of its personnel and has established and implemented the following changes to its quality control policies and procedures:

a. Transitioned all electronic audit work paper master files to an online KPMG server (as opposed to hosting them on individual engagement team members' laptops);

b. Implemented a Firm requirement that a complete and final set of audit documentation must be assembled for retention within 14 days of the report release date for all issuer audits;

c. Prohibited the use of hard copy workpapers for all audit engagements performed after December 31, 2018;

d. Sent guidance to all associated persons concerning the scope of permissible activities between the release of an audit report and the documentation completion date; and

e. Instituted additional training on audit documentation for associated persons who perform audits under PCAOB standards.

V.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), KPMG Assurance and Consulting Services LLP and Sagar Pravin Lakhani are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Sagar Pravin Lakhani is suspended, for one year from the date of this Order, from being

an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[22]

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000,000 is imposed on KPMG Assurance and Consulting Services LLP, and a civil money penalty in the amount of $75,000 is imposed on Sagar Pravin Lakhani.

1. All funds collected by the PCAOB as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act.

2. Each Respondent shall pay the respective civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to interest.

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[22] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Lakhani. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

4. With respect to any civil money penalty amounts that KPMG Assurance and Consulting Services LLP shall pay pursuant to this Order, KPMG Assurance and Consulting Services LLP shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of KPMG Assurance and Consulting Services LLP's payment of the civil money penalty pursuant to this Order, in any private action brought against KPMG Assurance and Consulting Services LLP based on substantially the same facts as set out in the findings in this Order.

5. KPMG Assurance and Consulting Services LLP understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to it at the address on file with the PCAOB at the time of the issuance of this Order.

D. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by KPMG Assurance and Consulting Services LLP. Within 90 days of the date of this Order, KPMG Assurance and Consulting Services LLP shall review and evaluate its quality control or other policies and procedures to provide the firm with reasonable assurance that its personnel and other associated persons comply with applicable PCAOB audit documentation standards and requirements.

2. Reporting. Within 120 days of the date of this Order, KPMG Assurance and Consulting Services LLP shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the area specified in paragraph D.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG Assurance and Consulting Services LLP or, if KPMG Assurance and Consulting Services LLP concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the firm believes changes are not warranted. In addition,

KPMG Assurance and Consulting Services LLP shall submit any additional information and evidence concerning the Report, the information in the Report, and KPMG Assurance and Consulting Services LLP's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within six months of the date of this Order, KPMG Assurance and Consulting Services LLP's head of quality assurance shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that KPMG Assurance and Consulting Services LLP has implemented all of the modifications and additions to its policies and procedures, if any, that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG Assurance and Consulting Services LLP's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG Assurance and Consulting Services LLP shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. KPMG Assurance and Consulting Services LLP understands that a failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 6, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG S.A.S.,

Respondent.

PCAOB Release No. 105-2022-034

December 6, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions on KPMG S.A.S. ("KPMG Colombia," the "Firm," or "Respondent"). The Board is:

(1) censuring the Firm;

(2) imposing a $4,000,000 civil money penalty on the Firm;

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order; and

(4) requiring the Firm to engage an independent consultant as specified in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that KPMG Colombia (1) violated PCAOB rules and standards by failing to cooperate with the Board's 2016 inspection of the Firm by, among other actions, providing PCAOB inspectors with improperly altered work papers involving two issuers; and (2) violated PCAOB rules and quality controls standards over several years in connection with (a) the Firm's audit and quality control documentation, and (b) the Firm's internal training program.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent

pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Board or in which the Board is a party, and without admitting or denying the findings contained in the Order, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings (which is admitted) and the facts, findings, and violations in paragraphs 1-8, 19-28, 30-32, 37-39, 41-44, 49-55, and 57-62 (which are admitted), Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **KPMG Colombia** is a simplified stock company headquartered in Bogotá, Republic of Colombia. KPMG Colombia is a member of the KPMG international network of firms ("KPMG Global"). The Firm registered with the Board on April 27, 2010, and is a registered public accounting firm as that term is defined in Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i). During the period relevant to this matter, the Firm performed referred audit work on Colombian components of "Issuer A" and "Issuer B," which were audited principally by other member firms of KPMG Global.

B. Issuers and Other Relevant Individuals

2. **Issuer A** was, at all relevant times, an issuer within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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

[2] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

3. **Issuer B** was, at all relevant times, an issuer within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. The "**Lead Partner**" was formerly a partner of KPMG Colombia. He served as the lead partner for the Firm's audit work on the Colombian components of Issuer A (the "Issuer A Component Audit").[3]

5. "**Manager A**" was formerly an employee of KPMG Colombia. He served as the manager for the Issuer A Component Audit.[4]

6. The "**Senior**" was formerly an employee of KPMG Colombia. He served as the senior for the Issuer A Component Audit.[5]

7. The "**Managing Director**" was formerly an employee of KPMG Colombia. He served as the managing director for the Firm's audit work on the Colombian component of Issuer B (the "Issuer B Component Audit").

8. "**Manager B**" was formerly an employee of KPMG Colombia. He served as the manager for the Issuer B Component Audit.

C. Summary

9. During the period covered by this Order, KPMG Colombia engaged in two courses of misconduct that violated PCAOB rules and standards, including quality control standards, and that resulted in additional violations by the Firm's personnel.

10. *First*, KPMG Colombia failed to cooperate with the Board's 2016 inspection of the Firm. After learning that the Board's Division of Registration and Inspections ("DRI") would be inspecting the Firm's audit work for the Issuer A Component Audit and Issuer B Component Audit, KPMG Colombia personnel improperly modified work papers and backdated those work papers to conceal from DRI that they had been modified. As a result, and as further described

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3 *See José Daniel Meléndez Giménez*, PCAOB Rel. No. 105-2022-035 (Dec. 6, 2022).

4 *See Edgar Mauricio Ramírez Rueda*, PCAOB Rel. No. 105-2022-036 (Dec. 6, 2022).

5 *See Marco Alexander Rodríguez Ramírez*, PCAOB Rel. No. 105-2022-037 (Dec. 6, 2022).

below, the Firm violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*; AS 3, *Audit Documentation*; and ET § 102, *Integrity and Objectivity*.[6]

11. These violations stemmed from deficiencies in the Firm's system of quality control related to, among other areas, audit documentation. At the time of the 2016 inspection, the Firm (a) did not have an effective system in place to provide reasonable assurance that a complete and final set of work papers were timely assembled for retention ("archived"),[7] and that, once archived, work papers were retained and protected against improper alteration;[8] (b) failed to maintain control over administrative passwords that could be used to backdate alterations to work papers; and (c) did not have an effective system in place to ensure that the Firm provided PCAOB inspectors with the appropriate versions of the Firm's audit work papers for purposes of the inspection (*i.e.*, an accurately dated set of work papers prepared and retained in accordance with AS 3 without improper alterations after the documentation completion date). As a result, the Firm violated QC § 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*, and QC § 30, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

12. Although the Firm took steps to address quality control deficiencies concerning the timely archiving and preservation of audit documentation prior to the Board's next inspection of the Firm in 2019, those steps did not adequately address the risks that modified audit documentation could be improperly backdated and provided to PCAOB inspectors. In 2019, KPMG Colombia's system of quality control still did not provide reasonable assurance that audit documentation modified or created after the audit report date and prior to archiving was accurately dated in the final archived audit documentation. Nor did it provide reasonable assurance that audit consultation memos residing in the files of its Department of Professional Practice, which were intended to document compliance with the Firm's quality control policies and procedures, were timely completed, appropriately dated, and protected against improper alteration. As a result, the Firm continued to violate QC § 20 through 2019.

13. *Second*, from at least 2016 until 2020, KPMG Colombia violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing internal training tests, including tests designed to help the Firm's audit professionals satisfy the requirements for

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[6] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

[7] *See* AS 3 ¶ 15.

[8] *See* AS 3 ¶¶ 14, 16.

maintaining their accounting certifications. Those quality control failures prevented the Firm from identifying cheating in connection with tests for mandatory training courses covering topics that were relevant to compliance with PCAOB rules and standards. As a result, the Firm violated QC § 20, QC § 30, and QC § 40, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

14. Although the Firm took steps since 2020 to improve its quality control policies and procedures related to its internal training program, the Firm subsequently identified instances where personnel have cheated on internal training exams. As a result, as set forth in the undertakings below, KPMG Colombia will conduct an investigation to identify and determine the extent of exam cheating by its associated persons since January 1, 2020, and will take such further employment actions and remedial steps as may be appropriate. The Firm will also engage an independent consultant to review and assess whether the Firm has taken appropriate employment actions or other remedial steps and whether the Firm has designed and implemented quality controls that reasonably assure compliance with all professional standards relating to ethics and integrity in connection with its training program.

D. KPMG Colombia Violated PCAOB Rules, Auditing Standards, and Ethics Standards in Connection with the PCAOB's 2016 Inspection

15. PCAOB Rule 4006 requires that "[e]very registered public accounting firm, and every associated person of a registered public accounting firm . . . cooperate with the Board in the performance of any Board inspection."[9] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information."[10]

16. PCAOB rules also require registered public accounting firms to comply with applicable auditing and related professional practice standards.[11] Among other requirements,

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9 PCAOB Rule 4006.

10 *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017) (citations omitted), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018); *see also*, PCAOB Staff Audit Practice Alert No. 14, at *3 (Apr. 21, 2016) ("This duty to cooperate includes an obligation not to provide improperly altered documents or misleading information in connection with the Board's inspection processes." (citations omitted)).

11 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

registered firms must comply with the auditing, ethics, and quality control standards adopted by the Board.[12]

17. The Board's audit documentation standard states, in part: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[13]

18. PCAOB ethics standards provide, in part, that a registered firm "shall maintain objectivity and integrity" and "shall not knowingly misrepresent facts" in the performance of professional services.[14] A registered firm knowingly misrepresents facts in violation of ET § 102 when, for example, it knowingly: (i) makes, or permits or directs another to make, materially false and misleading entries in an entity's records; or (ii) signs, or permits or directs another to sign, a document containing materially false and misleading information.[15]

i. The Firm Improperly Modified the Audit Work Papers for Both the Issuer A Component Audit and Issuer B Component Audit After the Documentation Completion Date and in Anticipation of a PCAOB Inspection

a. Issuer A Component Audit

19. KPMG Colombia sent its interoffice report for its audit work on the Colombian component of Issuer A to the principal auditor by no later than February 25, 2016. The principal auditor released its audit report for the Issuer A audit by no later than February 26, 2016. As a result, the documentation completion date for all audit work performed for the Issuer A audit was no later than April 11, 2016.

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12 *See* PCAOB Rule 3200T, *Interim Auditing Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*; Rule 3500T, *Interim Ethics and Independence Standards*.

13 AS 3 ¶¶ 15-16 (italics in original).

14 *See* ET § 102.01.

15 *See* ET §§ 102.02(a), (c).

20. On September 7, 2016, DRI informed KPMG Colombia that it would inspect the Firm's work on the Issuer A Component Audit. DRI identified (a) net sales and accounts receivable, and (b) property, plant, and equipment as the focus areas for the inspection.

21. After learning that DRI would inspect the Firm's work on the Issuer A Component Audit, the Lead Partner for the Firm's work on the Issuer A Component Audit instructed Manager A and the Senior to perform a review of the audit documentation for that engagement, with assistance from the other members of the engagement team. The Lead Partner further instructed Manager A and the Senior to provide him with comments from that review.

22. After receiving the engagement team's initial review comments, the Lead Partner informed Manager A and the Senior that the engagement team needed to revise the audit work papers ahead of the inspection. Manager A and the Senior, together with other members of the engagement team and Firm staff, then began making changes to the work papers to address the comments that had been provided to the Lead Partner.

23. After the engagement team began making changes, the Lead Partner personally performed a review of the audit work papers, including a review of some of the changes that the engagement team had already made pursuant to his instructions. The Lead Partner also enlisted the help of multiple other Firm audit professionals to review specific areas of the audit work papers. From September 21 to October 2, 2016, the Lead Partner sent Manager A and the Senior a series of emails providing detailed comments from his review for the engagement team to address through further revisions to the work papers. The other professionals whom the Lead Partner enlisted to help with the review also provided comments to the engagement team.

24. In some of the emails, the Lead Partner noted that it was possible to see in the revised version of the work papers that some of the changes had been made in September 2016, and he instructed Manager A and the Senior to alter those dates. When providing that instruction, the Lead Partner intended to hide the fact that alterations were being made to the work papers after the documentation completion date. At least one other Firm professional also noted to the engagement team that some of the work papers she reviewed included dates reflecting that changes had been made in September 2016, which the engagement team addressed through additional backdating.

25. Pursuant to the Lead Partner's instructions, the engagement team altered and backdated multiple work papers between September 7, 2016, and the start of DRI's inspection of the Firm's work on the Issuer A Component Audit. In making those changes, the engagement team did not indicate the date they made the changes, who made the changes, or the reasons

why the changes were made. To the contrary, the engagement team backdated the changes to dates before the documentation completion date, and concealed the actual revision dates, by improperly changing the date on a computer clock using an administrative passcode.

26. KPMG Colombia, through its personnel, improperly altered and backdated work papers for the Issuer A Component Audit so the improperly modified and backdated work papers appeared to constitute the complete and final set of timely archived audit documentation. Numerous individuals at KPMG Colombia, including but not limited to the Lead Partner and the other members of the engagement team involved in the modifications and backdating, knew or were reckless in not knowing that KPMG Colombia provided improperly modified and backdated work papers for the Issuer A Component Audit to DRI during the inspection fieldwork, which took place from October 10 to October 21, 2016.

27. During the PCAOB inspection, KPMG Colombia personnel did not inform DRI or anyone else at the PCAOB that the Issuer A Component Audit work papers provided to DRI had been improperly modified and backdated, or provide DRI with information about the actual dates the work papers were modified and the reasons they were modified after the documentation completion date. KPMG Colombia also never provided DRI with copies of the work papers as they actually appeared on the documentation completion date.

28. As a result of the above-described conduct, KPMG Colombia violated PCAOB Rule 4006 and AS 3 in connection with the Board's 2016 inspection of the Firm and DRI's review of the Firm's work on the Issuer A Component Audit.

29. As a result of the above-described conduct, KPMG Colombia also violated ET § 102 in connection with the Board's 2016 inspection of the Firm and DRI's review of the Firm's work on the Issuer A Component Audit.

b. Issuer B Component Audit

30. KPMG Colombia sent its interoffice report for its audit work on the Colombian component of Issuer B to the principal auditor by no later than April 15, 2016. The principal auditor released its audit report for the Issuer B audit by no later than April 22, 2016. As a result, the documentation completion date for all audit work performed for the Issuer B audit was no later than June 6, 2016.

31. On September 7, 2016, DRI informed KPMG Colombia that it would also inspect the Firm's work on the Issuer B Component Audit. DRI identified (a) net sales and accounts receivable, and (b) property, machinery, and equipment as the focus areas for the inspection.

32. On September 8, 2016, the lead partner for the Firm's work on the Issuer B Component Audit informed the Managing Director and Manager B of the impending inspection. The Managing Director and Manager B thereafter assembled a team to prepare for the inspection; the team included both individuals who had worked on the audit and others who had not.

33. The Managing Director and Manager B instructed the team to review the work papers for the Issuer B Component Audit to determine if there were any deficiencies.

34. At the instruction of the Managing Director and Manager B, the work papers were then modified to address certain deficiencies and inconsistencies identified by the reviewers and backdated to a date during the audit.

35. As a result of this review, KPMG Colombia personnel modified numerous work papers, including, but not limited to, documents related to (a) net sales and accounts receivable, and (b) property, machinery, and equipment, *i.e.*, the focus areas for the inspection. In each case, the modified work paper did not reflect the date the document was modified, the person who modified it, or the reason it was modified.

36. On occasion, rather than modifying existing work papers, a reviewer created new work papers that did not exist as of the documentation completion date. Where the new work papers were created by a reviewer who had not been a member of the engagement team during the audit, the new work papers nevertheless falsely reflected that they were prepared by someone who had served on the Issuer B Component Audit engagement team, rather than by the reviewer. Additionally, the reviewer dated the newly created work papers with a date during the audit, rather than the date the work papers were actually created.

37. KPMG Colombia, through its personnel, improperly altered and backdated work papers for the Issuer B Component Audit so the improperly modified and backdated work papers appeared to constitute the complete and final set of timely archived audit documentation. The Firm then provided those improperly altered and backdated work papers to the PCAOB's inspectors during inspection fieldwork.

38. During the PCAOB inspection, KPMG Colombia personnel did not inform DRI or anyone else at the PCAOB that the Issuer B Component Audit work papers provided to DRI had been improperly modified and backdated, or provide DRI with information about the actual dates the work papers were modified and the reasons they were modified after the documentation completion date. KPMG Colombia also never provided DRI with copies of the work papers as they actually appeared on the documentation completion date.

39. As a result of the above-described conduct, KPMG Colombia violated PCAOB Rule 4006 and AS 3 in connection with the Board's 2016 inspection of the Firm and DRI's review of the Firm's work on the Issuer B audit.

40. As a result of the above-described conduct, KPMG Colombia also violated ET § 102 in connection with the Board's 2016 inspection of the Firm and DRI's review of the Firm's work on the Issuer B audit.

ii. KPMG Colombia Violated PCAOB Rule 4006 and ET § 102 by Providing Materially False and Misleading Certifications to DRI

41. In connection with the 2016 inspection, KPMG Colombia, through its personnel, made materially false and misleading statements to DRI. Specifically, the Firm represented that no modifications had been made to the audit documentation for either the Issuer A Component Audit or the Issuer B Component Audit after the documentation completion date.

42. In connection with the 2016 inspection, the Firm completed and submitted to DRI separate "engagement profiles" for its work on the Issuer A and Issuer B component audits. Both engagement profiles inaccurately represented that no changes had been made to the audit documentation after the documentation completion date. Specifically, on the engagement profile for both components, the Firm answered "No" to the question: "Have there been any changes to the audit documentation subsequent to the documentation completion date?"

43. However, before submitting the final engagement profiles to DRI, multiple Firm personnel knew improper changes had been made to the audit documentation for both component audits after the respective documentation completion dates and in anticipation of the inspection. At no time did anyone at KPMG Colombia inform DRI that either of those engagement profile responses was false.

44. Through these actions, KPMG Colombia committed additional violations of PCAOB Rule 4006.

45. Through these actions, KPMG Colombia also committed additional violations of ET § 102.

E. KPMG Colombia Violated PCAOB Rules and Quality Control Standards Concerning Integrity, Audit and Quality Control Documentation, and Complying with Regulatory Requirements

46. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[16] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[17]

47. Pursuant to PCAOB quality control standards, firms should establish policies and procedures to provide reasonable assurance that, among other things: (a) "personnel . . . perform all professional responsibilities with integrity;"[18] (b) "the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality," including with respect to "planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement;"[19] and (c) the firm's quality control policies and procedures "are suitably designed and are being effectively applied."[20]

48. A firm should communicate its quality control policies and procedures to its personnel in a manner that provides reasonable assurance that those policies and procedures are understood and complied with.[21] A firm should also prepare appropriate documentation to demonstrate compliance with its policies and procedures for the quality control system, and should retain that documentation for a period of time sufficient to enable those performing monitoring procedures to evaluate the extent of the firm's compliance with its quality control policies and procedures.[22]

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16 *See* PCAOB Rule 3400T.

17 QC § 20.01.

18 *See* QC § 20.09.

19 *See* QC §§ 20.17, .18.

20 *See* QC §§ 20.20; 30.02.

21 *See* QC § 20.23.

22 *See* QC § 20.25.

i. Quality Control Deficiencies Related to Audit Documentation and the Firm's Non-cooperation with the 2016 Inspection

49. The Firm's non-cooperation with the 2016 inspection resulted in large part from deficiencies in its system of quality control relating to audit documentation and compliance with regulatory requirements.

50. At the time of the 2016 inspection, KPMG Colombia permitted engagement teams to archive electronic audit documentation on an engagement team member's local computer hard drive, which rendered the audit documentation susceptible to both premature destruction and improper alteration.

51. During the 2015/2016 time period, audit engagement teams typically stored electronic work papers on engagement team members' laptops while the audit was performed. After an engagement was completed and the team's documentation was supposed to be finalized, Firm policy dictated that the engagement team run a program that would produce an archived version of the electronic documentation for the engagement. Once the electronic audit documentation was archived, Firm policy required the engagement team to store that archived documentation on a particular server that the Firm maintained.

52. During the 2015/2016 timeframe, however, the Firm did not take steps to monitor whether engagement teams were appropriately archiving electronic audit documentation on or before an engagement's documentation completion date, or whether archived documentation was being stored on the designated server. As a result, archiving of electronic work papers during the 2015/2016 timeframe sometimes occurred after the relevant documentation completion date, or not at all. Further, archived electronic documentation was sometimes not stored on the designated server, so the location of the documentation for an engagement was not always known.

53. Additionally, because electronic work papers were locally maintained and archived by engagement teams during the 2015/2016 timeframe, engagement teams could create multiple, different versions of the electronic work paper files for the same engagement.

54. As a result of the foregoing deficiencies in its system for archiving electronic work papers, KPMG Colombia had to rely on the individual engagement teams to identify and provide the correct copy of the electronic work papers for the PCAOB inspection in 2016. However, KPMG Colombia lacked sufficient quality control policies and procedures to provide reasonable assurance that the engagement teams acted with integrity and provided DRI with the appropriate work papers for an engagement (*i.e.*, an accurately dated set of work papers

prepared and retained in accordance with AS 3 without improper alterations after the documentation completion date).

55. Moreover, other deficiencies in KPMG Colombia's system of quality control in 2016 increased the risk that engagement teams could provide improperly altered and backdated work papers to PCAOB inspectors.

56. Prior to and through at least the 2016 PCAOB inspection period, KPMG Colombia did not allocate enough time for engagement teams to complete documentation at the time of the audits. As a result, Firm personnel responded by developing methods to complete and backdate work papers well after the documentation completion date if an audit was selected for inspection.

57. Specifically, during the 2015/2016 time period, it was common practice for KPMG Colombia audit personnel to insert and sign off as preparers and reviewers on blank work papers in the electronic audit files. This allowed audit personnel to later substitute new work papers in place of the blank ones, while maintaining the original sign-off dates on the work papers. Although the Firm was aware of this practice, it did not take appropriate or timely steps to prevent it.

58. KPMG Colombia also did not maintain appropriate control over IT administrative passwords during the 2015/2016 timeframe. Certain engagement team staff gained access to those passwords, which allowed them to reset clocks on their computers to prior dates and times. Engagement teams used the administrative passwords to modify and backdate copies of audit work papers, including for the 2016 PCAOB inspection.

ii. Continuing Quality Control Deficiencies Related to Documentation at the Time of the 2019 Inspection

59. In the period between the PCAOB's 2016 and 2019 inspections of the Firm, KPMG Colombia took steps to improve its system of quality control surrounding audit documentation, including steps to monitor whether engagement teams were timely archiving work papers and appropriately storing the archived work papers on the designated server. However, certain other deficiencies in its system of quality control persisted through 2019.

60. In 2019, it was still possible for engagement teams both to create new audit documentation in KPMG Colombia's electronic work papers and to substantially alter existing audit documentation between the time the Firm released its audit report and the documentation completion date for an engagement, in a manner that was inconsistent with AS 3. Specifically, engagement teams could create or modify work papers while making it appear

that the audit documentation was completed and reviewed before the audit report was issued—including by signing off on blank work papers and later substituting them with modified work papers. KPMG Colombia was aware, by 2019, of its personnel's practice of inserting and signing off on blank work papers and later substituting other work papers in their place. However, the Firm did not take adequate steps to prevent the practice or effectively communicate to its personnel that it was improper and should be stopped.

61. Although KPMG Colombia had taken steps to ensure the timely archiving and preservation of electronic audit work papers, it did not implement sufficient quality controls around files within its Department of Professional Practice ("DPP"), which were also subject to inspection by the PCAOB, peer review, and other monitoring procedures. Specifically, the Firm's system of quality control did not provide reasonable assurance that its documentation of consultations between engagement teams and the Firm's DPP professionals was timely prepared and protected from improper alteration. As a result, at least one consultation with DPP that was the subject of review by PCAOB inspectors was not formally documented by DPP, and could only be substantiated during the 2019 inspection through a search of Firm emails. Additionally, two consultation memos in DPP's files were revised during the inspection and did not receive final sign-off until several months after the documentation completion date for the relevant audit. Yet those two revised memos in DPP's files continued to be dated as though they were completed before the audit report was issued.[23]

* * * * *

62. As a result of the deficiencies described in paragraphs 49 to 61, above, from at least 2015 through 2019, KPMG Colombia violated QC § 20 and QC § 30 because its quality control policies and procedures did not provide reasonable assurance that: (a) its personnel performed all professional responsibilities with integrity; (b) the work performed by engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality; and (c) the quality control policies and procedures established by the Firm were suitably designed and being effectively applied.[24] The Firm also violated QC § 20 by failing to communicate its quality control policies and procedures to its personnel in a manner that provided reasonable assurance that those policies and procedures were

[23] The revised memos in DPP's files were not shown to PCAOB inspectors during the 2019 inspection.

[24] *See* QC §§ 20.09, .17-.18, .20; QC § 30.

understood and complied with, and by failing to prepare and retain appropriate documentation to demonstrate compliance with its policies and procedures for the quality control system.[25]

F. KPMG Colombia Violated PCAOB Rules and Standards in Connection with Its Internal Training

i. Applicable PCAOB Quality Control Standards

63. In addition to the areas described above, PCAOB quality control standards address personnel management and state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[26] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[27]

64. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[28] and that, as explained above, monitoring procedures are necessary.[29] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[30]

ii. Training Requirements for KPMG Colombia Personnel

65. As part of KPMG Colombia's personnel management system, the Firm administers an internal training program for all of its professionals. The Firm has designed its training program to serve multiple purposes, including to provide Firm personnel with technical instruction, to further their professional development, and to satisfy some of the continuing professional education requirements imposed by authorities that licensed some of the Firm's

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25 *See* QC §§ 20.23, .25.

26 QC § 20.13.b; QC § 40.02.b.

27 QC § 20.13.c; QC § 40.02.c.

28 QC § 20.08.

29 *See id.*; QC § 30.02; *see also* QC § 20.20.

30 *See* QC § 20. 20.c-.d; QC § 30.02.c-.d.

auditors. The Firm's training requirements vary by each professional's position, role, and industry practice area, and are intended to be relevant to, among other things, the independence of its personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. The Firm's internal training often includes a testing component.

66. Since at least 2016, the Firm required audit personnel to take certain online training courses that are relevant to compliance with PCAOB rules and standards. The particular courses the Firm's auditors must take vary based on their experience levels. These audit-related courses include a testing component and are mandatory for audit personnel.

iii. Failures by KPMG Colombia to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

67. Between 2016 and 2020, KPMG Colombia had in place certain quality control policies and procedures intended to address integrity and personnel management. Those policies and procedures, however, did not provide reasonable assurance that Firm personnel acted with integrity when taking internal training tests. Among other things, the monitoring procedures were not designed to effectively detect, deter, or prevent cheating through answer sharing.

iv. Sharing of Answers to Training Tests at KPMG Colombia

68. Between 2016 and 2020, KPMG Colombia personnel were involved in improper answer sharing. That conduct included sharing answers by sending emails with answers to training test questions, by providing screenshots of training questions and answers, or by discussing answers when taking tests in the presence of others.

69. A preliminary internal investigation by the Firm revealed that the misconduct included improper answer sharing in connection with tests that were a part of the Firm's mandatory assurance training, including among individuals who performed work on audits governed by PCAOB standards.

70. As illustrated by the misconduct described above, from at least 2016 until 2020, KPMG Colombia, failed to establish policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) Firm personnel performed all professional responsibilities with integrity; (2) personnel to whom work was assigned had the degree of technical training and proficiency required in the circumstances; and (3) personnel participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education

requirements of regulatory agencies. Accordingly, the Firm violated PCAOB quality control standards related to integrity and personnel management.[31]

IV.

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

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation in one part of this matter, specifically its response to discovering improper answer sharing on internal trainings. During the PCAOB staff's investigation into audit documentation and non-cooperation issues, the Firm voluntarily and timely self-reported to PCAOB staff the answer sharing misconduct it had discovered. The Firm then provided substantial assistance to the PCAOB's investigation by conducting, and providing to the PCAOB the results of, a preliminary internal investigation, including evidence relating to the Firm's interviews of personnel it suspected of engaging in improper answer sharing. Absent this extraordinary cooperation, the civil money penalty imposed would have been significantly larger, and the Board may have imposed additional sanctions.

Additionally, since both the audit documentation and answer sharing misconduct occurred, the Firm has implemented remedial measures aimed at preventing future similar violations. Those remedial efforts include, but are not limited to: (1) changes to the Firm's audit documentation systems and archiving policies and procedures that are intended to provide reasonable assurance that (a) audit procedures are completed and audit documentation is prepared and reviewed prior to the release of the audit report; (b) the Firm detects and reviews significant or unexpected changes to audit documentation between the date of the audit report and the archiving of the audit documentation; (c) audit documentation is timely archived, appropriately retained, and protected from improper alteration; (d) PCAOB inspectors are provided the timely archived audit documentation during inspections; and (e) DPP files are timely prepared and maintained with integrity; (2) changes to Firm training and other personnel management policies and procedures to promote professional integrity, especially as it relates to audit documentation and training examinations; (3) employment actions and other disciplinary actions with respect to certain individuals that engaged in the misconduct described in this Order; and (4) changes to Firm leadership.

Accordingly, it is hereby ORDERED that:

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[31] *See* QC § 20.09, .13.b-.c, .20; QC § 30.02; and QC § 40.02.b-.c.

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $4,000,000 is imposed on KPMG S.A.S.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies KPMG S.A.S. as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. *Undertakings related to improper audit documentation violations*—Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), KPMG S.A.S. shall complete the following undertakings:

1. Initial Undertakings—Within 90 days from the issuance of this Order, the Firm shall establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (a) personnel perform all professional responsibilities with integrity; (b) personnel prepare, archive, and maintain audit documentation in a manner that meets applicable professional standards, regulatory requirements, and the Firm's standards of quality; (c) personnel comply with applicable professional standards, regulatory requirements, and the Firm's standards of quality concerning cooperation with PCAOB inspections and investigations; (d) the foregoing policies and procedures are suitably designed and are being effectively applied; and (e) the foregoing policies and procedures are communicated in a manner that provides reasonable assurance that those policies and procedures are understood and complied with (including, but not limited to, all relevant policies and procedures being made available and communicated in Spanish).

2. Certification—Within 150 days of the issuance of this Order, the Firm shall provide a certification, signed by its Country Senior Partner, to the Director of the PCAOB's Division of Enforcement and Investigations ("DEI"), stating that the Firm has complied with paragraph IV.C.1, above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the issuance of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. KPMG S.A.S. shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Additional Firm Undertakings—

    a. For two years from the issuance of this Order, the Firm will promptly report to the PCAOB Director of DEI any allegation of improper document alterations in connection with (i) any audit subject to the PCAOB's jurisdiction, or (ii) any PCAOB inspection or investigation.

    b. For six years from the issuance of this Order, within one week after being notified that the Firm will be inspected, the Firm shall notify personnel of the inspection and shall specifically instruct personnel of their obligation to cooperate with Board inspections, including by not altering audit documentation subject to PCAOB inspection or otherwise preparing or

making available to the Board's inspectors documents containing misleading information.

c. No later than thirty days after the issuance of this Order, the Firm shall provide an electronic or paper copy of this Order to all of its associated persons.

D. *Undertakings related to improper answer sharing violations*—Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), KPMG S.A.S. shall complete the following undertakings:

1. Within 360 days of the issuance of this Order, a committee composed of KPMG S.A.S. or KPMG Advisory, Tax & Legal S.A.S. professionals acceptable to the DEI staff (the "Special Committee") shall complete the steps reasonably necessary to: (i) determine the extent to which audit professionals violated ethics and integrity requirements in connection with training examinations since January 1, 2020, (ii) identify the professionals who committed or were otherwise responsible for such violations, and (iii) recommend any employment actions or other remedial steps, to KPMG S.A.S.'s Disciplinary Committee that the Special Committee deems appropriate ("Special Committee Investigation").

2. Within 90 days of completing the Special Committee Investigation, the Special Committee shall deliver to KPMG S.A.S.'s Executive Committee and Country Senior Partner a detailed report ("Special Committee Report of Investigation") summarizing the investigative steps it has taken, and any employment actions or other remedial steps it recommends be taken.

E. *Independent Consultant*—Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(8) and (9):

1. Within 60 days of the issuance of this Order, KPMG S.A.S. shall retain an independent consultant ("Independent Consultant"), not unacceptable to the PCAOB DEI staff. The Independent Consultant shall have, at a minimum, the following qualifications: (i) demonstrated expertise conducting ethics and integrity investigations; (ii) experience designing or reviewing compliance policies, procedures, and controls relating to ethics and integrity; and (iii) knowledge concerning PCAOB quality control standards. The Firm may not retain as Independent Consultant any person who has been employed by or had a professional relationship with the Firm, any other KPMG Global

member or affiliate firm, or any audit client of the Firm in the previous two years; and the Firm shall require the Independent Consultant to agree not to enter into any employment or other professional relationship with the Firm, any other KPMG Global member or affiliate firm, or any audit client of the Firm for two years following the expiration of the consultancy.

2. KPMG S.A.S. shall provide to the PCAOB DEI staff a copy of the engagement letter detailing the scope of the Independent Consultant's responsibilities. The Special Committee shall deliver to the Independent Consultant the Special Committee Report of Investigation at the same time as it provides such report to KPMG S.A.S.'s Executive Committee and Country Senior Partner as specified in paragraph IV.D.2., above. KPMG S.A.S. shall require that the Independent Consultant:

    a. perform a review (the "IC Review of Quality Controls") of KPMG S.A.S.'s policies and procedures relating to training to determine whether they are designed and being implemented in a manner that provides reasonable assurance of compliance with all professional standards, including whether (i) the Firm's ethics and integrity training and guidance is adequate and sufficient; and (ii) the Firm is deploying proper resources and oversight for compliance with ethics and integrity requirements; and

    b. review and assess (the "IC Review of Investigation") the Special Committee Investigation (including, without limitation, by reviewing the Special Committee Report of Investigation) and whether KPMG S.A.S. (i) has taken reasonable steps to identify, and to determine the extent to which, those audit professionals who engaged in improper exam sharing since January 1, 2020, and (ii) has followed the Special Committee's recommended employment actions or other remedial steps.

3. To ensure the independence of the Independent Consultant, the Firm (i) shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the PCAOB DEI staff; and (ii) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

4. KPMG S.A.S. shall cooperate fully with the Independent Consultant and shall provide reasonable access to information and records as the Independent

Consultant may reasonably request, subject to KPMG S.A.S.'s right to withhold from disclosure any information or records protected by any applicable protection or privilege, such as the attorney-client privilege or the attorney work product doctrine. The Independent Consultant shall have the right to interview any partner, employee, agent, or consultant of KPMG S.A.S. concerning any matter within or relating to the IC Review of Quality Controls or the IC Review of Investigation.

5. After the IC Review of Quality Controls and the IC Review of Investigation are completed, but no later than 90 days after receiving the Special Committee Report of Investigation, the Independent Consultant shall issue a written report (the "IC Report") to KPMG S.A.S.: (i) summarizing its work; (ii) making recommendations, as the Independent Consultant deems appropriate, reasonably designed to ensure that KPMG S.A.S.'s policies and procedures relating to the topics discussed in paragraph IV.E.2.a., above, are adequate and sufficient to provide reasonable assurance of compliance with all relevant professional standards relating to training; (iii) describing its review of KPMG S.A.S.'s training and making additional recommendations, as the Independent Consultant deems appropriate, regarding ethics and integrity training; (iv) making recommendations, as the Independent Consultant deems appropriate, reasonably designed to ensure that the Special Committee has taken reasonable steps to identify, and to determine the extent to which, audit professionals who engaged in improper exam conduct since January 1, 2020, including recommending additional investigative steps for the Special Committee to take; and (v) making recommendations, as the Independent Consultant deems appropriate, reasonably designed to ensure that KPMG S.A.S. has taken appropriate employment actions or other remedial steps in light of the findings of the Special Committee Investigation.

6. After receiving the IC Report, the Firm shall implement any recommendations contained therein as soon as practicable, except that the Firm may notify the Independent Consultant within 30 days of receiving the IC Report of any recommendations that the Firm believes to be unnecessary, impractical, unduly burdensome, or outside the scope of this Order, and the bases of the Firm's objection(s). In connection with that notification, the Firm may propose alternative policies and procedures that it believes will achieve the objectives of the recommendations contained in the IC Report. The Firm and the Independent Consultant shall engage in good-faith negotiations concerning any objection raised by the Firm, but if the Firm and the

Independent Consultant are unable to come to agreement within 45 days, the Firm shall be required to adopt the Independent Consultant's recommendations to which it objects.

7. At the conclusion of the negotiation process described in paragraph IV.E.6, above, KPMG S.A.S. shall require the Independent Consultant to provide a copy of the IC Report to the PCAOB DEI staff.

F. For good cause shown, the PCAOB DEI staff may extend any of the deadlines contained in Sections IV.C., IV.D., and IV.E. of this Order. The time periods in Sections IV.C., IV.D., and IV.E. of this Order shall be determined in accordance with PCAOB Rule 1002, *Time Computation*.

G. The Firm agrees that DEI may petition the Board to reopen this matter to determine whether additional sanctions or findings are appropriate if DEI believes that the Firm has not satisfied any provision in Section IV of this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 6, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of José Daniel Meléndez Giménez,

Respondent.

PCAOB Release No. 105-2022-035

December 6, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring José Daniel Meléndez Giménez ("Meléndez" or "Respondent");

(2) barring Meléndez from being associated with a registered public accounting firm;[1] and

(3) imposing a civil money penalty in the amount of $25,000 on Meléndez.[2]

The Board is imposing these sanctions on the basis of its findings that Meléndez failed to cooperate with the Board's 2016 inspection of KPMG S.A.S. ("KPMG Colombia" or the "Firm"), including by directing the improper alteration of work papers for an issuer audit that was subject to inspection.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c)

[1] Meléndez may file a petition for Board consent to associate with a registered public accounting firm after three (3) years from the date of this Order.

[2] Based on his conduct, Meléndez's civil money penalty in this settlement would have been $50,000. The Board determined to accept Meléndez's offer of settlement and impose a lower penalty after considering Meléndez's financial resources.

of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Board or in which the Board is a party, and without admitting or denying the findings contained in the Order, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings (which is admitted) and the facts, findings, and violations in paragraphs 1 and 13-30 (which are admitted), Respondent consents to the entry of this Order as set forth below.[3]

III.

On the basis of Respondent's Offer, the Board finds that:[4]

A. Respondent

1. **José Daniel Meléndez Giménez** was, at all relevant times, a KPMG Colombia partner and the lead partner for the audit procedures the Firm performed over certain Colombian subsidiaries of Issuer A in connection with the audit of Issuer A's financial statements for the year ended December 31, 2015 (the "Component Audit"). Melendez is a certified public accountant under the laws of Lara, Venezuela (registration no. 45.193). At all relevant times, Meléndez was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities and Individuals

2. **KPMG Colombia** is a simplified stock company headquartered in Bogotá, Republic of Colombia.[5] KPMG Colombia is a member of the KPMG international network of

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

[4] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

[5] *See KPMG S.A.S.*, PCAOB Rel. No. 105-2022-034 (Dec. 6, 2022).

firms ("KPMG Global"). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

3. The "**Manager**" was formerly an employee of KPMG Colombia. He served as the manager for the Component Audit.[6]

4. The "**Senior**" was formerly an employee of KPMG Colombia. He served as the audit senior for the Component Audit.[7]

5. **Issuer A** was, at all relevant times, an "issuer" within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Another member firm of KPMG Global served as the principal auditor for Issuer A's financial statements for the year ended December 31, 2015, and instructed KPMG Colombia to conduct the Component Audit.

C. Summary

6. This matter involves Respondent's failure to cooperate with the PCAOB's 2016 inspection of KPMG Colombia, and Respondent's related violations of PCAOB audit documentation standards and ethics rules and standards. After the completion of the Component Audit and the expiration of the applicable documentation completion date, Respondent learned that the PCAOB's Division of Registration and Inspections ("DRI") would be inspecting the Component Audit. Respondent then led a wide-ranging review of the audit work papers, and instructed members of the engagement team to improperly make changes to the work papers and to backdate those changes.

7. Additionally, shortly before the inspection, Respondent signed a written certification, which he knew would be submitted to DRI, stating that no changes had been made to the work papers after the documentation completion date for the Component Audit. Respondent later revised the document containing that certification, after all of the changes described in this Order had taken place, without correcting that certification. Respondent knew that the revised certification would also be submitted to DRI.

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6 *See Edgar Mauricio Ramírez Rueda*, PCAOB Rel. No. 105-2022-036 (Dec. 6, 2022).

7 *See Marco Alexander Rodríguez Ramírez*, PCAOB Rel. No. 105-2022-037 (Dec. 6, 2022).

8. As a result, and as further described below, Respondent violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, AS 3, *Audit Documentation*, and ET § 102, *Integrity and Objectivity*.[8]

D. Respondent Violated PCAOB Rules, Auditing Standards, and Ethics Standards in Connection with the PCAOB's 2016 Inspection

i. Rules and Standards

9. PCAOB Rule 4006 requires that "[e]very registered public accounting firm, and every associated person of a registered public accounting firm . . . cooperate with the Board in the performance of any Board inspection."[9] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information."[10]

10. PCAOB rules also require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[11] Among other requirements, registered firms and their associated persons must comply with the auditing, ethics, and quality control standards adopted by the Board.[12]

11. The Board's audit documentation standard states, in part: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information

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[8] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audit discussed herein.

[9] PCAOB Rule 4006.

[10] *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017) ((citations omitted)), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018); *see also* PCAOB Staff Audit Practice Alert No. 14, at *3 (Apr. 21, 2016) ("This duty to cooperate includes an obligation not to provide improperly altered documents or misleading information in connection with the Board's inspection processes." (citations omitted)).

[11] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[12] *See* PCAOB Rule 3200T, *Interim Auditing Standards*; PCAOB Rule 3500T, *Interim Ethics and Independence Standards*.

was added, the name of the person who prepared the additional documentation, and the reason for adding it."[13]

12. PCAOB ethics standards provide, in part, that an associated person "shall maintain objectivity and integrity" and "shall not knowingly misrepresent facts" in the performance of professional services.[14] An associated person knowingly misrepresents facts in violation of ET § 102 when, for example, he or she knowingly: (i) makes, or permits or directs another to make, materially false and misleading entries in an entity's records; or (ii) signs, or permits or directs another to sign, a document containing materially false and misleading information.[15]

ii. Respondent Improperly Modified the Component Audit Work Papers After the Documentation Completion Date and in Anticipation of a PCAOB Inspection

13. After completing the Component Audit, KPMG Colombia sent an interoffice report to the principal auditor by no later than February 25, 2016. The principal auditor released its audit report for the Issuer A audit by no later than February 26, 2016. As a result, the documentation completion date for all audit work performed for the Issuer A audit was no later than April 11, 2016.

14. On September 7, 2016, DRI informed KPMG Colombia that it would inspect the Firm's work on the Component Audit. DRI identified (a) net sales and accounts receivable, and (b) property, plant, and equipment as the focus areas for the inspection. The Firm provided that same information to Meléndez on or about that same day.

15. After learning that DRI would inspect the Component Audit, Meléndez informed the Manager and Senior of that selection. Meléndez also instructed the Manager and Senior to perform a review of the audit documentation for the engagement, with assistance from the other members of the engagement team, and to provide Meléndez with comments from that review.

16. The Manager, Senior, and other members of the engagement team thereafter performed the review as Meléndez directed. On September 19, the Manager assembled the comments he received from the engagement team's review of the Component Audit work

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[13] AS 3 ¶¶ 15-16 (emphasis in original).

[14] *See* ET § 102.01.

[15] *See* ET §§ 102.02(a), (c).

papers, including comments from the Senior, and forwarded them to Meléndez as an attachment to an email with the subject "To do PCAOB."

17. After receiving the engagement team's initial review comments, Meléndez informed the Manager and Senior that the engagement team needed to revise the audit work papers ahead of the inspection, including to address the comments from the engagement team's review. At the time he gave that instruction, Meléndez planned to make only the revised versions of any modified workpapers available to DRI during the inspection.

18. The Manager, the Senior, and other members of the engagement team began revising the Component Audit work papers shortly after receiving Meléndez's instruction.

19. After the engagement team began making changes, Meléndez personally performed a review of the audit work papers, including a review of some of the changes that the engagement team had already made pursuant to his recent instructions. From September 21 to October 2, Meléndez sent the Manager and Senior a series of emails providing detailed comments from his review for the engagement team to address through further revisions to the work papers.

20. Meléndez also enlisted others at KPMG Colombia to help review certain select areas of the audit work papers. Those individuals, at Meléndez's request, likewise provided comments to the engagement team for consideration.

21. In some of the emails he sent to the Manager and Senior, Meléndez noted that it was possible to see in the revised version of the work papers that some of the changes had been made in September 2016, and he instructed the Manager and Senior to alter those dates. When providing that instruction, Meléndez intended to hide the fact that alterations were being made to the work papers after the documentation completion date.

22. Pursuant to Meléndez's instructions, the engagement team altered and backdated multiple work papers between September 7, 2016, and the start of DRI's inspection of the Firm's work on the Component Audit. In making those changes, the engagement team members did not indicate the date they made the changes, who made the changes, or the reasons why the changes were made. To the contrary, the engagement team backdated the changes to dates before the documentation completion date, and concealed the actual revision dates, by improperly changing the date on a computer clock using an administrative passcode.

23. Meléndez was aware that the engagement team members did not document the reason(s) they were modifying the work papers after the documentation completion date.

Meléndez also knew that the engagement team had backdated the revised work papers, per his instructions, before the Firm provided the work papers to DRI.

24. Meléndez knew that DRI received the improperly modified and backdated work papers during the inspection fieldwork that took place from October 10, 2016, to October 21, 2016.

25. When taking the actions described in paragraphs 6 to 24, above, Meléndez intended to create the false appearance that the improperly modified and backdated work papers constituted the complete and final set of audit documentation assembled for retention for the Component Audit prior to the documentation completion date.

26. As a result of the above-described conduct, Meléndez violated PCAOB Rule 4006, AS 3, and ET § 102 in connection with the Board's 2016 inspection of the Firm and DRI's review of the Firm's work on the Component Audit.

iii. Meléndez Provided a Materially False and Misleading Certification to DRI

27. Prior to the start of the fieldwork for the inspection, Meléndez signed an engagement profile for the Component Audit, which he knew the Firm would provide to DRI in connection with the inspection. In that engagement profile, Meléndez represented that no modifications had been made to the audit documentation for the Component Audit. Meléndez dated his signature September 19, 2016, which was the same day that the Manager sent Meléndez the "To do PCAOB" email.

28. Despite his involvement in the modifications described above, and despite having previously signed the engagement profile indicating that no changes had been made to the audit documentation subsequent to the documentation completion date, Meléndez did not inform DRI or anyone else at the PCAOB that the work papers provided to DRI had been improperly modified and backdated, or provide DRI with information about the actual dates the work papers were modified and the reasons they were modified after the documentation completion date.

29. On or about October 20, 2016, Meléndez also revised the engagement profile, knowing that the revised engagement profile would also be provided to DRI in connection with the inspection. By that time, Meléndez knew that the engagement team had made improper revisions to a substantial number of work papers for the Component Audit after the documentation completion date and in anticipation of the inspection. Nevertheless, Meléndez continued to certify in the revised engagement profile that no changes had been made to the audit documentation for the Component Audit after the documentation completion date.

30. As a result of the above-described conduct, Meléndez further violated PCAOB Rule 4006 and ET § 102 in connection with the Board's 2016 inspection of the Firm and DRI's review of the Firm's work on the Component Audit.

IV.

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

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), José Daniel Meléndez Giménez is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[16]

C. Pursuant to PCAOB Rule 5302(b), José Daniel Meléndez Giménez may file a petition for Board consent to associate with a registered public accounting firm after three years from the date of this Order.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed on José Daniel Meléndez Giménez.

    1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

[16] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Meléndez. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

2. Respondent shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies José Daniel Meléndez Giménez as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

6. Respondent understands that the determination to accept Respondent's offer of a civil money penalty of $25,000 is contingent

upon the accuracy and completeness of Respondent's financial information provided to the Division of Enforcement and Investigations (the "Division"). Respondent also understands that, if at any time following this settlement the Division obtains information indicating that any financial information provided by Respondent—including, but not limited to, any information concerning assets, income, liabilities, or net worth—was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such information was provided, the Division may, at any time following entry of this Order, petition the Board to: (a) reopen this matter to consider whether Respondent provided accurate and complete financial information at the time such information was provided to the Division; and (b) seek an order directing payment of the maximum civil money penalty allowable under the law or any lesser amount determined to be appropriate. No other issue shall be considered in connection with this petition other than whether the financial information provided by Respondent was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondent may not, by way of defense to any such petition: (i) contest the findings in this Order; (ii) assert that payment of a civil money penalty should not be ordered; (iii) contest the amount of the civil money penalty to be ordered; or (iv) assert any defense to liability or remedy, including, but not limited to, any based on statute of limitations or any other time-related defense.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 6, 2022

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Edgar Mauricio Ramírez Rueda,

Respondent.

PCAOB Release No. 105-2022-036

December 6, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Edgar Mauricio Ramírez Rueda ("Ramírez" or "Respondent"); and

(2) barring Ramírez from being associated with a registered public accounting firm.[1]

The Board is imposing these sanctions on the basis of its findings that Ramírez failed to cooperate with the Board's 2016 inspection of KPMG S.A.S. ("KPMG Colombia" or the "Firm") by participating in the improper alteration of work papers for an issuer audit that was subject to inspection.[2]

I.

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

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

[2] The Board determined to accept Ramírez's offer of settlement, which does not require him to pay a civil money penalty, after considering his financial resources. Based on Ramírez's conduct, the Board would have imposed a civil money penalty of $25,000 on him in this settlement, if it had not taken his financial resources into consideration.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purposes of these proceedings and any other proceedings brought by or on behalf of the Board or to which the Board is a Party, and without admitting or denying the findings contained in the Order, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings (which is admitted) and the facts, findings, and violations in paragraphs 1 and 14-24 (which are admitted), Respondent consents to the entry of this Order as set forth below.[3]

III.

On the basis of Respondent's Offer, the Board finds that:[4]

A. Respondent

1. **Edgar Mauricio Ramírez Rueda** was, at all relevant times, an audit manager at KPMG Colombia and the manager for the audit procedures the Firm performed over certain Colombian subsidiaries of Issuer A in connection with the audit of Issuer A's financial statements for the year ended December 31, 2015 (the "Component Audit"). Ramírez is licensed as an accountant by the Junta Central de Contadores in Bogota D.C., Colombia (professional card no. 116437-T). At all relevant times, Ramírez was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities and Individuals

2. **KPMG Colombia** is a simplified stock company headquartered in Bogotá, Republic of Colombia.[5] KPMG Colombia is a member of the KPMG international network of

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

[4] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

[5] *See KPMG S.A.S.*, PCAOB Rel. No. 105-2022-034 (Dec. 6, 2022).

firms ("KPMG Global"). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

3. The "**Lead Partner**" was formerly a partner of KPMG Colombia. He served as the lead partner for the Component Audit.[6]

4. The "**Senior**" was formerly an employee of KPMG Colombia. He served as the audit senior for the Component Audit.[7]

5. **Issuer A** was, at all relevant times, an "issuer" within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Another member firm of KPMG Global served as the principal auditor for Issuer A's financial statements for the year ended December 31, 2015, and instructed KPMG Colombia to conduct the Component Audit.

C. Summary

6. This matter involves Respondent's failure to cooperate with the PCAOB's 2016 inspection of KPMG Colombia, and Respondent's related violations of PCAOB audit documentation standards and ethics rules and standards. After the completion of the Component Audit and the expiration of the applicable documentation completion date, Respondent learned that the PCAOB's Division of Registration and Inspections ("DRI") would be inspecting the Component Audit. At the Lead Partner's direction, Respondent then improperly participated in and coordinated the Firm's improper modification and backdating of the electronic work papers for the Component Audit.

7. As a result, and as further described below, Respondent violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, AS 3, *Audit Documentation*, and ET § 102, *Integrity and Objectivity*.[8]

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[6] *See José Daniel Meléndez Giménez*, PCAOB Rel. No. 105-2022-035 (Dec. 6, 2022).

[7] *See Marco Alexander Rodríguez Ramírez*, PCAOB Rel. No. 105-2022-037 (Dec. 6, 2022).

[8] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audit discussed herein.

D. Respondent Violated PCAOB Rules, Auditing Standards, and Ethics Standards in Connection with the PCAOB's 2016 Inspection

i. Rules and Standards

8. PCAOB Rule 4006 requires that "[e]very registered public accounting firm, and every associated person of a registered public accounting firm . . . cooperate with the Board in the performance of any Board inspection."[9] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information."[10]

9. PCAOB rules also require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[11] Among other requirements, registered firms and their associated persons must comply with the auditing, ethics, and quality control standards adopted by the Board.[12]

10. The Board's audit documentation standard states, in part: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[13]

11. PCAOB ethics standards provide, in part, that an auditor "shall maintain objectivity and integrity" and "shall not knowingly misrepresent facts" in the performance of professional services.[14] An auditor knowingly misrepresents facts in violation of ET § 102 when,

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9 PCAOB Rule 4006.

10 *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017) (citations omitted), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018); *see also* PCAOB Staff Audit Practice Alert No. 14, at *3 (Apr. 21, 2016) ("This duty to cooperate includes an obligation not to provide improperly altered documents or misleading information in connection with the Board's inspection processes." (citations omitted)).

11 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

12 *See* PCAOB Rule 3200T, *Interim Auditing Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*; Rule 3500T, *Interim Ethics and Independence Standards*.

13 AS 3 ¶¶ 15-16 (italics in original).

14 *See* ET § 102.01.

for example, he or she knowingly: (i) makes, or permits or directs another to make, materially false and misleading entries in an entity's records; or (ii) signs, or permits or directs another to sign, a document containing materially false and misleading information.[15]

ii. Respondent Coordinated the Improper Modification of the Component Audit Work Papers After the Documentation Completion Date and in Anticipation of a PCAOB Inspection

12. After completing the Component Audit, KPMG Colombia sent an interoffice report to the principal auditor by no later than February 25, 2016. The principal auditor released its audit report for the Issuer A audit by no later than February 26, 2016. As a result, the documentation completion date for all audit work performed for the Issuer A audit was no later than April 11, 2016.

13. On September 7, 2016, DRI informed KPMG Colombia that it would inspect the Component Audit. DRI identified (a) net sales and accounts receivable, and (b) property, plant, and equipment as the focus areas for the inspection.

14. On or before September 16, 2017, after learning that DRI would inspect the Component Audit, the Lead Partner instructed Ramirez and the Senior to perform a review of the audit documentation for that engagement, with assistance from the other members of the engagement team. The Lead Partner further instructed Ramírez and the Senior to provide him with comments from that review.

15. On September 16, Ramírez sent an email to the Senior and other members of the Firm's engagement team for the Component Audit, directing them to perform the review that the Lead Partner had instructed the engagement team to undertake in anticipation of the inspection, and to send Ramírez their comments. Ramírez, the Senior, and the other members of the engagement team thereafter performed the review as directed.

16. On September 19, Ramírez assembled the comments he received from the engagement team's review of the Component Audit work papers, including comments from the Senior, and forwarded them to the Lead Partner as an attachment to an email with the subject "To do PCAOB." That same day, Ramírez also signed an engagement profile for the Component Audit, which was provided to DRI in connection with the inspection. In that engagement profile, Ramírez represented that no modifications had been made to the audit documentation for the Component Audit.

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[15] *See* ET §§ 102.02(a), (c).

17. After receiving the engagement team's initial review comments from Ramírez, the Lead Partner informed Ramírez and the Senior that the engagement team needed to revise the audit work papers ahead of the inspection, including to address the comments from the engagement team's review. In response, on September 21, the Senior forwarded the "To do PCAOB" email to other members of the engagement team, copying Ramírez, indicating that they should make changes to the work papers to address the comments Ramírez had forwarded to the Lead Partner.

18. From September 21 to October 2, 2016, the Lead Partner also sent Ramírez and the Senior a series of emails providing additional detailed comments for the engagement team to address through further revisions to the work papers. During that same period, other professionals whom the Lead Partner enlisted to help review the Component Audit work papers also provided comments to Ramírez and the Senior for consideration.

19. In some of the emails, the Lead Partner noted that it was possible to see in the revised versions of the work papers that some of the changes had been made in September 2016, and he instructed Ramírez and the Senior to alter those dates.

20. Between September 19 and October 9, 2016, the engagement team, working under Ramírez's supervision, made changes to the work papers to address the comments that they, the Lead Partner and others had made during the reviews described in Paragraphs 14-19, above. Ramírez also enlisted the help of another KPMG Colombia staff member, who had not been part of the engagement team, to assist with making changes to the audit work papers.

21. Ramírez coordinated and reviewed the changes that members of the Firm's engagement team and staff performed pursuant to the instructions and emails that the Lead Partner and others sent. When doing so, Ramírez provided guidance, instructions, and assistance to the engagement team members to ensure that they made the changes that Lead Partner and others had instructed, and to ensure that the altered work papers were backdated. While doing so, Ramírez was specifically aware that the engagement team had obtained an administrative password to alter the clocks on the computers the team members were using to alter the work papers, so that they could backdate the revised work papers to a date that was prior to the documentation completion date. Ramírez was specifically aware that work papers that the engagement team revised after the documentation completion date, while acting under his supervision: (1) did not reflect the date they were changed or the reason(s) they were changed, and (2) had, in fact, been backdated.

22. Ramírez understood that altering and backdating the work papers, as described above, would create the false appearance that the improperly modified and backdated work papers constituted the complete and final set of timely archived audit documentation. Ramírez

also knew or was reckless in not knowing that KPMG Colombia provided the improperly modified and backdated work papers to DRI during the inspection fieldwork, which took place from October 10 to October 21, 2016.

23. During the inspection, Ramírez participated in a preliminary kick-off meeting with DRI about the Component Audit. Despite his involvement in the modifications described above, and despite having previously signed the engagement profile indicating that no changes had been made to the audit documentation subsequent to the documentation completion date, Ramírez did not inform DRI or anyone else at the PCAOB that the work papers provided to DRI had been improperly modified and backdated, or provide DRI with information about the actual dates the work papers were modified and the reasons they were modified after the documentation completion date.

24. As a result of the above-described conduct, Ramírez violated PCAOB Rule 4006, AS 3, and ET § 102 in connection with the Board's 2016 inspection of the Firm and DRI's review of the Component Audit.

IV.

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

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Edgar Mauricio Ramírez Rueda is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[16]

[16] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Ramírez. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

C. Pursuant to PCAOB Rule 5302(b), Edgar Mauricio Ramírez Rueda may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order; and

D. Respondent understands that the determination to accept Respondent's offer, without imposing a civil money penalty, is contingent upon the accuracy and completeness of Respondent's financial information provided to the Division of Enforcement and Investigations (the "Division"). Respondent also understands that, if at any time following this settlement the Division obtains information indicating that any financial information provided by Respondent—including, but not limited to, any information concerning assets, income, liabilities, or net worth—was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such information was provided, the Division may, at any time following entry of this Order, petition the Board to: (a) reopen this matter to consider whether Respondent provided accurate and complete financial information at the time such information was provided to the Division; and (b) seek an order directing payment of the maximum civil money penalty allowable under the law or any lesser amount determined to be appropriate. No other issue shall be considered in connection with this petition other than whether the financial information provided by Respondent was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondent may not, by way of defense to any such petition: (i) contest the findings in this Order; (ii) assert that payment of a civil money penalty should not be ordered; (iii) contest the amount of the civil money penalty to be ordered; or (iv) assert any defense to liability or remedy, including, but not limited to, any defense based on statute of limitations or any other time-related defense.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 6, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Marco Alexander Rodríguez Ramírez,

Respondent.

PCAOB Release No. 105-2022-037

December 6, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Marco Alexander Rodríguez Ramírez ("Rodríguez" or "Respondent"); and

(2) barring Rodríguez from being associated with a registered public accounting firm.[1]

The Board is imposing these sanctions on the basis of its findings that Rodríguez failed to cooperate with the Board's 2016 inspection of KPMG S.A.S. ("KPMG Colombia" or the "Firm") by participating in the improper alteration of work papers for an issuer audit that was subject to inspection.[2]

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c)

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

[2] The Board determined to accept Rodríguez's offer of settlement, which does not require him to pay a civil money penalty, after considering his financial resources. Based on Rodríguez's conduct, the Board would have imposed a civil money penalty of $25,000 on him in this settlement, if it had not taken his financial resources into consideration.

of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Board or in which the Board is a party, and without admitting or denying the findings contained in the Order, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings (which is admitted) and the facts, findings, and violations in paragraphs 1 and 14-20 (which are admitted), Respondent consents to the entry of this Order as set forth below.[3]

III.

On the basis of Respondent's Offer, the Board finds that:[4]

A. Respondent

1. **Marco Alexander Rodríguez Ramírez** was, at all relevant times, an audit senior at KPMG Colombia and the audit senior for the audit procedures the Firm performed over certain Colombian subsidiaries of Issuer A in connection with the audit of Issuer A's financial statements for the year ended December 31, 2015 (the "Component Audit"). Rodríguez is licensed as an accountant by the Junta Central de Contadores in Bogota D.C., Colombia (professional card no. 149387). At all relevant times, Rodríguez was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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

[4] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

B. Relevant Entities and Individuals

2. **KPMG Colombia** is a simplified stock company headquartered in Bogotá, Republic of Colombia.[5] KPMG Colombia is a member of the KPMG international network of firms ("KPMG Global"). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

3. The "**Lead Partner**" was formerly a partner of KPMG Colombia. He served as the lead partner for the Component Audit.[6]

4. The "**Manager**" was formerly an employee of KPMG Colombia. He served as the manager for the Component Audit.[7]

5. **Issuer A** was, at all relevant times, an "issuer" within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Another member firm of KPMG Global served as the principal auditor for Issuer A's financial statements for the year ended December 31, 2015, and instructed KPMG Colombia to conduct the Component Audit.

C. Summary

6. This matter involves Respondent's failure to cooperate with the PCAOB's 2016 inspection of KPMG Colombia, and Respondent's related violations of PCAOB audit documentation standards and ethics rules and standards. After the completion of the Component Audit and the expiration of the applicable documentation completion date, Respondent learned that the PCAOB's Division of Registration and Inspections ("DRI") would be inspecting the Component Audit. At the Lead Partner's direction, Respondent then improperly modified the Firm's electronic work papers for the Component Audit and backdated those work papers to conceal that they had been modified. Rodríguez also provided instructions to other members of the Component Audit engagement team in connection with their efforts to make improper modifications to the work papers in anticipation of the inspection.

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5 *See KPMG S.A.S.*, PCAOB Rel. No. 105-2022-034 (Dec. 6, 2022).

6 *See José Daniel Meléndez Giménez*, PCAOB Rel. No. 105-2022-035 (Dec. 6, 2022).

7 *See Edgar Mauricio Ramírez Rueda*, PCAOB Rel. No. 105-2022-036 (Dec. 6, 2022).

7. As a result, and as further described below, Respondent violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, AS 3, *Audit Documentation*, and ET § 102, *Integrity and Objectivity*.[8]

D. Respondent Violated PCAOB Rules, Auditing Standards, and Ethics Standards in Connection with the PCAOB's 2016 Inspection

i. Rules and Standards

8. PCAOB Rule 4006 requires that "[e]very registered public accounting firm, and every associated person of a registered public accounting firm . . . cooperate with the Board in the performance of any Board inspection."[9] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information."[10]

9. PCAOB rules also require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[11] Among other requirements, registered firms and their associated persons must comply with the auditing, ethics, and quality control standards adopted by the Board.[12]

10. The Board's audit documentation standard states, in part: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information

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[8] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audit discussed herein.

[9] PCAOB Rule 4006.

[10] *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017) (citations omitted), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018); *see also* PCAOB Staff Audit Practice Alert No. 14, at *3 (Apr. 21, 2016) ("This duty to cooperate includes an obligation not to provide improperly altered documents or misleading information in connection with the Board's inspection processes." (citations omitted)).

[11] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

[12] *See* PCAOB Rule 3200T, *Interim Auditing Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*; Rule 3500T, *Interim Ethics and Independence Standards*.

was added, the name of the person who prepared the additional documentation, and the reason for adding it."[13]

11. PCAOB ethics standards provide, in part, that an associated person "shall maintain objectivity and integrity" and "shall not knowingly misrepresent facts" in the performance of professional services.[14] An associated person knowingly misrepresents facts in violation of ET § 102 when, for example, he or she knowingly: (i) makes, or permits or directs another to make, materially false and misleading entries in an entity's records; or (ii) signs, or permits or directs another to sign, a document containing materially false and misleading information.[15]

ii. Respondent Improperly Modified Component Audit Work Papers After the Documentation Completion Date and in Anticipation of a PCAOB Inspection

12. After completing the Component Audit, KPMG Colombia sent an interoffice report to the principal auditor by no later than February 25, 2016. The principal auditor released its audit report for the Issuer A audit by no later than February 26, 2016. As a result, the documentation completion date for all audit work performed for the Issuer A audit was no later than April 11, 2016.

13. On September 7, 2016, DRI informed KPMG Colombia that it would inspect the Component Audit. DRI identified (a) net sales and accounts receivable, and (b) property, plant, and equipment as the focus areas for the inspection.

14. On or before September 16, 2017, after learning that DRI would inspect the Component Audit, the Lead Partner instructed the Manager and Rodríguez to perform a review of the audit documentation for that engagement, with assistance from the other members of the engagement team. The Lead Partner further instructed the Manager and Rodríguez to provide him with comments from that review.

15. Rodríguez, the Manager, and the other members of the engagement team thereafter performed the review as directed. On September 19, the Manager assembled the comments he received back from the engagement team's review of the Component Audit work papers, including comments from Rodríguez, and forwarded them to the Lead Partner as an

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13 AS 3 ¶¶ 15-16 (italics in original).

14 *See* ET § 102.01.

15 *See* ET §§ 102.02(a), (c).

attachment to an email with the subject "To do PCAOB." The Manager copied Rodríguez on that email.

16. After receiving the engagement team's initial review comments from the Manager, the Lead Partner informed Rodríguez and the Manager that the engagement team needed to revise the audit work papers ahead of the inspection, including to address the comments from the engagement team's review. In response, on September 21, Rodríguez forwarded the "To do PCAOB" email to other members of the engagement team, copying the Manager, indicating that they should make changes to the work papers to address the comments the Manager had forwarded to the Lead Partner. In the email, Rodríguez also indicated that the engagement team members should make the changes outside of the existing electronic audit work paper database (the "eAudit database"). The purpose of revising the work papers outside of the eAudit database was to prevent certain software from capturing the actual dates the work papers were revised. At the time of his September 21 email, Rodríguez understood that work papers modified outside the eAudit database could later be substituted into the eAudit database or a local copy of the eAudit database in a manner that would conceal their modification date.

17. From September 21 to October 2, 2016, the Lead Partner also sent Rodríguez and the Manager a series of emails providing additional detailed comments for the engagement team to address through further revisions to the work papers. During that same period, other professionals whom the Lead Partner enlisted to help review the Component Audit work papers also provided comments to Rodríguez and the Manager for consideration.

18. In some of the emails, the Lead Partner noted that it was possible to see in the revised versions of the work papers that some of the changes had been made in September 2016, and he instructed Rodríguez and the Manager to alter those dates.

19. Between September 19 and October 9, 2016, Rodriguez made changes to the work papers to address certain of the comments that the Lead Partner and others had made during the reviews described in Paragraphs 14-18, above. Pursuant to the Lead Partner's instructions, Rodríguez personally altered and backdated multiple work papers between the date that he was made aware that KPMG Colombia's work on the Component Audit had been selected for inspection and the start of that inspection. Rodríguez knew he was making those changes after the documentation completion date for the Component Audit and that the revised audit documentation that would be provided to DRI, but he did not indicate the date he was making those changes or the reason(s) he was making them. To the contrary, Rodríguez backdated his changes to dates before the documentation completion date, and concealed the actual dates he made the changes, by improperly adjusting the date on a computer clock using an administrative passcode.

20. As a result of the above-described conduct, Rodríguez violated PCAOB Rule 4006, AS 3, and ET § 102 in connection with the Board's 2016 inspection of the Firm and DRI's review of the Component Audit.

IV.

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

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Marco Alexander Rodríguez Ramírez is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[16]

C. Pursuant to PCAOB Rule 5302(b), Marco Alexander Rodríguez Ramírez may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order; and

D. Respondent understands that the determination to accept Respondent's offer, without imposing a civil money penalty, is contingent upon the accuracy and completeness of Respondent's financial information provided to the Division of Enforcement and Investigations (the "Division"). Respondent also understands that, if at any time following this settlement the Division obtains information indicating that any financial information provided by Respondent—including, but not limited to, any information concerning assets, income, liabilities, or net worth—was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such information was provided, the Division may, at any

[16] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Rodríguez. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

time following entry of this Order, petition the Board to: (a) reopen this matter to consider whether Respondent provided accurate and complete financial information at the time such information was provided to the Division; and (b) seek an order directing payment of the maximum civil money penalty allowable under the law or any lesser amount determined to be appropriate. No other issue shall be considered in connection with this petition other than whether the financial information provided by Respondent was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondent may not, by way of defense to any such petition: (i) contest the findings in this Order; (ii) assert that payment of a civil money penalty should not be ordered; (iii) contest the amount of the civil money penalty to be ordered; or (iv) assert any defense to liability or remedy, including, but not limited to, any defense based on statute of limitations or any other time-related defense.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 6, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Scott J. Reams, CPA, Brandon R. Keyes, CPA, and James C. Budge, CPA,

Respondents.

PCAOB Release No. 105-2022-038

December 20, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) barring Scott J. Reams, CPA ("Reams") from being an associated person of a registered public accounting firm[1] and imposing a $35,000 civil money penalty upon Reams;

(2) barring Brandon R. Keyes, CPA ("Keyes") from being an associated person of a registered public accounting firm[2] and imposing a $35,000 civil money penalty upon Keyes; and

(3) barring James C. Budge, CPA ("Budge") from being an associated person of a registered public accounting firm[3] and imposing a $25,000 civil money penalty upon Budge.[4]

The Board is imposing these sanctions on the basis of its findings that Respondents violated PCAOB rules and standards in connection with two audits of an issuer.

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

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

[3] Budge may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

[4] Reams, Keyes, and Budge are referred to in this Order, collectively, as the "Respondents."

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[5]

III.

On the basis of Respondents' Offers, the Board finds that:[6]

A. Respondents

1. **Scott J. Reams** was, at all relevant times, a certified public accountant licensed by the states of California (license no. 82008) and Utah (license no. 6814250-2601). Reams was, at all relevant times, a partner of WSRP, LLC ("WSRP"). Reams served as the engagement partner for WSRP's integrated audit of the March 31, 2019 consolidated financial statements and internal control over financial reporting of Freedom Holding Corp. ("Freedom") ("2019 Audit"). Reams was, at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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

[6] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

2. **Brandon R. Keyes** was, at all relevant times, a certified public accountant licensed by the state of Utah (license no. 7780361-2601). Keyes was a senior manager at WSRP from December 2017 to 2019, and a partner of WSRP from 2020 to the present. Keyes served as a senior manager for the 2019 Audit and served as the engagement partner for WSRP's March 31, 2020 integrated audit of the consolidated financial statements and internal control over financial reporting of Freedom ("2020 Audit"). Keyes was, at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **James C. Budge** was, at all relevant times, a certified public accountant licensed by the state of Utah (license no. 162679-2601). Budge was, at all relevant times, a partner of WSRP. Budge served as the engagement quality review ("EQR") partner for the 2019 and 2020 Audits. Budge was, at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities

4. **WSRP, LLC** was, at all relevant times, a limited liability company organized under the laws of the state of Utah and headquartered in Salt Lake City, Utah. At all relevant times, WSRP was licensed by the state of Utah (license no. 109193-2603), among others. WSRP was, at all relevant times, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. WSRP performed an integrated audit of Freedom's 2019 and 2020 financial statements and internal control over financial reporting. WSRP issued unqualified opinions for both audits.

5. **Freedom Holding Corp.** was, at all relevant times, a Nevada corporation headquartered in Almaty, Kazakhstan, with supporting administrative offices in Russia, Cyprus, and the United States. Freedom's public filings disclose that it has several operating subsidiaries that engage in a broad range of activities in the securities industry, including retail securities brokerage, investment research, investment counseling, securities trading, and investment banking and underwriting services in Eastern Europe and Central Asia. At all relevant times, one individual served as the CEO, Chair, and the controlling (over 70%) shareholder of Freedom ("Freedom CEO"). Freedom was, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

6. In 2014, the Freedom CEO created a corporation ("**the Belize Affiliate**") that, at all relevant times, was registered and licensed as a broker dealer in Belize. The Belize Affiliate is an introducing broker, and its customers are retail investors many of whom are located in Eastern Europe. The Freedom CEO is the sole owner of the Belize Affiliate. Freedom and the Belize Affiliate were identified by Freedom as related parties under U.S. Generally Accepted Accounting Principles ("U.S. GAAP").

C. Summary

7. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the 2019 and 2020 Audits. Reams authorized WSRP's issuance of audit reports containing unqualified opinions for the 2019 Audit, and Keyes authorized WSRP's issuance of audit reports containing unqualified opinions for the 2020 Audit. For both Audits, Budge provided concurring approval of issuance of WSRP's audit reports.

8. Reams and Keyes identified and knew there were risks of material misstatement with respect to revenues and margin loans receivable related to transactions with the Belize Affiliate. Reams and Keyes also knew that: (a) transactions with the Belize Affiliate constituted the majority of Freedom's reported revenue in 2019 and 2020; (b) the Belize Affiliate and Freedom were related parties, both of which were under control of the Freedom CEO; and (c) Reams and Keyes did not have access to the records and personnel of the Belize Affiliate needed to evaluate material portions of Freedom's financial statements.

9. Notwithstanding this knowledge, Reams and Keyes failed to adequately respond to risks of material misstatement. First, Reams and Keyes failed to comply with PCAOB auditing standards when evaluating Freedom's identification of and accounting for the relationship and transactions between Freedom and the Belize Affiliate. Second, Reams and Keyes failed to identify that Freedom's 2019 and 2020 financial statements did not contain necessary disclosures regarding its relationship with the Belize Affiliate. Third, Reams and Keyes failed to gather sufficient appropriate audit evidence to evaluate Freedom's reported margin loans to the Belize Affiliate. Fourth, Reams and Keyes failed to gather sufficient appropriate audit evidence to evaluate commission revenue from securities transactions processed by Freedom on behalf of the Belize Affiliate. Fifth, Reams and Keyes failed to evaluate whether the Belize Affiliate was a variable interest entity that, potentially, may have needed to be consolidated with Freedom.

10. In addition, Budge violated AS 1220, *Engagement Quality Review*, by providing his concurring approval for the issuance of the Firm's 2019 and 2020 audit reports without performing the required EQRs with due professional care.

D. Background: The Related Party Relationship Between Freedom and the Belize Affiliate

11. In 2014, Freedom's CEO created FFIN Securities, Inc. This company subsequently became Freedom in 2015, as a result of a reverse merger with an existing inactive issuer, BMB Munai, Inc. As noted previously, Freedom's CEO is also the majority shareholder of Freedom.

12. At all relevant times, the Belize Affiliate acted as an introducing broker to Freedom. The Belize Affiliate's retail customers requested trades from the Belize Affiliate, which the Belize Affiliate passed to Freedom. Freedom then passed these orders to a prime broker for execution. Funding for these transactions could be provided by margin loans from Freedom to the Belize Affiliate, which in turn were extended to the Belize Affiliate's retail customers. The margin loans were collateralized by the securities purchased for the Belize Affiliate's customers.

13. Freedom recorded these transactions in the name of the Belize Affiliate. Reams and Keyes understood at the time of the Audits, however, that these transactions were for the benefit of the Belize Affiliate's retail customers, not for the Belize Affiliate itself.

14. In 2019, the Belize Affiliate was responsible for 87% of Freedom's reported commission and fee revenue and 68% of margin loans receivable. In 2020, the Belize Affiliate was responsible for 81% of both Freedom's reported commission and fee revenue and margin loans receivable.

15. As discussed below, neither Reams nor Keyes took sufficient steps to understand the transactions between the Belize Affiliate and its retail customers. Neither engagement partner had any contact with the Belize Affiliate's retail customers, nor knew their identities. Also, neither engagement partner had access to the terms of the agreements between the Belize Affiliate and its retail customers.

E. Reams and Keyes Violated PCAOB Rules and Standards in Connection with the Audits

16. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[8] As described below, Reams and Keyes

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[7] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[8] *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*.

(collectively, the "Engagement Partners") violated these and other PCAOB rules and standards in connection with the Audits.

i. Reams and Keyes Failed to Make Required Inquiries of Freedom

a. Business Purpose Inquiry

17. PCAOB standards require auditors to make certain inquiries of company management concerning related party transactions.[9] Auditors should perform procedures to obtain an understanding of the company's relationships and transactions with its related parties that might reasonably be expected to affect the risks of material misstatement of the financial statements.[10] An auditor should inquire of management regarding the business purpose for entering into a transaction with a related party versus an unrelated party.[11]

18. The Engagement Partners understood that the transactions between Freedom and the Belize Affiliate were significant to Freedom's 2019 and 2020 financial statements. The Engagement Partners also understood that the trade orders from the Belize Affiliate to Freedom were for the benefit of the Belize Affiliate's retail customers. The Engagement Partners needed to inquire of management to determine whether there was a valid business purpose for Freedom transacting with the Belize Affiliate as opposed to transacting directly with the retail customers of the Belize Affiliate, who were not related parties, and who were, in fact, the actual parties to the transactions with Freedom.

19. During the Audits, the Engagement Partners failed to inquire about the business purpose of these related party transactions. For example, they failed to inquire why the Belize Affiliate's retail customers could not have gone directly to Freedom with their trade orders, as opposed to placing their orders with the Belize Affiliate then passing those orders to Freedom.

20. Likewise, neither of the Engagement Partners learned why Freedom's CEO set up two separate entities—the Belize Affiliate and Freedom—and then funneled retail trade orders through the non-public, non-audited entity (the Belize Affiliate) on their way to processing by Freedom.

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9 *See* AS 2410.05, *Related Parties*.

10 *Id.* at .03.

11 *Id.* at .05(e).

b. Financial Capability Inquiry

21. For related party transactions that are required to be disclosed in the financial statements or determined to be a significant risk, PCAOB auditing standards state that the auditor should "[e]valuate the financial capability of the related parties with respect to significant uncollected balances, loan commitments, supply arrangements, guarantees, and other obligations, if any."[12] As described below, the Engagement Partners failed to evaluate the financial capability of the Belize Affiliate, despite the fact the majority of Freedom's margin loans were receivable from the Belize Affiliate.

22. The Engagement Partners understood that the Belize Affiliate was placing trade orders for the benefit of the Belize Affiliate's retail customers. The Engagement Partners further understood that these transactions included trade orders funded by margin loans from Freedom. The retail customers of the Belize Affiliate, however, were not identified in the trade orders or the related Freedom records, and Reams and Keyes had no access to information on the financial capability of the Belize Affiliate's customers. The Belize Affiliate placed trade orders with Freedom for their customers in the Belize Affiliate's own name. And Freedom extended margin loans to the Belize Affiliate in the Belize Affiliate's own name. The Engagement Partners identified these margin loans as presenting a significant risk of material misstatement in both 2019 and 2020.

23. The securities purchased by the Belize Affiliate's retail customers, including securities that were collateralizing margin loans, were identified in Freedom's books and records as being owned by the Belize Affiliate. Nonetheless, the Engagement Partners understood that these securities were owned by the Belize Affiliate's retail customers.

24. In 2019, Freedom reported total margin lending receivables of $47 million and the Belize Affiliate was responsible for $32 million, or 68%, of that total. In 2020, Freedom reported total margin lending receivables of $108 million and the Belize Affiliate was responsible for $87 million, or 81%, of that total.

25. The Engagement Partners failed to obtain and evaluate information about the Belize Affiliate's retail customers, including any agreements between the Belize Affiliate and its retail customers. Freedom management advised the Engagement Partners that the Belize Affiliate's client information was proprietary to the Belize Affiliate and not readily available. The Engagement Partners did not know the terms of the agreements between the Belize Affiliate

[12] *Id.* at .12(d).

and its retail customers, including if such terms were consistent with the terms of the agreements between the Belize Affiliate and Freedom.

26. For example, the Engagement Partners failed to inquire about and to determine whether the commission and margin lending rates that Freedom was charging the Belize Affiliate were consistent with the rates that the Belize Affiliate was charging its retail customers. If Freedom was charging the Belize Affiliate higher commission rates than the Belize Affiliate was charging its own customers, that could have caused the Belize Affiliate, a privately held company, to incur losses for the benefit of Freedom's apparent financial performance as a public company.

27. Similarly, the Engagement Partners failed to inquire about and to determine whether the agreements between the Belize Affiliate and its retail customers required the customers to make securities purchased on margin available as collateral to Freedom in the event that the retail customers defaulted on their margin loans. As a result, the Engagement Partners did not know if Freedom had the right to seize collateral in the event of a default on the margin loans.

28. The Engagement Partners also lacked information about the stand-alone financial viability of the Belize Affiliate. At the time of the Audits, neither Reams nor Keyes had any information about the financial condition of the Belize Affiliate, and they were not able to evaluate the financial capability of the Belize Affiliate to perform on significant uncollected balances for the margin loans that Freedom extended to the Belize Affiliate. Likewise, the Engagement Partners were unable to determine whether the collateral purportedly securing Freedom's margin loans to the Belize Affiliate was, in fact, available to the Belize Affiliate in the event of a default by a retail customer of the Belize Affiliate.[13]

c. Reams and Keyes Failed to Adequately Evaluate Financial Statement Disclosures

29. PCAOB standards require an auditor to evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[14] "As part of the evaluation of the presentation of the financial statements, the auditor should evaluate whether the financial statements contain the

[13] *Id.* at .12(d); *see also* AS 1105.04.

[14] AS 2810.30*, Evaluating Audit Results.*

information essential for a fair presentation of the financial statements in conformity with the applicable financial reporting framework."[15]

30. PCAOB auditing standards state that "[t]he auditor must evaluate whether related party transactions have been properly accounted for and disclosed in the financial statements."[16] During the Audits, however, the Engagement Partners failed to evaluate financial statement disclosures in compliance with PCAOB auditing standards.

31. The Engagement Partners understood that the Belize Affiliate was responsible for the majority of Freedom's revenue and margin loan balances for both 2019 and 2020. Also, the Engagement Partners understood that Freedom and the Belize Affiliate were related parties.

32. U.S. GAAP required Freedom to disclose certain information concerning its related party transactions.[17] The Engagement Partners, however, failed to evaluate whether Freedom's 2019 and 2020 financial statement disclosures complied with U.S. GAAP and included: (a) a description of the nature of the relationship between Freedom and the Belize Affiliate; (b) a description of the transactions between Freedom and the Belize Affiliate and the related amounts necessary for an understanding of the effects of these transactions on Freedom's financial statements; (c) a description of the terms and manner of the settlement of balances between Freedom and the Belize Affiliate; (d) the identification of the Belize Affiliate by name; and (e) disclosure of the Freedom CEO's control of both Freedom and the Belize Affiliate.[18]

33. The foregoing required disclosures were outlined in GAAP disclosure checklists that were reviewed by Reams in 2019 and Keyes in 2020. Nonetheless, the Engagement Partners failed to evaluate whether the 2019 and 2020 Freedom financial statements adequately disclosed the related party relationship between Freedom and the Belize Affiliate in conformity with U.S. GAAP.[19]

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15 *Id.* at .31.

16 AS 2410.17.

17 FASB ASC 850, *Related Party Disclosures*.

18 *See id.* at 850-10-50-1 (items a-c, above), -3 (item d, above), and -6 (item e, above); *see also* AS 2810.30 and .31.

19 *See* AS 2810.30 and .31.

34. Reams and Keyes also failed to evaluate whether separate presentation on the face of the financial statements of the Belize Affiliate transactions and balances with Freedom was essential for a fair presentation of Freedom's financial statements in conformity with U.S. GAAP.[20]

d. Reams and Keyes Failed to Adequately Evaluate Freedom's Margin Loans to the Belize Affiliate

35. PCAOB standards state that "[t]he auditor must plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion."[21] "To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based."[22]

36. In both 2019 and 2020, the Engagement Partners identified margin loans as presenting a significant risk of material misstatement. The Engagement Partners failed to gather sufficient appropriate audit evidence to evaluate margin lending between Freedom and the Belize Affiliate.

37. First, the Engagement Partners failed to gather sufficient appropriate audit evidence to confirm the amounts of Freedom's margin loans to the Belize Affiliate. These margin loans were not identified by either individual transactions or individual Belize Affiliate retail customers. Instead, they took the form of a rolling balance of total margin loans based on all Belize Affiliate transactions, all of which were recorded in the name of the Belize Affiliate. To evaluate the recorded amounts, Reams and Keyes obtained confirmation responses from the Belize Affiliate that purported to confirm, as of Freedom's fiscal year end date, the total margin loan balances receivable from the Belize Affiliate. The audit evidence resulting from this confirmation procedure was not appropriate, as it demonstrated no more than the fact that two related parties, both under the Freedom CEO's control, kept their books in agreement. These confirmation responses did not provide audit evidence that the total recorded amount of margin loans was the result of actual and valid individual margin loan transactions between Freedom and the Belize Affiliate. Because of the unreliability of the audit evidence obtained through the confirmation process, Reams and Keyes were required to, but did not, obtain sufficient appropriate audit evidence to support the recorded amount of Freedom's margin loans to the Belize Affiliate.

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[20] *Id.*

[21] AS 1105.04.

[22] *Id.* at .06.

38. Second, Reams and Keyes failed to gather sufficient appropriate audit evidence to evaluate whether the margins loans to the Belize Affiliate, as recorded, were properly valued. Reams and Keyes had no information on the financial condition of the Belize Affiliate and thus could not evaluate its ability to repay amounts borrowed, absent reliance on collateral purportedly provided by the Belize Affiliate's customers. Reams and Keyes, however, failed to gather sufficient appropriate audit evidence to verify the existence of the securities that were supposedly serving as collateral for the margin loans to the Belize Affiliate. These securities were owned by the Belize Affiliate's retail customers, and Reams and Keyes failed to seek or obtain audit evidence that Freedom had the right to any such collateral in the event of a margin loan default.

39. Third, the Engagement Partners failed to gather sufficient appropriate audit evidence to evaluate the sufficiency of this collateral to support Freedom's loans to the Belize Affiliate. The Engagement Partners performed walk-throughs of certain controls that Freedom claimed it employed to evaluate collateral sufficiency. However, because the Engagement Partners identified margin lending as raising a significant risk of material misstatement, they needed to perform substantive procedures to test the existence and sufficiency of the collateral and could not rely solely on tests of controls, which they failed to do.[23]

40. Further, the controls on which the Engagement Partners relied could not determine if individual margin loans were sufficiently collateralized, as these controls simply compared total Belize Affiliate margin loan balances with total collateral value. The Engagement Partners failed to review the margin loan agreements between the Belize Affiliate and its retail clients, and therefore lacked knowledge as to how collateral applied to individual margin loans, including whether the securities owned by one Belize Affiliate client could serve as collateral for the margin loans of other Belize Affiliate clients.

41. As a result of the failures by the Engagement Partners to adequately evaluate Freedom's margin loans to the Belize Affiliate, they violated PCAOB standards in their audit of margin loans receivable.[24]

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[23] *See* AS 2301.11, *The Auditor's Responses to the Risks of Material Misstatement* ("For significant risks, the auditor should perform substantive procedures, including tests of details, that are specifically responsive to the assessed risks.").

[24] *See* AS 1105.04 and .06; AS 2301.11.

ii. Reams and Keyes Failed to Adequately Evaluate Revenue from the Belize Affiliate

42. The Engagement Partners also failed to gather sufficient appropriate audit evidence to evaluate commission revenue that Freedom recognized on the Belize Affiliate trade orders.

43. First, the Engagement Partners failed to evaluate whether U.S. GAAP criteria governing revenue recognition were met, namely, whether "[t]he parties to the contract have approved the contract."[25] The Engagement Partners understood that the transactions Freedom processed in the name of the Belize Affiliate were, in fact, for the Belize Affiliate's retail customers. But the Engagement Partners failed to perform any procedures, or obtain any audit evidence, to evaluate whether the Belize Affiliate's customers requested these trades and authorized the Belize Affiliate to pay commissions to Freedom for the trades. Instead, the Engagement Partners assumed, without audit evidence, that the commissions paid to Freedom, which ultimately were borne by the Belize Affiliate's retail customers, were known to the Belize Affiliate customers and that they had agreed to pay these commissions.

44. Second, the Belize Affiliate paid certain fixed monthly fees to Freedom. There was a risk of material misstatement that the Belize Affiliate could make payments to Freedom for no purpose other than to create fictitious fee income for Freedom. The Engagement Partners, however, failed to obtain sufficient appropriate audit evidence concerning the nature of these fees and whether they had a legitimate business purpose. Further, the Engagement Partners failed to obtain and evaluate documentation supporting the business purpose, if any, of these fixed monthly fees. The Engagement Partners also did not seek to understand the source of the payment of these fees, including whether these fees were ultimately borne by the Belize Affiliate's retail customers. Finally, in the event that Belize Affiliate retail customer funds were used to pay these fees, the Engagement Partners did not know, and failed to determine, whether the Belize Affiliate's customers had authorized the payment of these fees.[26] Accordingly, the Engagement Partners violated PCAOB standards.[27]

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[25] ASC 606-10-05-4(a), *Revenue from Contracts with Customers*.

[26] *See* AS 1105.04-.05.

[27] *See id.* at .04-.06; AS 2301.11; *see also* AS 2410.12

a. Reams and Keyes Failed to Evaluate Whether the Belize Affiliate was a Variable Interest Entity and Needed to be Consolidated

45. PCAOB auditing standards required the Engagement Partners to evaluate whether Freedom's selection and application of accounting principles were appropriate for its business and consistent with the applicable financial reporting framework and accounting principles used in the industry.[28] Reams and Keyes, however, failed to evaluate, under U.S. GAAP, whether the Belize Affiliate was a variable interest entity ("VIE"), and whether the Belize Affiliate needed to be consolidated with Freedom.[29]

46. Although Reams and Keyes knew that Freedom provided the majority of the margin loans that supported the Belize Affiliate's operations, they failed to obtain any information concerning the financial condition of the Belize Affiliate. This information was necessary to determine if the Belize Affiliate was a VIE. More specifically, the Engagement Partners obtained no information and performed no evaluation of whether the Belize Affiliate was financially viable without the support that it received from Freedom in the form of margin loans.

47. As a result, the Engagement Partners failed to evaluate whether the Belize Affiliate was a VIE and failed to consider whether the Belize Affiliate needed to be consolidated with Freedom in violation of PCAOB standards.[30]

F. Budge Violated PCAOB Rules and Auditing Standards in Connection with his EQR of the Audits

48. An EQR is required for all audits and reviews conducted pursuant to PCAOB standards.[31] The EQR is intended to "serve as a meaningful check on the work performed by the

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[28] *See* AS 2110.12; *see also* AS 2810.30 ("The auditor must evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.").

[29] A VIE is a legal entity subject to consolidation under U.S. GAAP if one or more specified conditions exists. ASC 810-10-15-14, *Consolidation*. One condition that causes an entity to be a VIE is if the "total equity investment. . . at risk [in the entity] is not sufficient to permit the legal entity to finance its activities without additional subordinated financial support provided by any parties, including equity holders." *Id.* at 810-10-15-14(a).

[30] *See* AS 2110.12; AS 2810.30.

[31] *See* AS 1220.01.

engagement team."[32] The EQR partner is responsible for evaluating the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[33] Among other things, the EQR partner should evaluate the engagement team's assessment of, and audit responses to, significant risks identified by the engagement team or the EQR partner.[34] The EQR partner may provide concurring approval of issuance of an audit report only if, after performing the EQR with due professional care, he or she is not aware of a significant engagement deficiency.[35]

49. The engagement teams identified margin lending as presenting a significant risk of material misstatement for both 2019 and 2020. However, the EQR partner, Budge, failed to adequately evaluate the engagement teams' assessment of, and audit responses to, that risk.

50. Specifically, Budge failed to review the margin loan audit documentation for either year, nor did Budge know what the engagement team did to evaluate margin loans and related interest income during the Audits. In addition, Budge could not recall: (a) what the engagement teams did to evaluate margin lending to determine that receivables were fully collectible, (b) how the engagement teams tested the existence and valuation of the collateral securing the margin loans, or (c) whether the engagement teams were relying on confirmation responses to evaluate reported margin lending.

51. During the Audits, Budge also failed to evaluate properly the significant judgments made, and the related conclusions reached, by the engagement teams with respect to revenue.[36] Specifically, Budge failed to properly evaluate the engagement teams' assessment of, and audit responses to, significant risks identified by the engagement teams, including fraud risks related to revenue.[37] Budge knew that the engagement teams had identified revenue as a significant risk and a fraud risk. However, he failed to obtain an understanding of what, if any, procedures had been performed to evaluate revenue. Budge also failed to properly review the engagement teams' work performed, and documentation prepared, related to revenue.[38]

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32 PCAOB Rel. No. 2009-004 (July 28, 2009) at 2.

33 *See* AS 1220.09.

34 *See id.* at .10(b).

35 *See id.* at .12.

36 *See id.* at .09.

37 *See id.* at .10(b).

38 *See id.* at .11.

52. As a result of the failures described above, Budge provided his concurring approvals of issuance without performing his reviews with the requisite due professional care.[39]

IV.

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

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Scott J. Reams is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act; [40]

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

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Brandon R. Keyes is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act; [41]

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

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[39] *See id*. at .12; AS 1015.01.

[40] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Reams. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[41] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act, discussed *supra*, at n. 40, will apply with respect to Keyes.

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), James C. Budge is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act; [42]

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

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4): (i) a civil money penalty in the amount of $35,000 is imposed on Scott J. Reams; (ii) a civil money penalty in the amount of $35,000 is imposed on Brandon R. Keyes; and (iii) a civil money penalty in the amount of $25,000 is imposed on James C. Budge. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Each Respondent shall pay his civil money penalty within ten days of the issuance of this order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006. By consenting to this Order, each Respondent understands that failing to pay his civil money penalty, described above, may alone be grounds to deny any petition pursuant to PCAOB Rule 5302(b) for Board consent to associate with a registered public accounting firm. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or

[42] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act, discussed *supra*, at n. 40, will apply with respect to Budge.

reduction of any award of compensatory damages, by the amount of any part of Respondents' payment of the civil money penalties pursuant to this Order, in any private action brought against Respondents based on substantially the same facts as set out in the findings in this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 20, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Alvarez & Associates, Inc., Certified Public Accountants, and Vicente Alvarez, CPA,

Respondents.

PCAOB Release No. 105-2022-039

December 21, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Alvarez & Associates, Inc., Certified Public Accountants ("Firm"), and Vicente Alvarez, CPA ("Alvarez");

(2) suspending the Firm's registration for two years from the date of this Order;

(3) suspending Alvarez from being an associated person of a registered public accounting firm for two years from the date of this Order;

(4) imposing a $50,000 civil money penalty jointly and severally upon the Firm and Alvarez (collectively, "Respondents");

(5) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order; and

(6) requiring Alvarez to complete 40 hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license, within two years of the date of this Order.

The Board is imposing these sanctions on the basis of its findings that: (a) Respondents violated PCAOB rules and standards in connection with the fiscal year ("FY") 2018 and FY 2019 audits of financial statements and accompanying supplemental information, and reviews of exemption reports (collectively, "Audits") for multiple "non-carrying" broker-dealers (*i.e.,* a broker-dealer that does not maintain custody of customer funds and/or securities), (b) the

Firm violated PCAOB rules and quality control standards, and (c) Alvarez substantially contributed to the Firm's violations of PCAOB rules and quality control standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which are admitted, and except as provided herein in Section IV, Respondents each consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

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

[2] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

A. Respondents

1. **Alvarez & Associates, Inc., Certified Public Accountants** is a corporation organized under the laws of the state of California and headquartered in Northridge, California. The Firm was, at all relevant times, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice by the California Board of Accountancy (license no. 8127) and in additional states.[3]

2. **Vicente "Vince" Alvarez, CPA** is the Firm's 95% owner and managing partner, and a certified public accountant licensed by the California Board of Accountancy (license no. 101046) and in additional jurisdictions.[4] He is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). He was the engagement partner for each of the relevant Audits.

B. Broker-Dealers

3. This matter involves 43 Audits performed for 39 broker-dealers who were, at all relevant times, a "broker" or "dealer," as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii). In addition, at all relevant times, the 39 broker-dealers were non-carrying brokers that claimed exemption from the requirements of Rule 15c3-3 under the Securities Exchange Act of 1934 ("Rule 15c3-3").[5]

C. Summary

4. This matter concerns the Firm's failure to comply with AS 1220, *Engagement Quality Review* ("AS 1220"),[6] with respect to the Audits of nine broker-dealers for FY 2019. With respect to each of these broker-dealer Audits, the Firm failed to document a concurring approval of issuance from the engagement quality reviewer, which was required pursuant to AS 1220.

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[3] The Firm is also licensed in the following additional states: Utah, Oregon, Washington, and Kansas.

[4] Alvarez is also licensed in New York and Washington D.C.

[5] 17 C.F.R. § 240.15c3-3.

[6] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the relevant broker-dealer Audits.

5. The Firm and Alvarez also violated AS 1215, *Audit Documentation* ("AS 1215") by repeatedly failing to timely assemble a complete and final set of audit documentation assembled for retention ("archived") by the documentation completion date (i.e., within 45 days after the report release date) for 43 broker-dealer Audits for FY 2018 and FY 2019. The Firm and Alvarez further violated AS 1215 by repeatedly failing to document the information required by AS 1215 when audit documentation was changed after the documentation completion date for 25 broker-dealer Audits for FY 2018 and FY 2019.

6. The Firm violated QC § 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20") because the Firm failed to establish an appropriate system of quality control to ensure that its engagement personnel complied with AS 1215 and AS 1220.

7. Finally, this matter concerns Alvarez's direct and substantial contribution to the Firm's violations of PCAOB rules and standards concerning the requirements for engagement quality reviews, audit documentation, and quality control. With respect to each of the Firm's audit and attestation violations and quality control violations, Alvarez took or omitted to take actions knowing, or recklessly not knowing, that his actions and omissions would directly and substantially contribute to the Firm's violations of AS 1220, AS 1215, and QC § 20. As a result, Alvarez violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations* ("PCAOB Rule 3502").

D. The Firm Violated PCAOB Rules and Auditing Standards Relating to Engagement Quality Reviews

8. PCAOB rules provide that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7]

9. AS 1220 requires that an engagement quality review be performed on all audits, and certain attestation engagements, including reviews of a broker-dealer's exemption report, that are conducted pursuant to PCAOB standards.[8] In addition, a firm may grant permission to a client to use an audit or attestation report only after an engagement quality reviewer provides concurring approval of issuance.[9]

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[7] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; Rule 3200, *Auditing Standards*.

[8] AS 1220.01.

[9] *See id*. at .13, .18C.

10. Documentation of an engagement quality review should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the engagement quality reviewer, including information that identifies the date the engagement quality reviewer provided concurring approval of issuance, or if no concurring approval of issuance was provided, the reasons for not providing the approval.[10]

11. An engagement quality reviewer must be independent of the company, perform the engagement quality review with integrity, and maintain objectivity in performing the review.[11] To maintain objectivity, the engagement quality reviewer and others who assist the reviewer should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team.[12]

12. The Firm failed to document the engagement quality reviewer's concurring approval of issuance for nine FY 2019 Audits. In each instance, the documentation of the engagement quality review failed to contain sufficient information to enable an experienced auditor having no previous connection with the engagement to understand the date that engagement quality reviewer provided concurring approval of issuance. As a result, the Firm repeatedly violated AS 1220.19.

13. Two of the Firm's FY 2019 engagement quality reviews also failed to comply with AS 1220 when the engagement quality reviewer failed to maintain objectivity by becoming part of the engagement team. In the two FY 2019 Audits, the engagement quality reviewer assumed the role of an engagement team member by directly performing certain audit procedures and preparing work papers for those two broker-dealer audits. Specifically, in one engagement, the engagement quality reviewer performed the audit procedures and prepared a work paper related to, the evaluation of the exemption provisions under Rule 15c3-3 that the broker-dealer identified in its 2019 exemption report. In another engagement, the engagement quality reviewer performed procedures and prepared a work paper related to the substantive testing of a certain financial statement account, which represented 82% of the broker-dealer's total assets as of December 31, 2019. Nevertheless, the Firm granted permission to the clients to use the engagement reports even though the engagement quality reviewer failed to maintain objectivity in violation of AS 1220. 06 and .07.

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10 *See id*. at .19.

11 *See id.* at .06.

12 *See id.* at .07.

E. The Firm and Alvarez Violated the Audit Documentation Standard by Failing to Archive Work Papers and Properly Document Modifications After the Documentation Completion Date

14. PCAOB standards require that "a complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[13] The standards also provide that documentation added after the documentation completion date must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.[14]

15. As the engagement partner, Alvarez was responsible for ensuring that the engagement teams archived the final set of audit documentation by the documentation completion date. During FY 2018 and 2019, the Firm's engagement teams, led by Alvarez, failed to assemble a complete and final set of audit documentation for retention by the documentation completion date for 43 broker-dealer Audits. The Firm belatedly archived the work papers for these broker-dealer Audits between six and 19 months after the documentation completion date. As a result, the Firm and Alvarez repeatedly violated AS 1215.15.

16. The Firm's engagement teams also modified certain work papers for 25 broker-dealer Audits after the documentation completion date, but failed to document the information required by AS 1215.16. Specifically, without explanation, the engagement teams inserted certain work papers into the audit file and added electronic sign-offs after the relevant document completion dates. In some instances, Respondents acknowledged, in response to PCAOB inquiries, that modifications were made to the audit work papers, but could not identify what changes were made to the audit work papers. As a result, the Firm and Alvarez repeatedly violated AS 1215.16.

F. The Firm Violated the Quality Control Standards

17. PCAOB rules require registered public accounting firms to comply with the Board's quality control standards.[15] PCAOB quality control standards, in turn, require each registered firm to effectively design, implement, and maintain a system of quality control for

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13 *See* AS 1215. at .15.

14 *See id*. at .16.

15 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

the firm's accounting and auditing practice.[16] The quality control system should include policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[17] Among other areas, a firm's policies and procedures should address the documentation of each engagement in accordance with applicable professional standards.[18] Further, PCAOB quality control standards also provide that policies and procedures, including monitoring procedures, should be established to provide the firm with reasonable assurance that its system of quality control was suitably designed and being effectively applied.[19]

18. Throughout the relevant period, the Firm lacked sufficient policies and procedures to provide reasonable assurance that the work performed by engagement personnel met applicable professional standards and the Firm's standards of quality with regard to its engagement quality reviews. Specifically, the Firm's policies did not require that the engagement quality reviewer document his concurring approval of issuance as required by AS 1220. The Firm also failed to maintain policies and procedures providing reasonable assurance that the engagement quality reviewer would maintain his objectivity.[20]

19. Throughout the relevant period, the Firm also lacked sufficient policies and procedures to provide reasonable assurance that the work performed by engagement personnel met applicable professional standards and the Firm's standards of quality with regard to audit documentation. Specifically, the Firm failed to have sufficient policies and procedures, including monitoring procedures, to ensure that work papers were archived within the documentation completion period, or that modifications in the work papers after the documentation completion date be made in compliance with AS 1215.

20. Accordingly, the Firm violated QC § 20.17, .18 and .20.

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16 QC §§ 20.01 and 20.02.

17 *See id*. at .17.

18 *See id*. at .18.

19 *See id* at .20.

20 AS 1220.04, Note.

G. Alvarez Contributed to the Firm's Violations of PCAOB Rules, Auditing Standards, and Quality Control Standards

21. PCAOB Rule 3502 states that "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."

22. Alvarez, the principal shareholder, owns 95% of the Firm and served as the Firm's managing and quality control partner for all relevant periods. He was also the engagement partner for all of the Firm's Audits during the relevant period. Accordingly, Alvarez was responsible for ensuring that the Firm complied with PCAOB rules and standards. Alvarez knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of AS 1220, AS 1215, and QC § 20, as described above. As a result, Alvarez violated PCAOB Rule 3502.

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Alvarez & Associates, Inc., Certified Public Accountants and Vicente Alvarez, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Alvarez & Associates, Inc., Certified Public Accountants is suspended for two years;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Vicente Alvarez, CPA is suspended for two years from being an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the

Act and PCAOB Rule 1001(p)(i);[21]

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon Alvarez & Associates, Inc., Certified Public Accountants and Vicente Alvarez, CPA jointly and severally.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm and Alvarez shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm and Alvarez as respondents in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any

[21] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Alvarez. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages in any private action brought against Respondents based on substantially the same facts as set out in the findings in this Order.

E. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that: (a) Firm personnel will document each engagement, including documentation of the engagement quality reviewer's concurring approval of issuance, in accordance with applicable professional standards; (b) the Firm will properly archive audits in accordance with professional standards, and properly document any changes to the audit documentation after the documentation completion date; and (c) the Firm has established monitoring procedures sufficient to enable it to obtain reasonable assurance that its system of quality control is suitably designed and being effectively applied.

2. Within 120 days of the entry of this Order, to provide a certification, signed by its managing partner to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.E.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

F. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Vicente Alvarez is required to complete, within two years from the date of this Order, 40 hours of professional education and training relating to PCAOB auditing standards and covering, among other topics, audit documentation in accordance with AS 1215, *Audit Documentation*, and the performance of engagement quality reviews in accordance with AS 1220, *Engagement Quality Review* (such hours shall be in addition to, and shall not be counted in, the

continuing professional education he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 21, 2022

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Martin Lundie, CPA,

Respondent.

PCAOB Release No. 105-2022-040

December 22, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Martin Lundie ("Lundie" or "Respondent");

(2) barring Lundie from being associated with a registered public accounting firm, and allowing him, after one year, to file a petition for Board consent to associate with a registered firm; and

(3) imposing a $65,000 civil money penalty on Lundie.

The Board is imposing these sanctions on Lundie on the basis of its findings that Lundie violated PCAOB rules and standards in connection with an audit of an issuer by inadequately evaluating a credit loss estimate used by management to calculate the issuer's allowance for doubtful accounts, as well as by inadequately testing various controls over that estimate and by failing to communicate certain matters to the issuer's audit committee concerning that estimate.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Martin Lundie**, CPA, at all relevant times was a chartered professional accountant licensed in Ontario, Canada (public accountant license no. 1-21137). Lundie is a partner in the Toronto, Canada office of registered public accounting firm Ernst & Young LLP ("EY Canada") until his retirement, effective December 31, 2022. Lundie is, and at all relevant times was, an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer

2. **Just Energy Group Inc.** ("Just Energy") is a Canadian Business Corporations Act corporation headquartered in Ontario, Canada. Just Energy was, at all relevant times, publicly traded on the Toronto Stock Exchange and the New York Stock Exchange and an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). According to public filings, Just Energy provided retail energy to residential and commercial customers. As a corporation domiciled in Canada and with securities registered in the United States, Just Energy filed Forms 40-F with the Securities and Exchange Commission ("SEC"). Just Energy had a fiscal year-end of March 31 and prepared its financial statements in accordance with International

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5).

Financial Reporting Standards ("IFRS"). EY Canada has served as Just Energy's auditor since 2011.

C. Summary

3. Lundie served as the engagement partner for EY Canada's integrated audit of Just Energy's financial statements as of and for the fiscal year ended March 31, 2019 ("2019 Audit"), and authorized the issuance of EY Canada's audit reports expressing unqualified opinions on Just Energy's financial statements and the effectiveness of Just Energy's internal control over financial reporting ("ICFR").

4. Lundie knew during the 2019 Audit that Just Energy identified its allowance for doubtful accounts or receivables allowance as a significant accounting estimate. Moreover, he and the engagement team identified the receivables allowance as a significant accounting and auditing issue. Yet Lundie failed to adequately evaluate the reasonableness of the receivables allowance, including by failing to sufficiently test the assumptions underlying the estimate and by failing to sufficiently test the accuracy and completeness of data on which that estimate was based. Lundie failed to do those things notwithstanding indications warranting further scrutiny as to whether Just Energy's receivables allowance might have been materially understated. Lundie accordingly failed to obtain sufficient appropriate audit evidence to support EY Canada's audit opinion on Just Energy's March 31, 2019 financial statements.

5. Moreover, in connection with EY Canada's audit of Just Energy's ICFR as of March 31, 2019, Lundie failed to adequately test controls that related to the receivables allowance. Furthermore, Lundie failed to communicate to the audit committee the significant management assumptions used to calculate the receivables allowance, as well as the basis for EY Canada's conclusions regarding the reasonableness of the estimate.

6. After the issuance of the financial statements for the year ended March 31, 2019, management determined that Just Energy's receivables allowance was understated and should be restated. On August 19, 2019, Just Energy filed restated financial statements. Taking into consideration all information available at the time of the restatement, the restated financial statements reflected that Just Energy's receivables allowance was understated by $111.2 million (Canadian dollars or "CAD"). The restated financial statements reflected a 97% increase in the loss for the year ended March 31, 2019, as compared to the loss previously reported, an increase driven primarily by Just Energy's correction of its understated allowance.

D. Lundie Violated PCAOB Rules and Standards

i. Background

7. Just Energy sold gas and electricity to residential and commercial customers in two regions: North America ("Just Energy NA") and the United Kingdom ("Just Energy UK"). The two largest markets within Just Energy NA were both located in Texas and known as "JE Texas" and "Fulcrum."

8. Just Energy recorded customer accounts receivable for amounts it had the right to invoice its customers, based on the number of units of gas and electricity consumed each month by each customer. Just Energy's policy for residential customers was, with certain exceptions, to write off those receivables that went unpaid for more than 120 days. Separately, Just Energy also recorded an allowance against its accounts receivable to reflect amounts not yet written off but not likely to be recovered.

9. As of March 31, 2019, customer accounts receivable constituted the largest asset category on Just Energy's balance sheet, representing more than 27% of Just Energy's total assets. More specifically, as of March 31, 2019, Just Energy reported total assets of CAD $1.75 billion, of which CAD $476.2 million were "trade account receivables, net," that is, gross customer accounts receivable less an allowance of CAD $71.2 million.

10. Before fiscal year 2019, Just Energy recorded its receivables allowance based on incurred losses, in accordance with the then-applicable IFRS accounting standard.[3] Starting with fiscal year 2019, Just Energy was required to—and did—adopt IFRS 9, *Financial Instruments*, which required loss recognition based on expected credit losses ("ECL"), versus incurred losses. Accordingly, for its receivables allowance, Just Energy was required to—and did—estimate the total credit losses expected to occur over the lifetime of the assets, and to recognize those expected lifetime losses at the time the assets were first recorded.

11. At the beginning of the 2019 fiscal year, Just Energy estimated its lifetime expected credit losses using an example methodology provided in IFRS 9 whereby credit losses are determined by applying estimated loss rates to each of the aging buckets in a company's period-end receivables balance (*i.e.*, a provision matrix). On April 1, 2018, Just Energy recorded an additional allowance of CAD $23.6 million to reflect those expected lifetime credit losses.

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[3] *See* International Accounting Standard ("IAS") 39, *Financial Instruments: Recognition and Measurement*.

12. At the end of the 2019 fiscal year, Just Energy did not determine its receivables allowance, recorded on its balance sheet, using a provision matrix. Instead, Just Energy chose to determine its receivables allowance by estimating its bad debt expense, recorded on its income statement, based on the application of a loss rate ("ECL Rate") to its current period revenue. Just Energy calculated the ECL Rate based on data indicating the percentage of revenue the company had historically written off. Lundie and the engagement team referred to Just Energy's method for determining its receivables allowance—estimating the bad debt expense recorded on its income statement rather than directly evaluating the credit risk of the receivables on its balance sheet as of year-end—as an "income statement approach."

13. Although Lundie preferred that Just Energy use a provision matrix to estimate its receivables allowance, Lundie understood that Just Energy chose to use the income statement approach because it lacked sufficiently reliable aging data on customer accounts receivable to calculate its ECL directly on its year-end receivables.

14. Just Energy in its filings with the SEC identified its receivables allowance as a critical accounting estimate, a critical accounting policy, and a significant accounting estimate. Just Energy also identified the adjustment of its receivables allowance to reflect previously recognized impairment loss—along with the write-off of receivables without a realistic prospect of future recovery—as significant accounting policies.

15. In connection with the 2019 Audit, Lundie and the engagement team identified the receivables allowance as a significant account and disclosure, a significant accounting and auditing issue, and an audit area requiring significant judgment. Lundie understood the receivables allowance to be a higher risk estimate, meaning it presented higher subjectivity, judgment, and/or inherent risk of material misstatement.

16. Moreover, Lundie and the engagement team identified Just Energy's impairment of financial assets—including its receivables allowance—as an "area of audit emphasis." Lundie communicated to Just Energy's audit committee (the "Audit Committee") that areas of audit emphasis included "those processes, accounts, contracts or transactions where we believe there is the greatest risk of material misstatement to the consolidated financial statements."

ii. Lundie Failed to Adequately Evaluate the Receivables Allowance and to Obtain Sufficient Appropriate Evidence to Support It

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

Board's auditing and related professional practice standards.[4] An auditor may express an unqualified opinion on an issuer's financial statements when the auditor conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects.[5]

18. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit.[6] Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report, including obtaining reasonable assurance about whether the financial statements are free of material misstatement.[7] The higher the risk of material misstatement, the more evidence the auditor should obtain, and the more persuasive that evidence should be.[8]

19. In order to be appropriate, "audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based."[9] Moreover, "[w]hen using information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to . . . [t]est the accuracy and completeness of the information, or test

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4 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards.* All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the 2019 Audit.

5 *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

6 AS 1015.01, *Due Professional Care in the Performance of Work*.

7 AS 1001.02, *Responsibilities and Functions of the Independent Auditor*; AS 1105.04, *Audit Evidence*; AS 2401.01, *Consideration of Fraud in a Financial Statement Audit*; AS 2810.33, *Evaluating Audit Results*.

8 AS 1105.05; *see also* AS 2301.09, *The Auditor's Responses to the Risks of Material Misstatement* ("In designing the audit procedures to be performed, the auditor should: a. Obtain more persuasive audit evidence the higher the auditor's assessment of risk . . . ."); *id.* at .37 ("As the assessed risk of material misstatement increases, the evidence from substantive procedures that the auditor should obtain also increases.").

9 AS 1105.06.

the controls over the accuracy and completeness of that information; and . . . [e]valuate whether the information is sufficiently precise and detailed for purposes of the audit."[10]

20. With respect to any significant accounting estimate, the auditor's objective is "to obtain sufficient appropriate evidential matter to provide reasonable assurance" that the estimate is "reasonable in the circumstances," "presented in conformity with applicable accounting principles," and "properly disclosed."[11] In addition, when planning and performing procedures to evaluate accounting estimates, the auditor is required to consider, with an attitude of professional skepticism, both the subjective and objective factors on which the company's estimates are based.[12]

21. Audit evidence "consists of both information that supports and corroborates management's assertions regarding the financial statements" and "information that contradicts such assertions."[13] While an auditor may use inquiry to obtain information, "[i]nquiry alone does not provide sufficient appropriate evidence to support a conclusion about a relevant assertion."[14] Management representations "are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[15] The auditor "should obtain corroboration for management's explanations regarding significant unusual or unexpected transactions, events, amounts, or relationships."[16]

22. If audit evidence obtained from one source is inconsistent with audit evidence obtained from another source, "the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit."[17] Moreover, if a representation made by management is contradicted by other audit evidence,

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10 *Id.* at .10.

11 AS 2501.07, *Auditing Accounting Estimates*.

12 *Id.* at .04

13 AS 1105.02.

14 AS 2301.39; *see also* AS 1105.17, Note ("Inquiry of company personnel, by itself, does not provide sufficient audit evidence to reduce audit risk to an appropriately low level for a relevant assertion . . . .").

15 AS 2805.02, *Management Representations*.

16 AS 2810.08.

17 AS 1105.29.

the auditor "should investigate the circumstances," "consider the reliability of the representation made," and "consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified."[18] In addition, if management's responses to the auditor's inquiries appear to be "inconsistent with other audit evidence, imprecise, or not at a sufficient level of detail to be useful," the auditor "should perform procedures to address the matter."[19]

23. When evaluating audit results, the auditor is required to "conclude on whether sufficient appropriate audit evidence has been obtained to support his or her opinion on the financial statements."[20]

24. In evaluating Just Energy's receivables allowance during the 2019 Audit, Lundie's objective was to obtain sufficient appropriate evidential matter to provide reasonable assurance that, among other things, Just Energy's receivables allowance was (A) reasonable in the circumstances and (B) presented in conformity with applicable accounting principles.[21]

25. In evaluating the reasonableness of the receivables allowance, Lundie was required to use one or a combination of the following approaches:

a. Review and test the process used by management to develop the estimate.
b. Develop an independent expectation of the estimate to corroborate the reasonableness of management's estimate.
c. Review subsequent events or transactions occurring prior to the date of the auditor's report.[22]

26. Lundie relied on the first two approaches: testing management's process and developing an independent expectation. Lundie failed, however, to obtain sufficient evidence to support the receivables allowance under either of these approaches.

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18 AS 2805.04.

19 AS 2810.08.

20 *Id.* at .33; *see also id.* at .02 (in forming an opinion on the financial statements, the auditor's objective is "to evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report").

21 *See* AS 2501.07

22 *Id.* at .10.

27. Importantly, prior to the conclusion of the audit, as the engagement team performed procedures during the 2019 Audit to evaluate the reasonableness of the receivables allowance, Lundie had concerns about the accuracy and precision of the ECL Rate that Just Energy used in calculating the receivables allowance. Lundie also knew that management at Just Energy had "struggled to give" the engagement team "reliable loss data" during the audit.

28. In addition, Lundie was aware during the 2019 Audit that Just Energy's write-off practices needed improvement. He knew at the time that the company's write-offs were "lumpy," meaning they were not done on a regular basis with a systematic approach.

29. Just Energy was also unable to provide adequate support for its ECL Rate until a few days before issuance of the audit report. Indeed, just five days before authorizing EY Canada's issuance of an unqualified opinion on Just Energy's 2019 financial statements, Lundie informed the Audit Committee that the engagement team was still "[o]btaining certain audit support on critical areas of the audit including support for the rates used in Estimating Credit Losses."

30. Two days later, Lundie reported to the Audit Committee that, although "a significant deficiency was identified over the allowance for credit loss in accordance with the implementation of IFRS 9 Financial Instruments," he and the engagement team had "performed audit procedures over the accuracy and completeness of the data utilized in the [ECL Rate] calculation." Lundie and the engagement team, however, failed to perform adequate procedures over that data.

a. Failure to Adequately Test the Process Used by Management to Develop the ECL Estimate

31. Lundie's concerns about the company's ability to timely provide reliable data should have caused him to increase the rigor of his procedures to test management's process for developing the ECL Rate. But he failed to do so, and the procedures he performed were not adequate.

32. With respect to the ECL Rate for Just Energy NA, Lundie failed to sufficiently test management's assertion that Just Energy's more current collections experience was consistent with the write-off rates from the older historical periods used in its ECL Rate calculation. For example, for purposes of testing the allowance as of March 31, 2019, for JE Texas, Lundie and the engagement team obtained an ECL Rate calculation from management that showed that management calculated a historical write-off rate by using write-off data related to revenue recognized for the 18-month period April 2017 through September 2018.

33. As part of their testing, Lundie and the engagement team recalculated management's ECL Rate for JE Texas. Specifically, in recalculating the percentage of write-offs versus the revenue recognized by JE Texas each month from April 2017 through September 2018, Lundie and the engagement team weighted the write-off rates from the more recent 12-month period, showing they recognized the importance of using more recent data. Despite acknowledging the importance of recent write-off data versus older data, Lundie failed to adequately evaluate potential write-offs and aging information from the last six months of fiscal 2019 for JE Texas.

34. For Fulcrum, Lundie understood that Just Energy could not provide support for the write-offs after February 2017 used in the ECL Rate calculation. Lundie, therefore, relied instead on write-off data from the period from April 2015 through January 2017 to assess the reasonableness of Fulcrum's ECL Rate calculation. In other words, Lundie assessed the reasonableness of Just Energy's current ECL Rate calculation for Fulcrum by relying on write-off data that was more than two years old.

35. Moreover, Lundie and the engagement team failed to adequately test the completeness and accuracy of the write-off data that Just Energy did use for the ECL Rate for Just Energy NA. For example, with respect to JE Texas, Lundie and the engagement team failed to perform adequate procedures to test the completeness and accuracy of the write-off data for 17 of the 18 months in the period from April 2017 to September 2018. For the eighteenth month—September 2018—the engagement team received a report purporting to show the receivables required to be written off for that month, and performed some testing over that report, but failed to perform adequate procedures to test the completeness of the write-off amounts listed in the report.

36. With respect to Fulcrum, the engagement team obtained a summary report of write-offs from management and agreed the write-off amounts in the report to the amounts used for each month in the calculation. The engagement team performed insufficient procedures to test the completeness and accuracy of write-off or revenue amounts used in Just Energy's calculation of the ECL Rate for Fulcrum.

b. Failure to Adequately Develop an Independent Expectation of the ECL Estimate

37. With respect to Just Energy UK, the company calculated its receivables allowance in the same manner as it did for JE Texas and Fulcrum—by calculating an ECL Rate based on historical data and applying it to current period revenue. Lundie and the engagement team chose to evaluate Just Energy UK's ECL Rate by looking at loss rate information from a Just Energy competitor, British Gas. Specifically, Lundie and the engagement team compared British

Gas's loss rates to the write-off rates the company used in the ECL Rate calculation for Just Energy UK and, after that comparison, proposed a CAD $6.4 million increase in the receivables allowance.

38. Lundie and the engagement team, however, failed to adequately evaluate or obtain sufficient appropriate audit evidence to support their key assumption that the historical loss rates of British Gas were a reasonable proxy for Just Energy UK's potential future loss rates.

39. Lundie did not adequately test Just Energy UK's write-off data to determine whether British Gas's loss rate approximated Just Energy UK's historical or current loss rates or whether the use of British Gas's loss rate was more conservative than using Just Energy UK's ECL Rate. Lundie and the engagement team also failed to test or adequately evaluate the reliability of British Gas's loss rate information, which Just Energy management had provided.

iii. Indications that the Receivables Allowance May Have Been Materially Understated

40. Lundie's failure to adequately evaluate Just Energy's receivables allowance occurred despite his encountering certain indications warranting further scrutiny as to whether the receivables allowance may have been materially understated.

41. *First*, during the 2019 Audit, Just Energy's management provided the engagement team with a schedule reflecting the aging of customer receivables as of March 31, 2019. That schedule constituted management's support for a footnote to the financial statements that disclosed the aging of accounts receivable. The schedule showed that the balance for customer receivables that were past due more than 120 days (known as the "120+ days bucket") totaled CAD $85.1 million. In other words, Just Energy's customer receivables that were more than 120 days old, and therefore potentially at high risk of default, exceeded Just Energy's CAD $71.2 million receivables allowance by almost CAD $14 million—even before consideration of expected write-offs of overdue receivables not yet in the 120+ days bucket. Yet Lundie failed to adequately evaluate this potential understatement of Just Energy's receivables allowance.

42. *Second*, Lundie knew that the accuracy of the ECL Rate that Just Energy used to calculate its allowance was dependent on the completeness of the company's underlying write-off data, that is, whether the data included all amounts that Just Energy should have been writing off. Although Just Energy's policies did not require the write-off of all receivables aging past 120 days, the CAD $85 million in customer receivables in the 120+ days bucket as of March 31, 2019 may have indicated a risk that Just Energy may not have been consistently applying its policy of writing off most customer receivables that went unpaid for more than 120

days. Yet Lundie did not adequately respond to that risk and perform sufficient procedures to assess the completeness of the write-off data Just Energy used in its ECL calculation.

43. Finally, Lundie was aware of certain control deficiencies that called into question Just Energy's assertion that the data used in the ECL Rate calculation included all write-offs that *should* have been recorded. Indeed, one of the control deficiencies described "no timely write-off of uncollectable customer [receivables] currently in the North American Residential and the UK Markets."[23]

44. These factors should have caused Lundie to heighten his care and skepticism in planning and performing audit procedures concerning the receivables allowance. Lundie did not, however, respond appropriately to the risks he encountered, failed to adequately evaluate Just Energy's receivables allowance, and failed to obtain sufficient appropriate evidence to support his audit opinion.

* * *

45. As a result of the deficiencies described above in subsections III.D.ii and .iii, Lundie failed during the 2019 Audit to obtain sufficient appropriate audit evidence to support Just Energy's receivables allowance and, in turn, its reported net customer receivables. Lundie therefore violated AS 1015, AS 1105, AS 2501, AS 2805, AS 2810, and AS 3101.

iv. Lundie Failed to Adequately Test and Evaluate Deficiencies in Just Energy's Controls Over the Receivables Allowance

46. PCAOB standards require the auditor to test the design effectiveness of a company's ICFR by determining whether the company's controls satisfy the control objectives and can effectively prevent or detect errors or fraud that could result in material misstatements in the financial statements.[24] PCAOB standards also require the auditor to test the operating effectiveness of a control by determining whether the control is operating as designed and whether the person performing the control possesses the necessary authority and competence to perform the control effectively.[25]

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[23] See Section III.D.iv below for a description of the control deficiencies and Lundie's failures in evaluating those deficiencies and performing related audit procedures.

[24] AS 2201.42, *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements*.

[25] *Id.* at .44.

47. When control deficiencies come to an auditor's attention, the auditor must evaluate their severity to determine whether the deficiencies, individually or in combination with other deficiencies, are material weaknesses.[26] In doing so, the auditor should, among other things, "evaluate the effect of compensating controls."[27]

48. Lundie failed to sufficiently evaluate identified control deficiencies concerning Just Energy's receivables allowance estimation and write-off processes.

49. With respect to controls over Just Energy's receivables allowance estimation process, Lundie concluded during the 2019 Audit that those controls were designed and operating effectively as of March 31, 2019—with one exception. That exception was a control over the completeness, accuracy, and "reasonability" of the historical loss rates for customer receivables in the North American market ("ECL Rate Control"). Lundie identified a deficiency in the ECL Rate Control because the data used in the ECL Rate calculation for the North American market "had not been effectively reviewed for completeness and accuracy."

50. Lundie ultimately concluded that the deficiency in the ECL Rate Control was a significant deficiency and not a material weakness. Lundie lacked an adequate basis, however, for that determination. Though Lundie and the engagement team documented two assertions in connection with that determination—that the potential for a misstatement was remote because of a "redesigned" process, and that the magnitude of a potential misstatement resulting from failure of the control was less than material—neither of those propositions provided adequate support for Lundie's conclusion. With respect to the first proposition, Lundie and the engagement team failed to document their understanding of this "redesigned" process and failed to identify and test any controls over the process that purportedly reduced the risk of misstatement. With respect to the second, gross accounts receivable represented approximately 31% of Just Energy's total assets as of March 31, 2019, meaning that Lundie could not properly conclude that a misstatement that might result from a deficiency to which that amount was exposed was less than material.[28]

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[26] *Id.* at .62.

[27] *Id.* at .68.

[28] *See id. at* .66 ("Factors that affect the magnitude of the misstatement that might result from a deficiency or deficiencies in controls include, but are not limited to, . . . [t]he financial statement amounts or total of transactions exposed to the deficiency . . . ."); *id.* at .67 ("In evaluating the magnitude of the potential misstatement, the maximum amount that an account balance or total of transactions can be overstated is generally the recorded amount, while understatements could be larger.").

51. With respect to Just Energy's controls over write-offs of receivables, Lundie identified a deficiency in a control over the calculation and review of write-offs in accordance with Just Energy policy. The deficiency identified was that "[t]here is no timely write-off of uncollectable customer [accounts receivable] currently in the North American Residential and the UK Market." Lundie determined that the deficiency had been remediated as of March 31, 2019, ostensibly based on the fact that management had "perform[ed] a year-end review of the write-offs in each market." Lundie and the engagement team, however, did not perform any testing of this purportedly remediated control. Accordingly, they failed to obtain sufficient evidence that there was an effective control ensuring that write-offs were being recorded timely in accordance with Just Energy policy as of fiscal year-end.

52. Furthermore, though Lundie concluded that the rest of the controls concerning the receivables allowance estimation process were designed and operating effectively, Lundie's testing with respect to one of those controls was deficient. Specifically, though Just Energy maintained a control over the historical loss rates for Just Energy UK, Lundie failed to test the completeness and accuracy of the write-off data used in the operation of that control or, alternatively, to test any control over the completeness and accuracy of such data.

53. As a result, Lundie violated AS 1015, AS 1105, and AS 2201.

v. Lundie Failed to Communicate to the Audit Committee Certain Matters Related to the Receivables Allowance

54. PCAOB standards require that the auditor make certain communications with the audit committee of an issuer. Lundie was required during the 2019 Audit to communicate to the Audit Committee, among other matters, "[m]anagement's significant assumptions used in critical accounting estimates that have a high degree of subjectivity."[29] Lundie was also required during the 2019 Audit to communicate to the Audit Committee the "basis for the auditor's conclusions regarding the reasonableness of the critical accounting estimates."[30]

55. As noted above, Just Energy identified the receivables allowance as a critical accounting estimate and a significant accounting estimate. Moreover, Lundie and the engagement team identified the receivables allowance as a significant account, a significant accounting and auditing issue, and an area of audit emphasis.

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29 AS 1301.12.c(2), *Communications with Audit Committees*.

30 *Id.* at .13.c.

56. Accordingly, Lundie was required to communicate to the Audit Committee the significant management assumptions used in the receivables allowance estimate. Lundie was also required to communicate to the Audit Committee the basis for his conclusions regarding the reasonableness of the receivables allowance. Lundie failed to make either of those required communications during the 2019 Audit. While Lundie communicated to the Audit Committee certain aspects of management's process to develop the receivables allowance—including, for example, that management assessed the ECL Rate by region and consumer segment—that description did not satisfy these specific requirements. Significantly, Lundie's failure to make those communications meant that he failed to inform the Audit Committee that Just Energy was using an income statement approach to calculate the receivables allowance and assuming, without verifying, that current collection and write-off rates were consistent with those of earlier periods.

57. As a result, Lundie violated AS 1015 and AS 1301.

* * *

58. On August 19, 2019, Just Energy filed restated financial statements for the year ended March 31, 2019. The restated financial statements reflected an increase in the receivables allowance of CAD $111.2 million. Management had identified an understatement of the receivables allowance due to operational issues in customer enrollment and non-payment in the Texas residential market (resulting in additional required reserves of CAD $53.7 million) and operational and collection issues in the United Kingdom (requiring additional reserves of CAD $57.5 million).

IV.

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

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Martin Lundie is barred from being an associated person of a registered public

accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[31]

C. Pursuant to PCAOB Rule 5302(b), Martin Lundie may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $65,000 is imposed on Martin Lundie.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Martin Lundie as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

[31] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Lundie. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 22, 2022

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Grant Thornton LLP,

Respondent.

PCAOB Release No. 105-2022-041

December 22, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Grant Thornton LLP ("Grant Thornton" or "Respondent");

(2) imposing a $40,000 civil money penalty on Grant Thornton; and

(3) requiring Grant Thornton to comply with its policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that Grant Thornton failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, on a timely basis.

I.

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

II.

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

behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Grant Thornton** is a limited liability partnership organized under the laws of Illinois and headquartered in Chicago, Illinois. Grant Thornton has offices in multiple locations and is licensed under the laws of the state of Illinois (License No. 066-003295), among other states where it has offices, to engage in the practice of public accounting. Grant Thornton is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns Grant Thornton's failure to timely disclose to the Board on Form 3 three reportable events regarding two disciplinary proceedings brought against the firm by the Utah Division of Occupational and Professional Licensing of the Department of Commerce ("Utah DOPL") and the Pennsylvania Board of Accountancy ("Pennsylvania Board"). This matter also involves Grant Thornton's failure to timely disclose to the Board on Form 3 changes in its licensing status in a number of jurisdictions.

3. PCAOB rules require registered firms, including Grant Thornton, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that Grant Thornton is required to report on Form 3 are its becoming aware that the firm has become a respondent in certain disciplinary proceedings, and the conclusion of such proceedings. Grant Thornton must also report on Form 3 when it obtains a license authorizing it to engage in the business of auditing or accounting which it has not previously disclosed to the Board.

4. In December 2016, the Utah DOPL simultaneously initiated and concluded disciplinary proceedings against Grant Thornton ("Utah Proceeding"). The Utah Proceeding

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

concerned conduct that resulted in sanctions imposed on the firm by the U.S. Securities and Exchange Commission in a 2015 order.[2] The initiation and conclusion of the Utah Proceeding each constituted a reportable event under Form 3, but Grant Thornton failed to file a Form 3 reporting those events until May 8, 2020.

5. Additionally, in January 2020, the Pennsylvania Board initiated disciplinary proceedings against Grant Thornton ("Pennsylvania Proceeding"). The Pennsylvania Proceeding concerned conduct that resulted in sanctions imposed on the firm by a 2017 PCAOB order.[3] The initiation of the Pennsylvania Proceeding constituted a reportable event under Form 3, but Grant Thornton failed to file a Form 3 reporting it until May 8, 2020.

6. In its May 8, 2020 Form 3, Grant Thornton also belatedly disclosed that it had obtained twelve new, replacement, or additional licenses in eleven jurisdictions. Those changes in Grant Thornton's licensing status constituted reportable events under Form 3, but Grant Thornton failed to disclose them to the Board on a timely basis.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

7. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[4] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[5] Another event requiring reporting on Form 3 occurs when a firm has become aware that a reportable proceeding (*i.e.*, a reportable

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[2] *Grant Thornton LLP*, Exch. Act Rel. No. 76536 (Dec. 2, 2015).

[3] *Grant Thornton LLP*, PCAOB Rel. No. 105-2017-054 (Dec. 19, 2017).

[4] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[5] PCAOB Form 3, at Item 2.7 (italics in the original removed).

event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[6]

8. A registered firm must also file a report on Form 3 when it "has obtained a license or certification authorizing the Firm to engage in the business of auditing or accounting and which has not been identified on any Form 1 or Form 3 previously filed by the Firm, or there has been a change in a license or certification number identified on a Form 1 or Form 3 previously filed by the Firm."[7]

9. The Utah Proceeding was initiated and concluded in December 2016, and concerned professional services Grant Thornton provided for two clients that were issuers at the time of the relevant conduct.[8] The Utah DOPL identified Grant Thornton as a respondent in the Utah Proceeding, which ultimately resulted in the Utah DOPL reprimanding Grant Thornton. In violation of PCAOB Rule 2203, Grant Thornton failed to timely file a Form 3 with the Board reporting the initiation and conclusion of the Utah Proceeding.

10. The Pennsylvania Proceeding was initiated in January 2020, and concerned professional services Grant Thornton provided for an issuer client. The Pennsylvania Board identified Grant Thornton as a respondent in the Pennsylvania Proceeding. In violation of PCAOB Rule 2203, Grant Thornton failed to timely file a Form 3 with the Board reporting the initiation of that proceeding.[9]

11. Additionally, Grant Thornton violated PCAOB Rule 2203 by failing to timely report to the Board on Form 3 twelve total changes to its licensing status in eleven states.

12. Grant Thornton's internal compliance and reporting systems failed to timely identify as being reportable to the PCAOB on Form 3: (i) the initiation and conclusion of the Utah Proceeding, (ii) the initiation of the Pennsylvania Proceeding, and (iii) the changes in the

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[6] *Id.*, at Item 2.10.

[7] *Id.*, at Item 2.16.

[8] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

[9] GT US timely reported the conclusion of the Pennsylvania Proceeding in a Form 3 filed on May 27, 2020.

firm's licensing status. As a result, Grant Thornton failed to timely notify the PCAOB of reportable events associated with disciplinary proceedings and licensing changes.

IV.

13. Grant Thornton has represented to the Board that, since the events described in this Order, it has established and implemented the following changes to its policies and procedures for the purpose of providing Grant Thornton with reasonable assurance of compliance with PCAOB reporting requirements:

a. Grant Thornton has revised and supplemented its policies and procedures for the purpose of providing it with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Grant Thornton personnel who participate in the firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. Grant Thornton has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any personnel who participate in Grant Thornton's PCAOB reporting process; and

c. Grant Thornton has assigned the role of compliance with PCAOB reporting matters to an individual within the firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within the firm to fulfill those requirements on behalf of Grant Thornton.

V.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $40,000 is imposed upon Grant Thornton.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Grant Thornton shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K. Street, N.W., Washington D.C. 20006.

3. Respondent shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional(s) or any payment made pursuant to any insurance policy, with regard to any amounts that Respondent shall pay pursuant to this Order.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Grant Thornton is required to comply with its current PCAOB reporting policies and procedures, including:

1. those intended to provide reasonable assurance that reportable events are identified by Grant Thornton personnel who participate in Grant Thornton's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. those ensuring training concerning PCAOB reporting requirements, at least annually, of any Grant Thornton personnel who participate in Grant Thornton's PCAOB reporting process; and

3. those requiring assignment of the role of compliance with PCAOB reporting matters to an individual within Grant Thornton who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within Grant Thornton to fulfill those requirements on behalf of Grant Thornton.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 22, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG Samjong Accounting Corp.,

Respondent.

PCAOB Release No. 105-2022-042

December 22, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG Samjong Accounting Corp. ("KPMG Samjong" or "Respondent");

(2) imposing a $30,000 civil money penalty on KPMG Samjong; and

(3) requiring KPMG Samjong to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that KPMG Samjong failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, or to do so on a timely basis.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG Samjong** is a limited liability corporation organized under the laws of the Republic of Korea and headquartered in Seoul, Republic of Korea. The firm is licensed to practice public accounting by the Korean Financial Services Commission, and is a member of the KPMG International Limited network of firms. KPMG Samjong is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns KPMG Samjong's failure to disclose to the Board on Form 3, or to do so on a timely basis, four reportable events concerning disciplinary proceedings brought against the firm and certain firm personnel by the Korean Securities and Futures Commission ("SFC") and the Korean Institute of Certified Public Accountants ("KICPA"). PCAOB rules require registered firms, including KPMG Samjong, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that KPMG Samjong is required to report on Form 3 are its becoming aware that the firm and/or certain of its personnel have become respondents in certain disciplinary proceedings, and the conclusion of such proceedings.

3. On August 8, 2018, KPMG Samjong filed a Form 3 reporting the conclusion of an SFC proceeding ("2018 SFC Proceeding") and disclosing various sanctions imposed upon the firm. However, KPMG Samjong failed to timely report that the SFC also sanctioned an associated person of the firm whose involvement in the proceeding constituted a reportable event under Form 3 due to the nature and extent of his work for the firm.

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

4. In 2019, KPMG Samjong became a respondent in a disciplinary proceeding initiated by the KICPA ("KICPA Proceeding"). The KICPA Proceeding concluded in April 2020. The initiation and conclusion of the KICPA Proceeding were reportable events under Form 3, but KPMG Samjong failed to file Forms 3 reporting either event.

5. Additionally, in October 2021, KPMG Samjong received an Advance Notice from the Korean Financial Supervisory Service ("FSS"), which triggered the initiation of a disciplinary proceeding by the SFC ("2021 SFC Proceeding"). The initiation of the 2021 SFC Proceeding was a reportable event under Form 3, but KPMG Samjong failed to file a Form 3 reporting the initiation of that proceeding.

C. Respondent Failed to Disclose Certain Reportable Events to the Board, or to do so on a Timely Basis, in Violation of PCAOB Rules

6. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3] To constitute a reportable event, the proceeding in question only has to relate to professional services the firm provided for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

7. Registered firms must also report when they become aware that "in a matter arising out of his or her conduct in the course of providing professional services for a client, a partner, shareholder, principal, owner, member, or audit manager of the Firm who provided at least ten hours of audit services for any issuer, broker, or dealer during the Firm's current fiscal year or its most recently completed fiscal year has become a defendant or respondent in a civil

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[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed).

or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[4]

8. Another reportable event occurs when a firm has become aware that a reportable proceeding (*i.e.*, a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[5]

9. The 2018 SFC Proceeding concluded on July 25, 2018, with the SFC imposing sanctions on KPMG Samjong and an associated person of the firm. KPMG Samjong filed a Form 3 on August 8, 2018, reporting the conclusion of the proceeding with respect to the firm and listing the sanctions imposed upon it. However, KPMG Samjong failed to report in that Form 3 the conclusion of the 2018 SFC Proceeding with respect to the associated person, who had performed at least ten hours of audit service for an issuer, broker, or dealer during the firm's current or most recently completed fiscal years. On August 5, 2022, after it had received notice of possible Form 3 filing deficiencies from the Division of Enforcement and Investigations, KPMG Samjong filed an amended Form 3 belatedly reporting the conclusion of the 2018 SFC Proceeding with respect to the individual. By failing to report that information on a timely basis, KPMG Samjong violated PCAOB Rule 2203.

10. In 2019, KPMG Samjong became aware that it had become a respondent in the KICPA Proceeding. The KICPA Proceeding concluded in April 2020. In violation of PCAOB Rule 2203, KPMG Samjong failed to file a Form 3 with the Board reporting either the initiation or conclusion of the KICPA Proceeding.

11. Additionally, the 2021 SFC Proceeding was initiated when the FSS sent KPMG Samjong an Advance Notice in October 2021. The 2021 SFC Proceeding concerned professional services KPMG Samjong provided for a firm client and resulted in sanctions being issued against KPMG Samjong. The initiation of the 2021 SFC Proceeding constituted a reportable event under Form 3, but KPMG Samjong failed to file a Form 3 reporting it to the Board in violation of PCAOB Rule 2203.[6]

12. KPMG Samjong's internal compliance and reporting systems failed to identify as reportable events: (i) the initiation and conclusion of the KICPA Proceeding; (ii) the conclusion of the 2018 SFC Proceeding with respect to the individual respondent; and (iii) the initiation of

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[4] *Id.*, at Item 2.8 (italics in the original removed).

[5] *Id.*, at Item 2.10.

[6] KPMG Samjong timely reported the conclusion of the 2021 SFC Proceeding in a Form 3 filed with the Board on April 15, 2022.

the 2021 SFC Proceeding. As a result, KPMG Samjong inappropriately failed to notify the PCAOB of the initiation and conclusion of relevant disciplinary proceedings, or to do so on a timely basis.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed upon KPMG Samjong.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. KPMG Samjong shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K. Street, N.W., Washington D.C. 20006.

3. Respondent shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional(s) or any

payment made pursuant to any insurance policy, with regard to any amounts that Respondent shall pay pursuant to this Order.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), KPMG Samjong is required:

1. within 90 days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing KPMG Samjong with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by KPMG Samjong personnel who participate in KPMG Samjong's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within 90 days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any KPMG Samjong personnel who participate in KPMG Samjong's PCAOB reporting process;

3. within 90 days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within KPMG Samjong who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within KPMG Samjong to fulfill those requirements on behalf of KPMG Samjong; and

4. within 120 days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, KPMG Samjong's compliance with paragraphs C.1 through C.3 above. The certification shall identify the actions taken to satisfy the conditions specified above, provide written evidence of compliance in the form of a

narrative, and be supported by exhibits sufficient to demonstrate compliance. KPMG Samjong shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***KPMG Samjong understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 22, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of BDO RCS Auditores Independentes,

Respondent.

PCAOB Release No. 105-2022-043

December 22, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring BDO RCS Auditores Independentes ("BDO RCS" or "Respondent");

(2) imposing a $30,000 civil money penalty on BDO RCS; and

(3) requiring BDO RCS to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that BDO RCS failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*.

I.

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

II.

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

behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **BDO RCS** is a partnership organized under the laws of Brazil and headquartered in São Paulo, Brazil. BDO RCS is licensed to practice public accounting in Brazil, and is a member of the BDO International network of firms. BDO RCS is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns BDO RCS's failure to disclose to the Board on Form 3 seven reportable events regarding five disciplinary proceedings brought against BDO RCS and certain of its personnel by the Securities and Exchange Commission of Brazil (the Comissão de Valores Mobiliários ("CVM")). PCAOB rules require registered firms, including BDO RCS, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that BDO RCS is required to report on Form 3 are its becoming aware that the firm and/or certain of its personnel have become respondents in certain disciplinary proceedings, and the conclusion of such proceedings.

3. Between July 2018 and December 2021, BDO RCS and various associated persons of the firm became respondents in five separate disciplinary proceedings initiated by the CVM. The initiation of each of these proceedings constituted a reportable event under Form 3. However, BDO RCS failed to file Forms 3 reporting the initiation of any of the proceedings.

4. Additionally, BDO RCS learned—in November 2021 and May 2022—that two of the proceedings initiated against it by the CVM had been concluded. The conclusion of those proceedings also constituted reportable events under Form 3. However, BDO RCS failed to file Forms 3 reporting the conclusion of those proceedings.

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

C. Respondent Failed to Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3] To constitute a reportable event, the proceeding in question only has to relate to professional services the firm provided for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

6. Another event requiring reporting on Form 3 occurs when a firm has become aware that a reportable proceeding (*i.e.*, a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[4]

7. Between 2018 and 2021, the CVM initiated disciplinary proceedings against BDO RCS and certain of its associated persons. Each of the proceedings named BDO RCS as a respondent and related to BDO RCS's provision of professional services to companies that were not issuers.[5] The proceedings were initiated on the following dates:

- Proceeding 1: July 6, 2018
- Proceeding 2: October 19, 2018

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[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed).

[4] *Id.*, at Item 2.10.

[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

- Proceeding 3: June 6, 2021
- Proceeding 4: December 22, 2021
- Proceeding 5: December 23, 2021

8. In violation of PCAOB Rule 2203, BDO RCS failed to file Forms 3 reporting the initiation of any of the CVM proceedings.

9. Additionally, the CVM issued judgments pertaining to Proceedings 3 and 5 that were dated November 22, 2021 and May 7, 2022, respectively. In violation of PCAOB Rule 2203, BDO RCS failed to file Forms 3 reporting the conclusion of those proceedings.

10. BDO RCS's internal compliance and reporting systems failed to identify the initiation of the CVM proceedings, and the conclusion of Proceedings 3 and 5, as being reportable to the PCAOB on Form 3. As a result, BDO RCS inappropriately failed to notify the PCAOB of the initiation and conclusion of relevant disciplinary proceedings.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed upon BDO RCS.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. BDO RCS shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board,

1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K. Street, N.W., Washington D.C. 20006.

3. Respondent shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional(s) or any payment made pursuant to any insurance policy, with regard to any amounts that Respondent shall pay pursuant to this Order.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), BDO RCS is required:

1. within 90 days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing BDO RCS with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by BDO RCS personnel who participate in BDO RCS's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within 90 days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any BDO RCS personnel who participate in BDO RCS's PCAOB reporting process;

3. within 90 days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within BDO

RCS who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within BDO RCS to fulfill those requirements on behalf of BDO RCS; and

4. within 120 days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, BDO RCS's compliance with paragraphs C.1 through C.3 above. The certification shall identify the actions taken to satisfy the conditions specified above, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. BDO RCS shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***BDO RCS understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 22, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of MaloneBailey, LLP,

Respondent.

PCAOB Release No. 105-2022-044

December 22, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring MaloneBailey, LLP ("MaloneBailey" or "Respondent");

(2) imposing a $25,000 civil money penalty on MaloneBailey; and

(3) requiring MaloneBailey to comply with its policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that MaloneBailey failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, on a timely basis.

I.

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

II.

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

behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **MaloneBailey** is a limited liability partnership organized under the laws of Texas and headquartered in Houston, Texas. MaloneBailey is licensed to practice public accounting by the Texas State Board of Accountancy (License No. P05522), among other states, and is a member of the Nexia International network of firms. MaloneBailey is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns MaloneBailey's repeated failures since 2018 to timely disclose to the Board on Form 3 that multiple former clients had not filed required Forms 8-K with the U.S. Securities and Exchange Commission ("Commission") following the termination of MaloneBailey's relationship with those clients. This matter also involves MaloneBailey's failure to timely disclose to the Board on Form 3 a number of changes to its licensing status since 2020. By failing to make these disclosures as required, MaloneBailey violated PCAOB rules.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

3. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has resigned, declined to stand for re-appointment, or been dismissed from an audit engagement as principal auditor . . .

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

[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

and the issuer has failed to comply with a Commission requirement to make a report concerning the matter pursuant to Item 4.01 of Commission Form 8-K."[3]

4. Another such specified event occurs when a firm "has obtained a license or certification authorizing the Firm to engage in the business of auditing or accounting and which has not been identified on any Form 1 or Form 3 previously filed by the Firm, or there has been a change in a license or certification number identified on a Form 1 or Form 3 previously filed by the Firm."[4]

5. Beginning in the latter part of 2017, MaloneBailey began a "resignation project" designed to identify issuer clients of the firm that had not met the Commission's filing requirements over several reporting periods, and to formally terminate MaloneBailey's relationship with those clients. MaloneBailey identified a number of such clients and sent them resignation letters. However, some of MaloneBailey's former clients did not file required Forms 8-K with the Commission reporting the termination of the issuers' auditor-client relationship with MaloneBailey.[5] In violation of PCAOB Rule 2203, MaloneBailey failed to timely report to the Board that multiple former clients had not filed required Forms 8-K disclosing MaloneBailey's resignation. MaloneBailey did not make the necessary Form 3 filing with the Board until August 14, 2022, after it had received notice of possible deficiencies from the Division of Enforcement and Investigations.

6. Additionally, between January 2020 and May 2022, MaloneBailey obtained new licenses to practice public accounting in a number of states. In violation of PCAOB Rule 2203,

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[3] PCAOB Form 3, at Item 2.1-C (italics in the original removed).

[4] *Id.*, at Item 2.16.

[5] Item 4.01 of Form 8-K requires issuers to disclose certain information if "an independent accountant who was previously engaged as the principal accountant to audit the registrant's financial statements, or an independent accountant upon whom the principal accountant expressed reliance in its report regarding a significant subsidiary, resigns (or indicates that it declines to stand for re-appointment after completion of the current audit) or is dismissed." In such situations, issuers are required to disclose, among other things, (i) whether the former accountant resigned, declined to stand for re-election, or was dismissed; (ii) whether the principal accountant's report on the issuer's financial statements for either of the prior two years contained an adverse opinion or disclaimer of opinion, or was qualified or modified as to uncertainty, audit scope, or accounting principles; and (iii) whether the decision to change accountants was recommended or approved by an audit (or similar) committee or the issuer's board of directors. *See* 17 C.F.R. § 229.304.

MaloneBailey failed to timely report 8 of those changes in its licensing status to the Board on Form 3.[6]

7. MaloneBailey's internal compliance and reporting systems failed to identify its former clients' not filing required Forms 8-K and the changes to the firm's licensing status as being reportable to the PCAOB on Form 3. As a result, MaloneBailey inappropriately failed to notify the PCAOB of those events on a timely basis.

IV.

8. MaloneBailey has represented to the Board that, since the events described in this order, it has established and implemented the following changes to its policies and procedures for the purpose of providing MaloneBailey with reasonable assurance of compliance with PCAOB reporting requirements:

a. MaloneBailey has revised and supplemented its policies and procedures for the purpose of providing MaloneBailey with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by MaloneBailey personnel who participate in MaloneBailey's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. MaloneBailey has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any MaloneBailey personnel who participate in MaloneBailey's PCAOB reporting process; and

c. MaloneBailey has assigned the role of compliance with PCAOB reporting matters to an individual within MaloneBailey who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within MaloneBailey to fulfill those requirements on behalf of MaloneBailey.

[6] MaloneBailey reported the new state licenses it had obtained on a Form 3 filed with the Board on June 17, 2022, well after the 30-day deadline for reporting the majority of the new licenses referenced therein.

V.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon MaloneBailey.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. MaloneBailey shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K. Street, N.W., Washington D.C. 20006.

3. Respondent shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional(s) or any payment made pursuant to any insurance policy, with regard to any amounts that Respondent shall pay pursuant to this Order.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's

registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), MaloneBailey is required to comply with its PCAOB reporting policies and procedures, including:

1. those intended to provide reasonable assurance that reportable events are identified by MaloneBailey personnel who participate in MaloneBailey's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. those ensuring training concerning PCAOB reporting requirements, at least annually, of any MaloneBailey personnel who participate in MaloneBailey's PCAOB reporting process; and

3. those requiring the assignment of the role of compliance with PCAOB reporting matters to an individual within MaloneBailey who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within MaloneBailey to fulfill those requirements on behalf of MaloneBailey.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 22, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Grant Thornton Auditores Independentes Ltda.,

Respondent.

PCAOB Release No. 105-2022-045

December 22, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Grant Thornton Auditores Independentes Ltda. ("GT Brazil" or "Respondent");

(2) imposing a $20,000 civil money penalty on GT Brazil; and

(3) requiring GT Brazil to comply with its policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that GT Brazil failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, on a timely basis.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **GT Brazil** is a limited liability partnership organized under the laws of Brazil and headquartered in São Paulo, Brazil. GT Brazil is licensed to practice public accounting in Brazil, and is a member of the Grant Thornton International network of firms. GT Brazil is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns GT Brazil's failure to timely disclose to the Board on Form 3 two reportable events regarding a disciplinary proceeding brought against GT Brazil by the Securities and Exchange Commission of Brazil (the Comissão de Valores Mobiliários ("CVM")). PCAOB rules require registered firms, including GT Brazil, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that GT Brazil is required to report on Form 3 are its becoming aware that the firm and/or certain of its personnel have become respondents in certain disciplinary proceedings, and the conclusion of such proceedings.

3. On December 15, 2017, the CVM initiated a proceeding against GT Brazil (and a former partner) related to professional services provided for a firm client ("CVM Proceeding"). The initiation of the CVM Proceeding was a reportable event under Form 3, but GT Brazil failed to file a Form 3 reporting the initiation of the CVM Proceeding until August 15, 2022, after it had received notice of possible deficiencies from the Division of Enforcement and Investigations.

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

4. Additionally, on March 11, 2019, the CVM entered a settled disciplinary order that resolved the CVM Proceeding and imposed a fine on GT Brazil. The conclusion of the CVM Proceeding against GT Brazil constituted a reportable event under Form 3. However, GT Brazil failed to report the conclusion of the CVM Proceeding until its August 15, 2022 Form 3.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3] To constitute a reportable event, the proceeding in question only has to relate to professional services the firm provided for a client, and does not necessarily have to involve an audit of an issuer, broker, or dealer, as those terms are defined under PCAOB rules.

6. Another event requiring reporting on Form 3 occurs when a firm has become aware that a reportable proceeding (*i.e.*, a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[4]

7. The CVM Proceeding was initiated on December 15, 2017, and concerned professional services GT Brazil provided for a non-issuer client.[5] The CVM identified GT Brazil as

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[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[3] PCAOB Form 3, at Item 2.7 (italics in the original removed).

[4] *Id.*, at Item 2.10.

[5] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

a respondent in the CVM Proceeding. However, in violation of PCAOB Rule 2203, GT Brazil failed to timely file a Form 3 with the Board reporting the initiation of the CVM Proceeding.

8. The CVM Proceeding concluded on March 11, 2019, when the CVM entered a settled disciplinary order that imposed a fine on GT Brazil. However, in violation of PCAOB Rule 2203, GT Brazil failed to timely file a Form 3 with the Board reporting the conclusion of the CVM Proceeding.

9. GT Brazil belatedly reported the initiation and conclusion of the CVM Proceeding in a Form 3 filed on August 15, 2022, after GT Brazil received notice of possible deficiencies from the Division of Enforcement and Investigations.

10. GT Brazil's internal compliance and reporting systems failed to identify the initiation and conclusion of the CVM Proceeding as being reportable to the PCAOB on Form 3. As a result, GT Brazil inappropriately failed to timely notify the PCAOB of the initiation and conclusion of a relevant disciplinary proceeding.

IV.

11. GT Brazil has represented to the Board that, since the events described in this order, it has established and implemented the following changes to its policies and procedures for the purpose of providing GT Brazil with reasonable assurance of compliance with PCAOB reporting requirements:

a. GT Brazil has revised and supplemented its policies and procedures for the purpose of providing GT Brazil with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by GT Brazil personnel who participate in GT Brazil's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. GT Brazil has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any GT Brazil personnel who participate in GT Brazil's PCAOB reporting process; and

c. GT Brazil has assigned the role of compliance with PCAOB reporting matters to an individual within GT Brazil who possesses adequate knowledge and experience with PCAOB reporting requirements and

sufficient authority within GT Brazil to fulfill those requirements on behalf of GT Brazil.

V.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon GT Brazil.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. GT Brazil shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K. Street, N.W., Washington D.C. 20006.

3. Respondent shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional(s) or any payment made pursuant to any insurance policy, with regard to any amounts that Respondent shall pay pursuant to this Order.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), GT Brazil is required to comply with its PCAOB reporting policies and procedures, including:

1. those intended to provide reasonable assurance that reportable events are identified by GT Brazil personnel who participate in GT Brazil's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. those ensuring training concerning PCAOB reporting requirements, at least annually, of any GT Brazil personnel who participate in GT Brazil's PCAOB reporting process; and

3. those requiring the assignment of the role of compliance with PCAOB reporting matters to an individual within GT Brazil who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within GT Brazil to fulfill those requirements on behalf of GT Brazil.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 22, 2022

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KCCW Accountancy Corporation,

Respondent.

PCAOB Release No. 105-2022-046

December 22, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KCCW Accountancy Corporation ("KCCW" or "Respondent");

(2) imposing a $20,000 civil money penalty on KCCW; and

(3) requiring KCCW to comply with its policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that KCCW failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the

findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KCCW** is a corporation organized under the laws of California and headquartered in Diamond Bar, California. KCCW is licensed to practice public accounting by the California Board of Accountancy (License No. 5813). KCCW is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns KCCW's failure to disclose to the Board on Form 3 four reportable events concerning a disciplinary proceeding brought by the U.S. Securities and Exchange Commission ("Commission") against a KCCW partner and a related disciplinary proceeding against the same partner brought by the California Board of Accountancy. PCAOB rules require KCCW to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that KCCW is required to report on Form 3 are its becoming aware that one of its partners had become a respondent in certain disciplinary proceedings, and the conclusion of such proceedings.

3. On July 1, 2019, the Commission issued an order sanctioning a KCCW partner for causing KCCW to violate auditor independence rules.[2] The initiation of the Commission's proceeding against the partner was a reportable event under Form 3, but KCCW failed to file a Form 3 reporting that the partner had become a respondent in a Commission proceeding.

4. In addition, the conclusion of the Commission's proceeding against the partner constituted a reportable event under Form 3, but KCCW also failed to file a report of the conclusion of the proceeding on Form 3.

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

[2] *Thomas Chang, CPA*, Exchange Act Rel. No. 86252 (July 1, 2019).

5. KCCW and the KCCW partner reported the Commission's order to the California Board of Accountancy. On August 31, 2020, the California Board of Accountancy issued an order sanctioning the same KCCW partner for the same conduct underlying the Commission's July 1, 2019 order, and imposed a three year probation period. The initiation and conclusion of the proceeding against the partner by the California Board of Accountancy constituted reportable events under Form 3, but KCCW failed to report either event on Form 3.

C. Respondent Failed to Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

6. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[3] One such specified event occurs when a firm "has become aware that, in a matter arising out of his or her conduct in the course of providing audit services or other accounting services to an issuer, broker, or dealer, a partner, shareholder, principal, owner, member, or audit manager of the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[4] Another such specified event occurs when a firm has become aware that a reportable proceeding (*i.e.*, a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[5]

7. No later than July 1, 2019, KCCW became aware that the Commission had initiated—and concluded—a disciplinary proceeding against the partner for causing KCCW to violate auditor independence rules. That proceeding arose out of the partner's provision of audit services to KCCW's issuer clients.[6]

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[3] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[4] PCAOB Form 3, at Item 2.8 (italics in the original removed).

[5] PCAOB Form 3, at Item 2.10.

[6] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a

8. No later than August 31, 2020, KCCW became aware that the California Board of Accountancy had initiated—and concluded—a disciplinary proceeding against the same partner based on the same underlying conduct as the Commission's proceeding.

9. In violation of PCAOB Rule 2203, KCCW failed to file a Form 3 with the Board with respect to the initiation or conclusion of either the Commission's proceeding against the partner or the California Board of Accountancy's proceeding against the partner.[7]

10. KCCW's internal compliance and reporting systems failed to identify the initiation and conclusion of the proceedings by the Commission and the California Board of Accountancy as being reportable to the PCAOB on Form 3. As a result, KCCW inappropriately failed to notify the PCAOB of the initiation and conclusion of two relevant disciplinary proceedings.

IV.

11. KCCW has represented to the Board that, since the events described in this Order, it has established and implemented the following changes to its policies and procedures for the purpose of providing KCCW with reasonable assurance of compliance with PCAOB reporting requirements:

a. KCCW has revised and supplemented its policies and procedures for the purpose of providing KCCW with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by KCCW personnel who participate in KCCW's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. KCCW has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any KCCW personnel who participate in KCCW's PCAOB reporting process; and

registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001 (i)(iii).

[7] On July 1, 2022, KCCW filed a Form 3 and on July 2, 2022, KCCW filed a Form 3/A reporting the initiation and conclusion of the Commission's proceeding and the related California Board of Accountancy proceeding against the partner.

c. KCCW has assigned the role of compliance with PCAOB reporting matters to an individual within KCCW who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within KCCW to fulfill those requirements on behalf of KCCW.

V.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon KCCW.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. KCCW shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K. Street, N.W., Washington D.C. 20006;

3. Respondent shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional(s) or any

payment made pursuant to any insurance policy, with regard to any amounts that Respondent shall pay pursuant to this Order; and

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), KCCW is required to comply with its PCAOB reporting policies and procedures, including:

1. those intended to provide reasonable assurance that reportable events are identified by KCCW personnel who participate in KCCW's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. those ensuring training concerning PCAOB reporting requirements, at least annually, of any KCCW personnel who participate in KCCW's PCAOB reporting process; and

3. those requiring the assignment of the role of compliance with PCAOB reporting matters to an individual within KCCW who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within KCCW to fulfill those requirements on behalf of KCCW.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 22, 2022

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Friedman LLP,

Respondent.

PCAOB Release No. 105-2023-001

March 27, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Friedman LLP ("Friedman," the "Firm," or "Respondent"); and

(2) imposing a civil money penalty in the amount of $100,000 on Friedman.[1]

The Board is imposing these sanctions on the basis of its findings that: 1) pursuant to Section 105(c)(6) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), Friedman failed to reasonably supervise two accounting firms that were not registered with the Board, yet played a substantial role in 12 issuer audits for fiscal years 2017 and 2018, and 2) Friedman violated the Board's auditing and quality control standards.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent pursuant to Section 105(c) of the Act and PCAOB Rules 5200(a)(1) and (2).

I.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Friedman has submitted an Offer of Settlement ("Offer") that the Board has determined

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[1] Although the Board finds here that the Firm violated PCAOB quality control standards, the Board is not ordering that Friedman undertake and certify the completion of certain improvements to its system of quality control because Friedman's quality control policies and procedures were subsumed by those of Marcum LLP when that firm acquired substantially all of Friedman's assets as of September 1, 2022. Following the asset purchase, Friedman submitted a Form 1-WD to withdraw from PCAOB registration, which is pending.

to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

II.

On the basis of Friedman's Offer, the Board finds that:

A. Respondent

1. **Friedman LLP** is a limited liability partnership organized under the laws of New York and headquartered in New York, New York. Friedman registered with the Board on October 22, 2003, pursuant to Section 102 of the Act and PCAOB rules. Substantially all of the Firm's assets were acquired by Marcum LLP as of September 1, 2022. The Firm subsequently filed a Form 1-WD to withdraw its PCAOB registration, which is pending.

B. Issuers

2. ATIF Holdings Limited ("ATIF") is a holding company incorporated under the laws of the British Virgin Islands with its principal place of business at all relevant times in Shenzhen, People's Republic of China ("China"). ATIF's public filings disclose that it is a business consulting company providing financial consulting services to small and medium-sized enterprises in the U.S. and China. Friedman issued an audit report that ATIF included in a Form F-1/A filed with the U.S. Securities and Exchange Commission ("Commission") for fiscal year ended ("FYE") July 31, 2018.

3. China HGS Real Estate Inc. a/k/a Green Giant Inc. ("China HGS") was, during the time of Friedman's FYE September 30, 2018 audit, a corporation organized under the laws of Florida with its principal place of business in Hanzhong, China. China HGS's public filings at that time disclosed that it was a real estate developer in China. Friedman issued an audit report that China HGS included in a Form 10-K filed with the Commission for FYE September 30, 2018.

4. China Xiangtai Food Co., Ltd. a/k/a Bit Origin Limited ("China Xiangtai") was, during the time of Friedman's FYE June 30, 2017 audit, a company incorporated under the laws of the Cayman Islands with its principal place of business in Chongqing, China. China Xiangtai's public filings at that time disclosed that it was a pork processing company. Friedman issued an

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

audit report that China Xiangtai included in a Post-Effective Amendment to Form F-1 filed with the Commission for the fiscal years ended June 30, 2017 and June 30, 2016.

5. Dogness (International) Corporation ("Dogness") is a company incorporated under the laws of the British Virgin Islands with its principal manufacturing operations in Dongguan, China. Dogness' public filings disclose that it is a designer and manufacturer of dog and cat leashes, collars, and harnesses. Friedman issued an audit report that Dogness included in a Form 20-F filed with the Commission for FYE June 30, 2018.

6. Jerash Holdings (US), Inc. ("Jerash") is a holding company incorporated in Delaware with its principal manufacturing operations in Jordan and other operations in Hong Kong and China. Jerash's public filings disclose that it is involved in the manufacturing and exporting of sportswear and outerwear and personal protective equipment. Friedman issued an audit report that Jerash included in a Form 10-K filed with the Commission for FYE March 31, 2018.

7. Jump World Holding Limited ("Jump World") is a company incorporated under the laws of the Cayman Islands with its principal place of business in Shanghai, China. Jump World's public filings disclose that it is a producer, developer, and operator of customized online games in China. Friedman issued an audit report that Jump World included in a Form F-1 filed with the Commission for the fiscal years ended December 31, 2017 and December 31, 2016.

8. Kingold Jewelry, Inc. ("Kingold") was during the time of Friedman's FYE December 31, 2018 audit, a Delaware corporation with its principal place of business in Wuhan, China.[3] Kingold's public filings at the time disclosed that it was a manufacturer and distributor of jewelry in China. Friedman issued an audit report that Kingold included in a Form 10-K filed with the Commission for FYE December 31, 2018.

9. Leaping Group Co., Ltd. ("Leaping Group") is a company incorporated under the laws of the Cayman Islands with its principal place of business in Shenyang, China. Leaping Group's public filings disclose that it is a multimedia service provider specializing in advertising, event planning, and film and TV production. Friedman issued an audit report that Leaping Group included in a Form F-1 filed with the Commission for the fiscal years ended June 30, 2018 and June 30, 2017.

[3] On August 21, 2020, Kingold filed a Form 25 with the Commission indicating its removal from listing and/or registration under Section 12(b) of the Securities Exchange Act of 1934.

10. Puhui Wealth Investment Management Co., Ltd. ("Puhui") is a company incorporated under the laws of the Cayman Islands with its principal place of business in Beijing, China. Puhui's public filings disclose that it is a third-party wealth management service provider focusing on marketing financial products to, and managing funds for, individuals and corporate clients in China. Friedman issued an audit report that Puhui included in a Post-Effective Amendment to Form F-1 filed with the Commission for FYE June 30, 2018.

11. Recon Technology, Ltd ("Recon") is a company incorporated under the laws of the Cayman Islands with its principal place of business in Beijing, China. Recon's public filings disclose that it is a supplier of integrated automation services for the petroleum extraction industry in China. Friedman issued an audit report that Recon included in a Form 20-F filed with the Commission for FYE June 30, 2018.

12. Senmiao Technology Limited ("Senmiao") is a Nevada corporation with its principal place of business in Chengdu, China. Senmiao's public filings disclose that it is an online lending platform in China connecting Chinese investors with individual and small-to-medium-sized enterprise borrowers. Friedman issued an audit report that Senmiao included in a Form 10-K filed with the Commission for FYE March 31, 2018.

13. Wah Fu Education Group Limited ("Wah Fu") is a company incorporated under the laws of the British Virgin Islands with its principal place of business in Beijing, China. Wah Fu's public filings disclose that it provides online exam preparation services, related technology solutions, and online training course materials in China. Friedman issued an audit report that Wah Fu included in a Form F-1/A filed with the Commission for FYE March 31, 2018.

14. At all relevant times, each of these entities was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Other Relevant Entities

15. Peking Certified Public Accountants a/k/a Peking CPAs ("Peking CPAs") is a special general partnership headquartered in Beijing, China. At all relevant times, Peking CPAs was a public accounting firm, as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii), and an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Peking CPAs is not now, and never has been, registered with the Board.

16. Beijing Baijielai Financial Consulting Co., Limited ("Beijing Baijielai") is a limited liability company headquartered in Beijing, China. At all relevant times, Beijing Baijielai was a public accounting firm, as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii), and an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Beijing Baijielai is not now, and never has been, registered with the Board.

D. Summary

17. This matter concerns Friedman's failure to reasonably supervise associated persons under the Act and its repeated violations of PCAOB rules and standards in connection with its use of the work of other accounting firms in China.

18. First, Friedman improperly allowed unregistered firms Peking CPAs and Beijing Baijielai (collectively, the "Unregistered Firms") to play a substantial role in audits of the financial statements of 12 issuer clients for FYEs 2017 and 2018 (collectively, the "Audits"). Friedman knew, or should have known, that the Unregistered Firms were required to register with the Board before the firms played a substantial role in any issuer audits. Friedman, however, failed to take any steps to ensure that the Unregistered Firms' participation in the Audits was consistent with PCAOB registration requirements and that the Unregistered Firms did not "play a substantial role" in the Audits.[4]

19. Participation by the Unregistered Firms in the Audits in many instances far exceeded the 20% substantial role threshold, including two audits in which Peking CPAs incurred 52% of the total audit hours. Due to its inadequate planning and oversight of the Unregistered Firms' participation in the Audits, Friedman failed to reasonably supervise its associated persons pursuant to Section 105(c)(6) of the Act and failed to comply with PCAOB rules and standards concerning due professional care and audit planning.

20. Moreover, the repeated violations described above demonstrate that, during the Audits, Friedman failed to establish and implement adequate quality control policies and procedures, including monitoring procedures, concerning the use of work of other accounting firms, in violation of PCAOB quality control standards.

E. Requirements Related to Playing a Substantial Role in an Audit

21. Section 102(a) of the Act makes it "unlawful" for an accounting firm that is not registered with the Board "to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any issuer, broker, or dealer."[5]

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[4] *See* PCAOB Rule 1001(p)(ii), *Play a Substantial Role in the Preparation or Furnishing of an Audit Report* (defining "play a substantial role in the preparation or furnishing of an audit report" to mean, among other things, "perform[ing] material services that a public accounting firm uses or relies on in issuing all or part of its audit report"). "Material services" are further defined as "services, for which the engagement hours or fees constitute 20% or more of the total engagement hours or fees, respectively, provided by the principal auditor in connection with the issuance of all or part of its audit report." *Id.*, Note 1.

[5] 15 U.S.C. § 7212(a).

22. In addition, Section 106(a)(2) of the Act states:

> The Board may, by rule, determine that a foreign public accounting firm (or a class of such firms) that does not issue audit reports nonetheless plays such a substantial role in the preparation and furnishing of such reports for particular issuers, brokers, or dealers, that it is necessary or appropriate, in light of the purposes of this Act and in the public interest or for the protection of investors, that such firm (or class of firms) should be treated as a public accounting firm (or firms) for purposes of registration under, and oversight by the Board in accordance with, this subchapter.[6]

23. In furtherance of these provisions, the Board adopted PCAOB Rule 2100, *Registration Requirements for Public Accounting Firms*, which requires any accounting firm, foreign or domestic, that "plays a substantial role in the preparation or furnishing of an audit report with respect to any issuer, broker, or dealer" to register with the Board.

24. As noted above, PCAOB Rule 1001(p)(ii) defines the phrase "play a substantial role in the preparation or furnishing of an audit report" to mean, among other things, "perform[ing] material services that a public accounting firm uses or relies on in issuing all or part of its audit report." The phrase "material services" means "services, for which the engagement hours or fees constitute 20% or more of the total engagement hours or fees, respectively, provided by the principal auditor in connection with the issuance of all or part of its audit report."[7]

F. Background

25. In 2015, in order to comply with a mandate by the China Ministry of Finance relating to cooperation between domestic Chinese accounting firms and overseas firms,[8] Friedman entered into a written agreement with a China-based PCAOB registrant (the "Registrant"). Friedman understood that the mandate required Friedman, as an accounting firm outside of China, to engage the cooperation of a domestic Chinese accounting firm in order to provide auditing services for overseas listings of China-based enterprises. Friedman's agreement with the Registrant governed, among other things, the participation of the

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6 15 U.S.C. § 7216(a)(2).

7 PCAOB Rule 1001(p)(ii), Note 1.

8 At the time of the Audits, Friedman understood the relevant mandate to be the *Interim Provisions on Accounting Firms' Provision of Auditing Services for the Overseas Listing of Enterprises in Chinese Mainland*, effective July 1, 2015.

Registrant in Friedman audits. Pursuant to that agreement, the Registrant began to participate in Friedman's audits of issuers.

26. Later that year, following the establishment of the practice of working with the Registrant, Friedman entered into a similar agreement with Peking CPAs. Unlike the Registrant, however, Peking CPAs was not registered with the PCAOB.

27. The agreement with Peking CPAs detailed Peking CPAs' ability, as a China Ministry of Finance-approved licensed full service public accounting firm registered with the China State Administration for Industry and Commerce, to conduct financial statement audits in China; allowed for the execution of detailed engagement letters between Friedman and Peking CPAs on a project-by-project basis; and also promoted referrals and joint work between the two entities.

28. The agreement's terms also provided Friedman with standardized hourly rates by title for Peking CPAs staff, and included a maximum percentage of 27% for the total audit fees to be apportioned to Peking CPAs for the firm's provision of audit services (above the 20% substantial role threshold), subject to final agreement by the respective engagement partners at each firm on a project-by-project basis.

29. The agreement further required each party to pay a 10% commission annually on referred work, and also required Friedman to provide training, to be paid for by Peking CPAs, to accountants at Peking CPAs at least annually on several topics, including, among other things, U.S. generally accepted accounting principles ("GAAP") and PCAOB standards.[9]

30. Several years later, in 2018, Beijing Baijielai, an affiliate of the Registrant, agreed with Friedman to provide services in connection with Friedman's audit of Jerash on terms similar to those set forth in Friedman's agreement with the Registrant. Like Peking CPAs, Beijing Baijielai was not registered with the PCAOB. Friedman did not execute a written agreement with Beijing Baijielai as it had done in 2015 with Peking CPAs, but Friedman personnel understood that the relationship between Friedman and Beijing Baijielai would be governed by the existing agreement with the Registrant and the engagement-specific agreement between Beijing Baijielai and Friedman for the Jerash audit.

31. During the Audits, Friedman utilized Peking CPAs in 11 of the Audits and utilized Beijing Baijielai in the Jerash audit.

32. In connection with each of the Audits, Friedman and the corresponding Unregistered Firm entered into a separate engagement-specific letter agreement that governed

[9] The agreement between the Firm and Peking CPAs contemplated Friedman's supervision of Peking CPAs personnel pursuant to AS 1201, *Supervision of the Audit Engagement*.

the Unregistered Firm's participation in the audit. The letter agreements each made clear that the Unregistered Firm would be participating in the relevant audit and the significance of that participation.[10]

33. For example, a letter agreement concerning China Xiangtai, dated July 9, 2018, confirmed, among other things, Peking CPAs' independence, familiarity with PCAOB standards and SEC reporting requirements, and detailed that Friedman intended to place reliance on the audit procedures performed by Peking CPAs staff relative to China Xiangtai's consolidated financial statements as of and for the year ended June 30, 2018.

34. Following each of the Audits, the relevant Unregistered Firm then invoiced Friedman with the staff names, amount of hours worked, hourly rate, and amount owed in U.S. dollars for the particular engagement. Friedman subsequently paid the Unregistered Firm invoices via wire transfer.

35. Friedman did not adequately consider the relevant PCAOB rules relating to playing a substantial role in the preparation or furnishing of an audit report when the change was made from working with the Registrant to the unregistered firms Peking CPAs and Beijing Baijielai.

36. In 11 of the Audits, Peking CPAs exceeded the 20% substantial role threshold in either total hours, total fees, or both. In the Jerash audit, Beijing Baijielai exceeded the 20% substantial role threshold in total hours and total fees. As shown in the table below, the Unregistered Firms' hours incurred on the Audits ranged from 25% to 52% of the total audit hours and fees ranged from 12% to 34% of the total audit fees.

[10] The engagement-specific letter agreements also contemplated Friedman's supervision of Peking CPAs and Beijing Baijielai personnel pursuant to AS 1201.

Issuer	FYE	Total Audit Hours Incurred by Unregistered Firm	Total Audit Fees Apportioned to Unregistered Firm
ATIF Holdings Limited	July 31, 2018	52%	27%
China HGS Real Estate Inc. (a/k/a Green Giant Inc.)	Sept. 30, 2018	30%	27%
China Xiangtai Food Co., Ltd. a/k/a Bit Origin Limited	June 30, 2017	47%	27%
Dogness (International) Corporation	June 30, 2018	34%	27%
Jerash Holdings (US), Inc.[11]	March 31, 2018	29%	32%
Jump World Holding Limited	Dec. 31, 2017	52%	27%
Kingold Jewelry, Inc.	Dec. 31, 2018	42%	34%
Leaping Group Co., Ltd.	June 30, 2018	35%	27%
Puhui Wealth Investment Management Co., Ltd.	June 30, 2018	36%	32%
Recon Technology, Ltd	June 30, 2018	38%	22%
Senmiao Technology Limited	March 31, 2018	25%	12%
Wah Fu Education Group Limited	March 31, 2018	37%	27%

37. With respect to the Audits, Friedman failed to take adequate steps to plan or supervise the audits in a manner that would ensure that only firms registered with the PCAOB played a substantial role in the audits. Friedman knew from its agreements with Peking CPAs and Beijing Baijielai that the Unregistered Firms were contractually permitted to participate at a greater than 20% rate, and specifically contemplated greater than 20% fee participation (*i.e.*, at the standard maximum 27% fee apportionment—or negotiated at a percentage higher than

[11] As noted above, Beijing Baijielai participated in the Jerash audit and Peking CPAs participated in the remaining 11 audits.

that, as reflected in the above chart). Neither of the agreements, nor the 12 engagement-specific agreements, identified the Unregistered Firms as PCAOB-registered. Moreover, invoices in 11 of the 12 Audits that the Unregistered Firms sent to Friedman for their audit work were more than 20% of the total audit fees. Despite this evidence, Friedman failed to take any steps to determine whether the Unregistered Firms were permitted to play a substantial role in the Audits.

G. Friedman Failed to Reasonably Supervise the Unregistered Firms and Violated PCAOB Rules and Standards

38. During each of the Audits, the Unregistered Firms incurred more than 20% of the total engagement hours or total audit fees. Accordingly, Peking CPAs, in 11 of the Audits, and Beijing Baijielai, in the Jerash audit, played a substantial role without being registered with the Board, in violation of Section 102(a) of the Act and PCAOB Rule 2100.

39. Friedman failed to reasonably supervise the Unregistered Firms' participation in the Audits in a manner designed to avoid violations of Section 102(a) of the Act and PCAOB Rule 2100, and Friedman likewise failed to properly plan the audits.

i. Friedman Failed to Reasonably Supervise the Unregistered Firms

40. Section 105(c)(6) of the Act provides that the Board may impose sanctions on a registered public accounting firm if the Board finds that (1) the firm has failed reasonably to supervise an associated person, either as required by the rules of the Board relating to auditing or quality control standards, or otherwise, with a view to preventing violations of the Act or the rules of the Board; and (2) such associated person commits a violation of the Act or Board rules.

41. Under Section 2(a)(9) of the Act, the term "person associated with a registered public accounting firm" includes "any . . . entity that, in connection with the preparation or issuance of any audit report—(i) shares in the profits of, or receives compensation in any other form from, that firm; or (ii) participates as agent or otherwise on behalf of such accounting firm in any activity of that firm."

42. The Unregistered Firms invoiced Friedman for the services it provided in connection with the Audits. Thus, the Unregistered Firms "receive[d] compensation" from Friedman in connection with the preparation and issuance of Friedman's audit reports. In addition, because they performed audit work at the direction, and under the supervision, of Friedman, the Unregistered Firms each acted as an "entity that, in connection with the preparation or issuance of [Friedman] audit report[s,] . . . participate[d] as agent or otherwise on behalf of [Friedman]." Accordingly, each of the Unregistered Firms was an "associated person" of Friedman during the Audits.

43. Friedman had a responsibility to reasonably supervise its associated persons during its issuer audits. It failed to do so.

44. During the Audits, Friedman knew or should have known that PCAOB standards required substantial role participants to be PCAOB-registered, but failed to consider the relevant rules relating to playing a substantial role in the preparation or furnishing of an audit report when the change was made from using the Registrant to using the Unregistered Firms. Certain Friedman personnel were aware during the Audits that Peking CPAs was not a PCAOB registrant.

45. Friedman had quality control policies and procedures in place at the time of the Audits, but did not have policies specifically addressing PCAOB rules relating to substantial role participation by other accounting firms.

46. Friedman failed to take adequate steps to ensure that the Unregistered Firms it used to play a substantial role in the Audits were registered with the Board. As noted above, Friedman knew, or should have known, from its agreements with Peking CPAs and Beijing Baijielai, the Unregistered Firms' invoices, and other communications with the Unregistered Firms that each of the Unregistered Firms was under Friedman's supervision and subject to greater than 20% participation in the Audits. Friedman also knew or should have known from readily available public information, such as the PCAOB website, that each of the Unregistered Firms was not registered with the Board. However, Friedman failed to adequately consider that information to ensure compliance with applicable professional standards, regulatory requirements, and the Firm's standards of quality.

47. Because the Unregistered Firms incurred more than 20% of the total audit hours or total audit fees in each of the Audits, they performed material services used by Friedman in issuing Friedman's audit reports. The Unregistered Firms therefore violated Section 102(a) of the Act and PCAOB Rule 2100 by playing a substantial role in the Audits without being registered with the Board.

48. As detailed above, Friedman failed to reasonably supervise the Unregistered Firms under Section 105(c)(6) of the Act with a view to preventing the Unregistered Firms' violations of PCAOB registration requirements.

ii. Friedman Violated PCAOB Rules and Standards

49. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[12]

50. PCAOB standards provide that, as part of audit planning, the auditor should establish an overall audit strategy.[13] The auditor should take into account "[t]he factors that are significant in directing the activities of the engagement team" and "[t]he nature, timing, and extent of resources necessary to perform the engagement."[14] PCAOB standards also require that "[d]ue professional care . . . be exercised in the planning and performance of the audit and the preparation of the report."[15]

51. Friedman conducted all audit planning and designed all audit programs and audit procedures during the Audits.

52. In establishing the overall audit strategy for the Audits, Friedman failed to adequately take into account: (1) the fact that the Unregistered Firms were unregistered firms whose substantial role participation in the Audits would constitute a violation of PCAOB rules, as Friedman knew or should have known; and (2) the nature of the resources necessary to perform the audits, insofar as those resources included the involvement of unregistered firms.[16] As a result of these failures, Friedman did not adequately plan the audits to ensure that the Unregistered Firms would not violate PCAOB registration requirements.

53. Accordingly, in violation of PCAOB Rule 3100, Friedman violated AS 2101. Friedman also violated AS 1015 by failing to exercise due professional care in planning the Audits.

H. Friedman Violated PCAOB Quality Control Standards

54. PCAOB rules require that a registered firm comply with PCAOB quality control standards.[17] Those standards require a firm to "have a system of quality control for its

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12 PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

13 AS 2101.08, *Audit Planning*.

14 AS 2101.09.

15 AS 1015.01, *Due Professional Care in the Performance of Work*.

16 *See* AS 2101.05 ("Planning is not a discrete phase of an audit but, rather, a continual and iterative process that . . . continues until the completion of the current audit.").

17 PCAOB Rule 3400T, *Interim Quality Control Standards*.

accounting and auditing practice."[18] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[19]

55. PCAOB quality control standards also recognize that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures relating to each of the other elements of quality control are suitably designed and are being effectively applied."[20] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[21]

56. Friedman failed to establish and implement adequate policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that the work performed by engagement personnel met applicable regulatory requirements related to using the work of other accounting firms.

57. Although Friedman had quality control policies and procedures, its policies and procedures did not adequately address substantial role participation by other accounting firms, and the Firm failed to implement such policies and monitor them in an adequate manner. As a result, Friedman repeatedly used the Unregistered Firms to play a substantial role in the Audits.

58. Accordingly, Friedman failed to comply with QC § 20 and QC § 30.

III.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty of $100,000 on Friedman. All funds collected by the Board as a result of the assessment of this civil money penalty

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18 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

19 QC § 20.17.

20 QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

21 *See* QC § 20.20.d; QC § 30.02.d.

will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. ***Respondent understands that the failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a)***; and

C. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 27, 2023

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of RT LLP,

Respondent.

PCAOB Release No. 105-2023-002

April 11, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring RT LLP ("RT," the "Firm," or "Respondent"), a registered public accounting firm;

(2) revoking the registration of RT;[1]

(3) imposing a $50,000 civil money penalty upon the Firm; and

(4) in the event RT submits any future registration application and as a condition to the Board granting such an application, requiring the Firm to undertake certain remedial measures, including that it establish quality control policies and procedures to give the Firm reasonable assurance that: (1) issuer audits and reviews are conducted in accordance with applicable professional standards; and (2) the Firm complies with PCAOB reporting requirements.

The Board is imposing these sanctions on RT on the basis of its findings that Respondent violated: (1) PCAOB rules and AS 1215, *Audit Documentation,* in connection with the audit and reviews of Dunxin Financial Holdings Limited ("Dunxin") for the year ended December 31, 2017 (the "2017 Dunxin Audit"); (2) PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants,* by failing to timely file required Form APs; and (3) PCAOB rules and quality control

[1] RT may reapply for registration after two years from the date of this Order.

standards by failing to design and implement quality control procedures to ensure that its personnel complied with PCAOB standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **RT LLP** is a firm headquartered in Singapore. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

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

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Issuer

2. **Dunxin Financial Holdings Limited** was, at all relevant times, an entity organized under the laws of the Cayman Islands and headquartered in Wuhan City, Hubei Province, People's Republic of China. Dunxin's public filings disclose that it is a lending company primarily engaged in the business of providing loan facilities to enterprises and sole proprietorships in Hubei Province, People's Republic of China. The Firm issued an audit report on Dunxin's 2017 financial statements on April 30, 2018.[4]

3. At all relevant times, Dunxin was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. This matter concerns Respondent's violation of PCAOB rules and AS 1215 in connection with the 2017 Dunxin Audit. As detailed below, Respondent failed to assemble for retention a complete and final set of audit documentation for the 2017 Dunxin Audit by the documentation completion date, as required by AS 1215.

5. The Firm also violated PCAOB Rule 3211 because it did not timely file required Form APs in connection with the 2017 Dunxin Audit and 2017 Restatement Audit.

6. Finally, the Firm violated PCAOB quality control standards because, during the time it was conducting the 2017 Dunxin Audit, the Firm did not have policies and procedures relating to performing audits under PCAOB standards. In addition, the Firm did not have sufficient policies and procedures related to the monitoring of its quality control system as required by PCAOB standards.

[4] Subsequent to the filing of Dunxin's 2017 Form 20-F, the Firm was appointed to express an opinion on Dunxin's restated 2017 financial statements, which were included in Dunxin's 2018 Form 20-F ("2017 Restatement Audit"). On May 15, 2019, the Firm issued an audit report that contained an unqualified opinion on the specified accounts identified in the report, which was included in Dunxin's 2018 Form 20-F filed that same day.

D. Respondent Violated AS 1215 by Failing to Assemble for Retention a Complete and Final Set of Audit Documentation for the 2017 Dunxin Audit

7. PCAOB rules require that registered public accounting firms and their associated persons comply with all applicable auditing and related professional practice standards.[5] AS 1215 provides, among other things, that the auditor must prepare audit documentation in connection with each engagement conducted pursuant to the standards of the PCAOB.[6] PCAOB standards further require that "a complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[7]

8. The Firm issued an audit report containing an unqualified audit opinion on Dunxin's 2017 financial statements on April 30, 2018. Thus, the Firm was required to assemble for retention (*i.e.*, "archive") a final set of audit documentation for the 2017 Dunxin Audit by no later than June 14, 2018.

9. The Firm failed to archive a complete and final set of audit documentation by the documentation completion date for the 2017 Dunxin Audit. In fact, the engagement partner on the audit subsequently left the Firm and, as a result, the work papers for the 2017 Dunxin Audit were never archived. As a result, the Firm violated AS 1215.

E. Respondent Violated PCAOB Rule 3211 by Failing to Timely File Form APs

10. PCAOB Rule 3211, which initially took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs generally must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange

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[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards.*

[6] *See* AS 1215.04.

[7] *Id.* at .15.

Commission (SEC),[8] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[9]

11. As stated above, the Firm audited Dunxin's financial statements for the year ended December 31, 2017 and issued an audit report on those financial statements dated April 30, 2018, which was included in Dunxin's Form 20-F filed with the SEC on that same day. However, the Firm failed to file the required Form AP for the 2017 Dunxin Audit by June 4, 2018, the 35th day after the date the audit report was included with the filing made with the SEC, in violation of PCAOB Rule 3211. The Firm belatedly filed the Form AP related to the 2017 Dunxin Audit on August 21, 2018.

12. In addition, the Firm issued an audit report on Dunxin's restated 2017 financial statements on May 15, 2019, which was included in Dunxin's Form 20-F filed with the SEC on that same day. However, the Firm failed to file the required Form AP for the 2017 Restatement Audit by June 19, 2019, in violation of PCAOB Rule 3211. The Firm belatedly filed the Form AP related to the 2017 Restatement Audit on February 16, 2023.

F. Respondent Violated PCAOB Quality Control Standards

13. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[10] These standards require that a registered firm have a system of quality control for its accounting and auditing practice.[11] "A system of quality control is broadly defined as a process to provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality."[12] The Firm violated PCAOB quality control standards in a number of ways.

14. First, PCAOB quality control standards require firms to establish policies and procedures sufficient to provide it with "reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and

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8 *See* Rule 3211(b)(1).

9 In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the SEC. *See* Rule 3211(b)(2).

10 *See* PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

11 *See* Quality Control Standard 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20").

12 *Id.* at .03.

the Firm's standard of quality."[13] However, during the time period that it was conducting the 2017 Dunxin Audit, while the Firm had a system of quality control based on local and international standards, it failed to have any policies, procedures, or guidance materials related to performing audits under PCAOB standards. Likewise, while the Firm provided training to its staff related to local and international auditing standards, the Firm failed to provide any training to its staff, including the staff that worked on the 2017 Dunxin Audit, related to performing audits in accordance with PCAOB rules and standards. As a result, the Firm violated QC § 20.17.

15. Second, PCAOB quality control standards specifically require a firm to establish policies and procedures that provide it with reasonable assurance that engagement quality reviews would be performed on all audits in accordance with PCAOB standards.[14] However, during the time period that it was conducting the 2017 Dunxin audit, while, as stated, the Firm had a system of quality control based on local and international standards, the Firm failed to have any policies, procedures, or guidance materials related to performing engagement quality reviews in accordance with AS 1220, *Engagement Quality Review*. As a result, the Firm violated QC §§ 20.17-.18.

16. Third, PCAOB quality control standards specifically require a firm to establish policies and procedures that provide the firm with reasonable assurance that its engagement teams would comply with PCAOB audit documentation requirements.[15] However, during the time period that it was conducting the Dunxin audit, while, as stated, the Firm had a system of quality control based on local and international standards, the Firm failed to have any policies and procedures related to the retention of audit documentation under PCAOB standards. And, as explained above, the Firm failed to assemble for retention a complete and final set of audit documentation as of the documentation completion date for the 2017 Dunxin Audit in accordance with AS 1215. Therefore, the Firm violated QC §§ 20.17-.18 because it failed to establish policies and procedures that provided it with reasonable assurance that its engagement teams would comply with PCAOB audit documentation requirements.

17. Finally, registered public accounting firms are also required to maintain an effective monitoring component in their systems of quality control through the "establish[ment] [of] policies and procedures to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are

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13 *Id.* at .17

14 *See id.* at 20.17-.18.

15 *See id.*

suitably designed and are being effectively applied."[16] Monitoring involves an ongoing consideration and evaluation of the: (a) relevance and adequacy of the firm's policies and procedures; (b) appropriateness of the firm's guidance materials and any practice aids; (c) effectiveness of professional development activities; and (d) compliance with the firm's policies and procedures.[17] During the time period that it was conducting the 2017 Dunxin Audit, the Firm failed to conduct monitoring of its quality control system in accordance with the applicable standards, and, therefore, violated QC § 20 and QC § 30.

IV.

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

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

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of RT is hereby revoked.

C. Pursuant to PCAOB Rule 2101, after two years from the date of this Order, RT may reapply for registration.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon RT.

   1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

   2. RT shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W.,

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[16] Quality Control Section 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice* ("QC § 30"); *see also* QC § 20.20.

[17] *See* QC § 30.02; *see also* QC § 20.20.

Washington D.C. 20006, and (c) submitted under a cover letter, which identifies RT as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. RT understands that its failure to pay the civil money penalty imposed upon it may alone be grounds to deny any application, pursuant to PCAOB Rule 2106, for registration with the Board.

4. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-order interest.

5. With respect to any civil money penalty amounts that RT shall pay pursuant to this Order, RT shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of RT's payment of the civil money penalty pursuant to this Order, in any private action brought against RT based on substantially the same facts as set out in the findings in this Order.

E. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), RT is required:

1. before filing with the Board any future registration application, to (a) establish policies and procedures for the purpose of providing RT with reasonable assurance of compliance with regulatory requirements applicable to audits and reviews of issuers, brokers, and dealers, including reporting requirements;[18] (b) establish a policy of ensuring training of personnel,

[18] *See* PCAOB Rule 1001(b)(iii) (defining "broker"); Rule 1001(d)(iii) (defining "dealer"); Rule 1001(i)(iii) (defining "issuer").

whether internal or external, on an annual or more frequent regular basis, concerning requirements applicable to audits and reviews of issuers, brokers, and dealers, including reporting requirements; and (c) ensure training pursuant to that policy on at least one occasion prior to submission of the registration application; and

2. to provide with any future registration application a written certification of compliance with the above requirements, written evidence of compliance in the form of a narrative, exhibits sufficient to demonstrate compliance, and such additional evidence of and information concerning compliance as the Registration staff of the Division of Registration and Inspections may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 11, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Barzily & Co. Certified Public Accountants,

Respondent.

PCAOB Release No. 105-2023-004

June 5, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Barzily & Co. Certified Public Accountants ("Respondent," "Barzily & Co.," or "Firm");

(2) imposing a civil money penalty in the amount of $50,000 on Respondent;

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order; and

(4) requiring the Firm to retain an independent consultant to review and make recommendations concerning the firm's system of quality control policies and procedures.

The Board is imposing these sanctions on the basis of its findings that: (a) Respondent violated PCAOB rules and quality control standards by failing to establish quality control policies and procedures to provide reasonable assurance that the work performed by its associated persons complied with applicable PCAOB standards and regulatory requirements; and (b) Respondent violated PCAOB rules and standards in connection with audits for two issuers.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings contained herein, except as to the Board's jurisdiction over Respondent and the subject matter of this proceeding, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds[2] that:

A. Respondent

1. Barzily & Co. is a partnership headquartered in Jerusalem, Israel. Barzily & Co. is a member of the MSI Global Alliance. The Firm is, and at all relevant times was, registered with the Board, and is a registered public accounting firm as that term is defined in Section 2(a)(12) of the Act and PCAOB rules.

B. Issuers

2. Creations, Inc. ("Creations") is a Delaware corporation. Barzily & Co. has served as Creations' auditor since 2019. Creations' Form 10-K for the fiscal year ended ("FYE") December 31, 2020, disclosed that it operates as a portfolio manager, licensed by the Israel Securities Authority, offering and managing ten mutual funds. Creations filed a Form S-1 registration statement with the U.S. Securities and Exchange Commission ("Commission") on July 29, 2020, which contained Barzily & Co.'s audit report on Creations' FYE 2018 and 2019 financial statements (dated May 4, 2020) and a consent from Barzily (dated July 29, 2020) for that audit report to be included in the Form S-1 registration statement. With Barzily & Co.'s

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

consent, Creations also included the audit report in an amended Form S-1 filed on August 17, 2020. From the time that it filed its Form S-1, and at all relevant times thereafter, Creations was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

3. Metalink Ltd. ("Metalink") is an Israel corporation. Barzily & Co. has served as Metalink's auditor since 2017. Metalink's Form 20-F for FYE December 31, 2020, disclosed that it was a shell company. At all relevant times, Metalink's common shares were registered with the Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934. At all relevant times, Metalink was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. This matter concerns the Firm's failure to comply with PCAOB rules and quality control standards. The Firm failed to establish quality control policies and procedures to provide reasonable assurance that the work performed by its associated persons would meet the applicable PCAOB standards and regulatory requirements.

5. As a result of the Firm's inadequate system of quality control, the Firm violated several PCAOB rules and standards in its audits of Creations and Metalink. For example, even though the Firm filed a Form AP[3] for Metalink in 2018, the Firm subsequently failed to file or timely file five Form APs between 2019 and 2021 because it failed to establish policies and procedures to provide reasonable assurance that it would continue to file Form APs in the future. Similarly, because the Firm failed to establish quality control policies and procedures to specifically address PCAOB requirements pertaining to audit committee pre-approval of tax services[4] and critical audit matters,[5] the Firm violated PCAOB Rule 3524 in three audits and AS 3101 in one audit. The Firm's audit documentation was also incomplete and/or lacked sufficient detail in two audits, in violation of various PCAOB rules and audit standards.

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[3] *See* PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

[4] *See* PCAOB Rule 3524, *Audit Committee Pre-approval of Certain Tax Services*.

[5] *See* AS 3101.11-.17, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

D. The Firm Violated PCAOB Rules and Standards

6. PCAOB rules and standards require that registered firms establish and maintain an adequate system of quality control.[6] "A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and procedures established to provide the firm with reasonable assurance of complying with professional standards."[7]

7. A firm's system of quality control should, among other things, include policies and procedures for engagement performance.[8] A firm should establish policies and procedures to provide it with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[9] A firm should also establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures are suitably designed and are being effectively applied.[10]

8. During the relevant period, Barzily & Co. developed a significant portion of the audit programs and other policies and procedures that it used to perform its audits, including audits that were subject to PCAOB standards. However, those audit programs and other policies and procedures failed to provide reasonable assurance that: (1) Firm personnel complied with PCAOB rules and standards, (2) the audit programs were timely updated for new requirements, and (3) that the firm's policies and procedures for complying with PCAOB requirements were suitably designed and being effectively applied. As a result, the Firm violated PCAOB quality control standards and, as illustrated below, also failed to comply with various PCAOB rules and standards in connection with its Metalink and Creations audits.

i. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

9. PCAOB Rule 3211 provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in

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6 *See* Rule 3400T, *Interim Quality Control Standards*; Quality Control Standard 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20").

7 QC § 20.04.

8 *See* QC § 20.07.

9 *See* QC § 20.17.

10 *See* QC § 20.20; Quality Control Standard 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[11] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[12]

10. In 2018, Barzily & Co. filed a Form AP for its audit of Metalink's FYE 2017 financial statements, but failed to adopt quality control policies and procedures to provide reasonable assurance that the Firm would file Form APs as required in future audits. Subsequently, the Firm issued audit reports on Metalink's FYE 2018 and FYE 2019 financial statements, which Metalink included in Form 20-F filings with the Commission on April 30, 2019 and April 29, 2020, respectively. However, the Firm did not file a Form AP for either audit report. The Firm issued an audit report on Metalink's FYE 2020 financial statements, which Metalink included in a Form 20-F filing with the Commission on April 29, 2021. However, the Firm did not file a Form AP for that audit report until 118 days later, on August 25, 2021.

11. Barzily & Co. issued an audit report on Creations' FYE 2019 financial statements, which Creations included, with the consent of the Firm, in a Form S-1 filing and an amended Form S-1/A filing with the Commission on July 29, 2020 and August 17, 2020, respectively. However, the Firm did not file a Form AP for that audit report. The Firm issued an audit report on Creations' FYE 2020 financial statements, which Creations included in a Form 10-K filing with the Commission on March 30, 2021. However, the Firm did not file a Form AP for that audit report until 148 days later, on August 25, 2021.

12. As reflected above, after becoming aware of the Form AP requirement by no later than 2018, Barzily & Co. failed to file three required Forms AP—for the audit reports on Metalink's FYE 2018 and FYE 2019 financial statements and on Creations' FYE 2019 financial statements—in violation of PCAOB Rule 3211. The Firm belatedly filed these Form APs in April 2023, only after receiving notice of deficiencies from the Division of Enforcement and Investigations ("DEI").

13. When it filed Form APs for its audit reports on Metalink's FYE 2020 financial statements and Creations' FYE 2020 financial statements, those forms were 118 and 148 days late, respectively, which also violated PCAOB Rule 3211.

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[11] *See* Rule 3211(b)(1).

[12] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

ii. Respondent Failed to Comply with Requirements in PCAOB Rule 3524 Relating to Pre-Approval of Tax Services

14. PCAOB Rule 3524 provides that, in connection with seeking audit committee pre-approval to perform for an issuer audit client any permissible tax service, a registered firm shall, among other things: (a) describe in writing to the audit committee the nature and scope of the service and the fee structure for the engagement, (b) discuss with the audit committee of the issuer the potential effects of the services on the independence of the firm, and (c) document the substance of its discussion with the audit committee of the issuer.[13]

15. Barzily & Co. failed to adopt quality control policies and procedures to provide reasonable assurance that the Firm complied with the foregoing requirements of PCAOB Rule 3524. In 2018, the Firm described in its engagement letter for the FYE 2017 audit that it would assist Metalink in filing its FYE 2017 tax return, as part of the overall fixed-fee engagement. For FYE 2018 and FYE 2019, Barzily & Co. again assisted Metalink with its tax return filings, but failed to describe the scope of those services in writing to the audit committee. At no point did Barzily & Co. discuss with the audit committee the potential effects of the FYE 2017 through FYE 2019 tax services on the Firm's independence.[14] As a result, the Firm violated PCAOB Rule 3524.

iii. Respondent Failed to Discuss the Absence of Critical Audit Matters for the FYE 2020 Metalink Audit in the Audit Report

16. For the audit of Metalink's FYE 2020 financial statements, PCAOB standards required the Firm to determine whether there were any critical audit matters in the audit of the current period's financial statements.[15] PCAOB standards also required the Firm to disclose any identified critical audit matters relating to the audit in the auditor's report or, if the Firm determined that there were no critical audit matters, to disclose in the audit report that there were none.[16]

17. For Metalink, the FYE 2020 audit was the first audit in which these requirements regarding critical audit matters applied. However, at the time of the audit, the Firm had not

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[13] *See* Rule 3524.

[14] The Firm expected that the tax filings in each year would be a relatively minor service, given Metalink's status as a shell company, and believed that the tax service would not impair its independence. However, the Firm did not discuss that view with the issuer's audit committee.

[15] *See* AS 3101.11-.12.

[16] *See* AS 3101.13-.16.

adopted quality control policies and procedures to provide reasonable assurance that it would comply with the new requirements for critical audit matters in AS 3101. While Barzily & Co. determined that there were no critical audit matters for the FYE 2020 Metalink audit, the Firm failed to disclose the absence of critical audit matters in the audit report. As a result, the Firm violated AS 3101.16.

iv. Respondent Failed to Prepare Adequate Audit Documentation

18. PCAOB standards provide that a complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (documentation completion date).[17] Communications with audit committees required by AS 1301, *Communications with Audit Committees*, are among the items that must be documented.[18] Audit documentation must also contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached.[19] Among other things, the audit documentation should also include documentation of the work performed by any auditor-employed specialists, so that it can be evaluated by the members of the engagement team who are supervising that specialist.[20]

19. Barzily & Co. failed to adopt quality control policies and procedures to provide reasonable assurance that it would comply with all PCAOB documentation requirements prior to completing the FYE 2020 Creations audit and FYE 2020 Metalink audit. As a result, the Firm violated QC § 20.

20. In both audits, Respondent failed to adequately document certain communications required under AS 1301 to the issuers' audit committees.[21] For the Metalink audit, the firm did not document that the management representation letter for the audit had been provided to the audit committee. For the Creations audit, the Firm failed to document in sufficient detail that it had communicated an overview of the audit strategy to the audit committee, or all of the required aspects of the Firm's evaluation of the quality of the issuers' financial reporting. In addition, for the FYE 2020 Creations audit, the Firm failed to include in its final set of audit documentation (a) adequate documentation of the journal entry testing that it

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17 *See* AS 1215.15, *Audit Documentation*.

18 *See* AS 1301.25.

19 *See* AS 1215.06.

20 *Id.; see also* AS 1201.C3, .C6-.C7, *Supervision of the Audit Engagement*.

21 *See* AS 1301.25.

performed, or (b) a report or equivalent documentation from a Firm-employed specialist that performed work related to the fair value of certain intangible assets. As a result, the Firm violated AS 1215 and AS 1301.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Barzily & Co. Certified Public Accountants' Offer. Accordingly, it is hereby ORDERED, effective immediately, that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Barzily & Co. Certified Public Accountants is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed on Barzily & Co. Certified Public Accountants.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Barzily & Co. Certified Public Accountants as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Sections 105(c)(4)(C) and (G) of the Act and PCAOB Rules 5300(a)(3), (8) and (9), the Board orders that:

1. Filing of Delinquent Forms AP. Within 30 days after the entry of this Order, Barzily & Co. will file with the PCAOB all past-due Form AP filings for the years 2018 to the present.

2. Training. Within 120 days after entry of this Order, Barzily & Co. shall ensure that training on the following topics is provided to each of its associated persons who participates in the planning or performing of any audit services (as defined in PCAOB Rule 1001(a)(vii)) that are required to be performed under PCAOB standards:

   a. the filing of Form AP, pursuant to PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*;

   b. PCAOB audit documentation requirements, including AS 1215, *Audit Documentation*; and

c. Required procedures concerning critical audit matters under AS 3101, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

3. Independent Consultant.

a. Barzily & Co. shall retain and pay for an independent consultant not unacceptable to the DEI staff who has experience with, and is knowledgeable concerning, PCAOB auditing standards and quality control standards ("Independent Consultant"). Within 30 days after the entry of this Order, Barzily & Co. shall submit to the DEI staff a proposal setting forth the identity, qualifications, and proposed terms of retention of the Independent Consultant. Barzily & Co. may not retain as the Independent Consultant any individual or entity that has provided legal, auditing, or other services to, or has any affiliation with, Barzily & Co. during the prior year (except that, if acceptable to the Director of DEI, Barzily & Co. may retain an independent consultant that has provided services to Barzily & Co. during 2023, in anticipation of this Order, provided that consultant did not provide legal, auditing, or other services to, or have any affiliation with, Barzily & Co. during 2022).

b. To ensure the independence of the Independent Consultant, Barzily & Co.: (i) shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the DEI staff; (ii) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

c. If Barzily & Co., despite its best, good faith efforts, is unable to identify an Independent Consultant candidate that meets all of the above-listed criteria, it may seek approval from the DEI staff of alternative candidates or alternative terms that Barzily & Co. believes to be otherwise suitable.

d. Barzily & Co. shall retain the Independent Consultant within 60 days after entry of this Order.

e. Barzily & Co. shall cooperate fully with the Independent Consultant and shall provide reasonable access to its personnel, information, and records as the Independent Consultant may reasonably request for the Independent Consultant's review, evaluation, and reports.

4. Areas Independent Consultant Is To Review. Within the periods specified in Paragraph IV.C.5 below, the Independent Consultant will review and evaluate the following:

   a. Barzily & Co.'s quality control policies and procedures as they relate to "Engagement Performance," as that term is described in QC Section 20.17;

   b. Barzily & Co.'s quality control policies and procedures as they relate to "Monitoring," as that term is described in QC Section 20.20 and as further discussed in QC Section 30; and

   c. Barzily & Co.'s quality control policies, procedures, and staff training as they relate to the performance of an "Engagement Quality Review" as that term is used in AS 1220, *Engagement Quality Review*.

5. Independent Consultant Report and Certifications

   a. Within five months of the Independent Consultant being retained, Barzily & Co. shall require the Independent Consultant to issue a written report ("IC Report") to Barzily & Co.: (i) summarizing the Independent Consultant's review and evaluation of the areas identified in Paragraph IV.C.4 above, and (ii) making recommendations, where appropriate, reasonably designed to ensure that Barzily & Co. maintains a system of quality control sufficient to give the Firm reasonable assurance that its engagement teams comply with applicable PCAOB auditing standards and regulatory requirements. Barzily & Co. shall require the Independent Consultant to provide a copy of the IC Report to the DEI staff when issued.

   b. Barzily & Co. will adopt, as soon as practicable, all recommendations of the Independent Consultant in the IC Report; provided, however, that within thirty days of the issuance

of the IC Report, Barzily & Co. may advise the Independent Consultant and the DEI staff in writing of any recommendation that it considers to be unnecessary, unduly burdensome, or impractical. Barzily & Co. need not adopt any such recommendation at that time, but instead may propose in writing to the Independent Consultant and the DEI staff an alternative proposal designed to achieve the same objective or purpose. Barzily & Co. and the Independent Consultant will engage in good faith negotiations in an effort to reach agreement on any recommendations objected to by Barzily & Co.

c. In the event that the Independent Consultant and Barzily & Co. are unable to agree on an alternative proposal within forty-five days, Barzily & Co. either will abide by the determinations of the Independent Consultant or will seek approval from the DEI staff to engage, at Barzily & Co.'s expense, a qualified third party acceptable to the DEI staff to promptly resolve the issue(s).

d. Within seventy-five days of the issuance of the IC Report and the resolution of any issues that are the subject of disagreement between Barzily & Co. and the Independent Consultant, Barzily & Co. will certify to the DEI staff in writing that it has adopted and has implemented or will implement all recommendations of the Independent Consultant ("Certification"). Barzily & Co. will provide a copy of the Certification to the DEI staff.

e. Twelve months after the issuance of the IC Report, Barzily & Co. shall require the Independent Consultant to verify the implementation of the recommended changes to Barzily & Co.'s system of quality control and to assess their effectiveness. Within eighteen months of the issuance of the IC Report, Barzily & Co. shall require the Independent Consultant to issue a written report ("Supplemental Review Report") summarizing the results of the Independent Consultant's verification and assessment of Barzily & Co.'s changes to its system of quality control. Barzily & Co. shall require the Independent Consultant to provide a copy of the Supplemental Review Report to the DEI staff when issued.

6. For good cause shown, the PCAOB staff may extend any of the procedural dates relating to these undertakings. Deadlines for

procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

7. Barzily & Co. understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 5, 2023

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Marcum LLP,

Respondent.

PCAOB Release No. 105-2023-005

June 21, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Marcum LLP ("Marcum," "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $3 million on the Firm;

(3) requiring Marcum to engage an independent consultant who will review and make recommendations concerning Marcum's quality control policies and procedures;

(4) requiring Marcum to implement all recommendations of the independent consultant;

(5) requiring Marcum to make functional changes to its supervisory structure related to the Firm's quality control policies and procedures; and

(6) requiring Marcum to conduct certain training for all audit staff.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and quality control standards by failing to take sufficient steps to ensure that its system of quality control provided reasonable assurance that: (1) the Firm would comply with the requirements regarding the acceptance of issuer clients and engagements, and (2) its personnel would comply with applicable professional standards and regulatory requirements.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Marcum LLP** is a limited liability partnership headquartered in New York, New York. Marcum is licensed by the New York State Education Department (License No. 067839) and several other states. Marcum is, and at all relevant times was, registered with the PCAOB, pursuant to Section 102 of the Act and PCAOB rules.

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

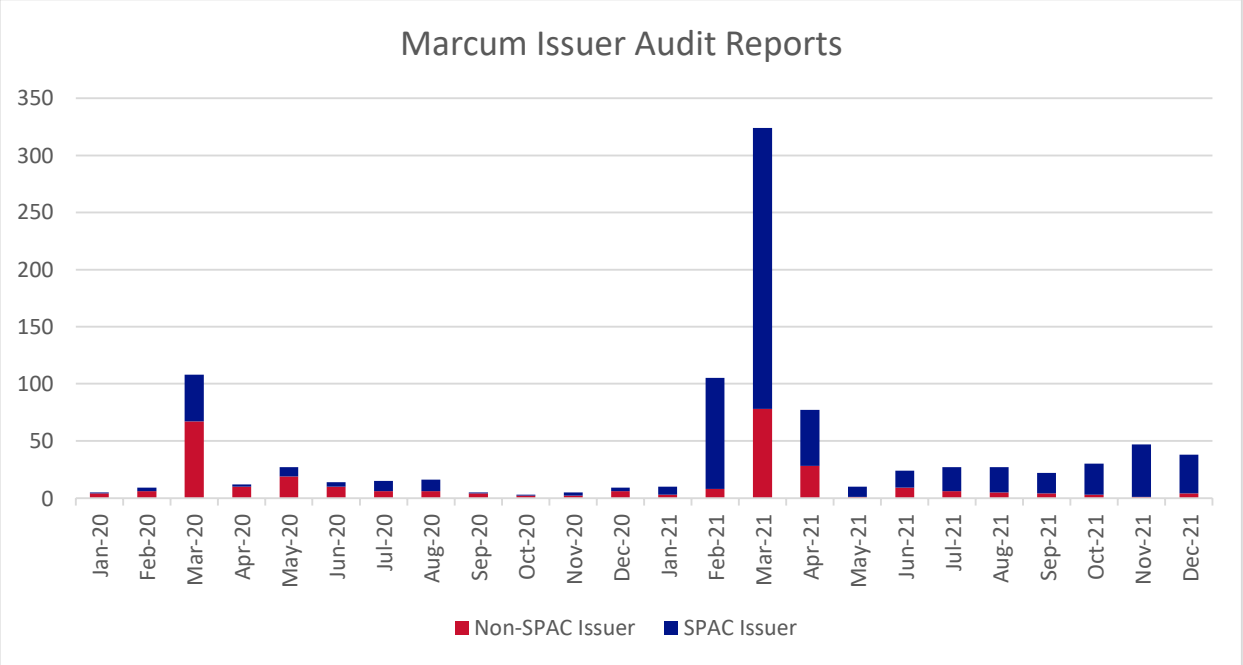
B. Summary

2. This matter concerns the Firm's failure to comply with PCAOB rules and quality control standards during the time period starting in January 2020 through December 2021. The Firm's system of quality control failed to provide reasonable assurance that the Firm would: (a) undertake only those issuer engagements that the Firm could reasonably expect to be completed with professional competence and appropriately consider the risks associated with providing professional services in the particular circumstances; (b) ensure that partner workloads were manageable to allow sufficient time for engagement partners and engagement quality review partners to discharge their responsibilities with professional competence and due care; (c) timely assemble complete and final sets of audit documentation; (d) timely and accurately file Form APs; (e) perform procedures to identify and assess the risks of material misstatement at the assertion level with respect to special purpose acquisition company ("SPAC") audits; (f) ensure that personnel were consulting with individuals within or outside the Firm, when appropriate, when dealing with complex issues; (g) perform sufficient procedures to determine whether certain matters were critical audit matters ("CAMs"); and (h) make all required communications to issuer audit committees.

C. Background

3. Between January 2020 through October 2021, Marcum accepted a substantial number of audit clients, including hundreds of audits of SPACs, resulting in a significant increase in its issuer audit practice. The Firm added 178 new SPAC audit clients in 2020, and another 617 new SPAC audit clients through October 2021.

4. During the period from January 2021 through April 2021, there was a corresponding spike in issuer audit reports Marcum issued in comparison with the prior year. From January 2020 through April 2020, the Firm issued 47 SPAC issuer audit reports and 87 non-SPAC issuer audit reports. In the corresponding period in 2021, those numbers increased to 399 SPAC issuer audit reports and 117 non-SPAC issuer audit reports—a 285% increase in issuer audit reports. Overall, in 2021, Marcum issued 741 issuer audit reports, an increase of 513 (or 225%) over the 228 audit reports issued in 2020, as shown in the below chart.



5. Despite the significant increase in issuer clients, in Marcum's New York City office, its largest office, overall partner headcount increased from 13 to 16, or only 23%, from January 2021 through June 2021. Although the Firm ultimately increased partner headcount more significantly beginning in July 2021, the relatively small increase in partner headcount from January 2021 through June 2021 resulted in large spikes in the number of hours worked by each partner during this period. Partner utilization[3] for the period from January 2021 through June 2021 for the New York City office increased by 27%, 36%, 41%, 49%, 39%, and 63% for each month respectively over the prior year. Partner utilization for the New York City office reached a high in March 2021 of 146%.

6. The considerable increase in issuer clients also led to a large number of issuer engagements being assigned to certain partners. During 2021, there were five engagement partners and eight engagement quality reviewers who were each responsible for 30 or more issuer clients. One engagement partner, Partner A, had 75 issuer clients, and one engagement quality review partner, Partner B, had 118 issuer clients. This led to significant workloads for these partners.

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[3] Utilization rate measures workload and productivity, and the rate is calculated by dividing client billable hours worked in the period by the number of available work hours for the partners in the period based on a forty-hour work week.

7. During Marcum's 2021 busy season, Partner A's utilization from January through March 2021 was 189%, 184%, and 204%, for each month, respectively. In fact, over that time period, there were multiple weeks when Partner A worked approximately 100 hours over a five-day (Monday – Friday) period. Similarly, Partner B had utilization numbers over the January through March 2021 period of 117%, 161%, and 175% for each month, respectively.

8. Marcum also experienced staffing capacity issues below the partner level. For example, utilization for Marcum's senior managers and managers in the New York City office during busy season from January 2021 to March 2021 was 112%, 148%, and 154%. Further, in March 2021, Marcum did not have sufficient managers to staff all of its SPAC engagements. This resulted in the engagement partner taking on the role of both engagement manager and engagement partner for certain SPAC engagements.

D. The Firm Violated PCAOB Rules and Quality Control Standards

9. PCAOB rules require a registered public accounting firm and its associated persons to comply with PCAOB quality control standards.[4] These standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice.[5] A firm's system of quality control provides a critical foundation and infrastructure for a firm's audit quality as it should "ensure that services are competently delivered and adequately supervised."[6] "A system of quality control is broadly defined as a process to provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality."[7]

10. As described below, Marcum failed to establish policies and procedures sufficient to provide reasonable assurance that its personnel complied with applicable professional standards and regulatory requirements.

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[4] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[5] *See* Quality Control Standard 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[6] QC § 20.02.

[7] QC § 20.03.

i. Marcum's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Acceptance of Issuer Clients and Partner Workload

11. PCAOB quality control standards require that a registered public accounting firm establish quality control policies and procedures for deciding whether to accept or continue a client relationship and whether to perform a specific engagement for that client.[8] Such policies and procedures should provide reasonable assurance that the firm undertakes only those engagements that the firm can reasonably expect to be completed with professional competence and appropriately considers the risks associated with providing professional services in the particular circumstances.[9] In addition, policies and procedures should be established to provide the firm with reasonable assurance that work is assigned to personnel having the degree of proficiency required under the circumstances.[10]

12. In accepting hundreds of new SPAC issuer clients, Marcum failed to properly consider whether it could complete the new engagements with professional competence, given the competing time demands on the Firm's partners assigned to lead and execute the audits and perform the engagement quality reviews for all of its issuer clients. In fact, during the relevant time period, the Firm only rejected a new SPAC issuer client if the client acceptance process identified an independence issue. Marcum also failed to timely implement sufficient policies and procedures as to client acceptance to manage the large influx of new SPAC audit clients.

13. The Firm was aware of the large increase in issuer clients, the demands on partner and staff workloads, and the resulting impact it had on the Firm's ability to comply with certain PCAOB rules and standards, such as audit documentation requirements. Yet, Marcum continued to accept new SPAC issuer clients without sufficiently addressing whether the Firm could reasonably expect to complete these engagements with professional competence, given the competing time demands on its partners assigned to lead audits and perform the engagement quality reviews for its issuer clients, or appropriately considering the risks associated with providing professional services in the circumstances.

14. The Firm, therefore, violated QC § 20 by failing to have adequate policies and procedures related to: (a) client acceptance and continuance sufficient to provide reasonable assurance that it undertook only those engagements that it could reasonably expect to be completed with professional competence; (b) appropriately considering the risks associated

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8 QC § 20.14.

9 QC § 20.15.

10 QC § 20.13.

with providing professional services in particular circumstances; and (c) assigning work to personnel having the requisite proficiency required in the circumstances. These failures resulted in, or contributed to, the Firm's acceptance of hundreds of new issuer audit clients without appropriate processes in place for determining whether it had sufficient capacity to accept such clients and ensuring that partner workloads were manageable so that engagement partners and engagement quality reviewers could discharge their responsibilities with professional competence.[11]

ii. Marcum's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Assembly of Audit Documentation for Retention

15. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that the firm complies with applicable professional standards and regulatory requirements.[12] AS 1215, *Audit Documentation*, establishes requirements for documentation the auditor should prepare and retain in connection with issuer engagements. Among other things, "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[13]

16. Throughout 2021, Marcum failed to timely assemble a complete and final set of audit documentation within 45 days of the report release date in connection with hundreds of issuer audit engagements, due to engagement teams' heavy workloads caused by the increase in issuer clients. Further, numerous audit documentation binders failed to include certain required work papers and required signoffs.

17. For example, throughout 2020 and 2021, the Firm tracked, on a weekly basis by office location, issuer audit engagements where a complete and final set of audit documentation had not, to date, been assembled for retention. The Firm identified on this list delinquent issuer audit engagements (*i.e.*, audit engagements where a complete and final set of work papers had not been assembled for retention and more than 45 days had passed since the audit report had been released). For the Firm's New York City office in the first half of 2020, based on weekly tracking, delinquent issuer audit engagements were in the single digits. However, after the significant increase in SPAC clients, the number of delinquent issuer audit engagements identified by the Firm in the New York City office spiked dramatically during the

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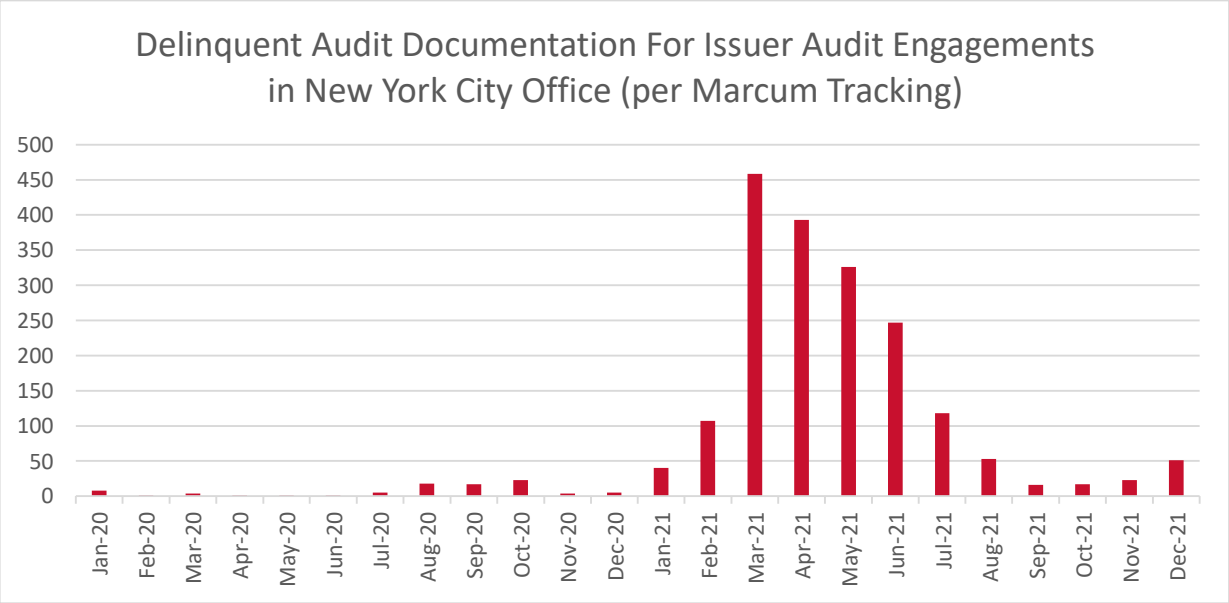
11 QC §§ 20.13-.15.

12 QC §§ 20.03, .17.

13 AS 1215.15.

last week of January 2021, February 2021, and March 2021 from 40, to 107, to 459, respectively, as shown in the below chart.



18. During the peak delinquency period, Marcum reported hundreds of issuer audit engagements with work papers more than one month past due, meaning that Marcum continually failed to address most of the delinquent issuer audit engagements that had appeared on the tracking report as delinquent in the prior month. For example, during the last week of March 2021, April 2021, May 2021, and June 2021, Marcum reported 145, 293, 344, and 269 delinquent issuer audit engagements more than one month past due, respectively. In fact, as of June 30, 2021, Marcum reported 143 delinquent issuer audit engagements more than three months past due, meaning these issuer audit engagements had been identified as delinquent in March 2021 and had still not been addressed.

19. Despite being aware of the increasing number of audit engagements for which the Firm had failed to assemble a complete and final set of audit documentation within 45 days of the report release date, the Firm continued to accept new issuer clients and did not sufficiently address the issue of its noncompliance with AS 1215.15.

20. As a result, the Firm violated QC § 20 by failing to have policies and procedures related to audit documentation sufficient to provide it with reasonable assurance that it would comply with the requirements of AS 1215.15.

iii. Marcum's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Auditor Reporting of Certain Audit Participants

21. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that the work performed by engagement personnel complies with applicable professional standards and regulatory requirements.[14] PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*, requires registered public accounting firms to report information about engagement partners and other accounting firms that participated in the audits of issuers by filing a Form AP for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission ("Commission"),[15] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement under the Securities Act filed with the Commission.[16]

22. Due to the enormous increase in issuer clients in late 2020 and early 2021, and the expected increase in the number of audit reports that would be issued in that period, Marcum's policies and procedures related to Form AP were insufficient to manage the increased volume of Form AP reporting obligations.

23. From January 1, 2021 through October 15, 2021, the Firm failed to timely file Form APs with respect to 63 audit reports for 59 issuers and filed inaccurate Form APs with respect to at least two issuer audits.

24. As a result, the Firm violated QC § 20 by failing to maintain effective policies and procedures to provide it with reasonable assurance that it would comply with the requirements of PCAOB Rule 3211.

iv. Marcum's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Risk Assessment

25. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that the firm complies with applicable professional standards and regulatory requirements.[17] AS 2110, *Identifying and Assessing the Risks of*

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[14] QC §§ 20.03, .17.

[15] PCAOB Rule 3211(b)(1).

[16] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. PCAOB Rule 3211(b)(2).

[17] QC §§ 20.03, .17.

Material Misstatement, requires an auditor to "identify and assess the risks of material misstatement at the financial statement level and the assertion level."[18]

26. For each SPAC audit engagement, the engagement team included a chart in its planning memorandum assessing risk by audit area and/or financial statement line item (*e.g.*, cash, prepaid expenses), but not at the assertion level (*e.g.*, valuation, existence). Standard language in the planning memoranda stated: "We [or Marcum] assessed risk by audit area. We [or Marcum] deemed no audit area to be of significant risk and therefore deemed it appropriate to assess the inherent risk by audit area."

27. In SPAC audits from January 2020 through approximately September 2021, the Firm failed to perform risk assessment procedures to identify and assess the risks of material misstatement at the assertion level.

28. As a result, the Firm violated QC § 20 by failing to establish policies and procedures sufficient to provide it with reasonable assurance that the work performed by Firm personnel with respect to assessing risks on SPAC audits met the requirements of AS 2110.59.

v. Marcum's System of Quality Control Failed to Provide Reasonable Assurance that Personnel Would Consult When Dealing with Complex Issues

29. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that the firm complies with applicable professional standards and regulatory requirements.[19]

30. A registered public accounting firm should also establish quality control policies and procedures to provide reasonable assurance that personnel refer to authoritative literature or other sources and consult, on a timely basis, with individuals within or outside the firm, when appropriate (for example, when dealing with complex, unusual, or unfamiliar issues).[20]

31. During the relevant time period, 164 of Marcum's SPAC and former SPAC audit clients restated their financial statements for incorrect accounting related to the classification of warrants in accordance with ASC Topic 815, *Derivatives and Hedging*, and the classification of redeemable shares in accordance with ASC 480, *Distinguishing Liabilities from Equity*. Marcum's

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18 AS 2110.59.

19 QC §§ 20.03, .17.

20 QC § 20.19.

engagement teams did not consult with individuals within or outside the Firm in connection with the audits of most SPAC restatements.

32. As a result, the Firm violated QC § 20.

vi. Marcum's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Determining Critical Audit Matters

33. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that the firm would comply with applicable professional standards and regulatory requirements.[21] AS 3101, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*, "establishes requirements regarding the content of the auditor's written report when the auditor expresses an unqualified opinion on the financial statements."[22] Among other things, "[t]he auditor must determine whether there are any critical audit matters in the audit of the current period's financial statements."[23] A critical audit matter is "any matter arising from the audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved especially challenging, subjective, or complex auditor judgment."[24] The requirement to evaluate CAMs took effect for audits of large accelerated filers for fiscal years ending on or after June 30, 2019, and on or after December 15, 2020, for all other required companies.

34. In developing its audit programs for the evaluation of CAMs, Marcum failed to develop sufficient guidance to reasonably assure that engagement teams properly evaluated the complete population of potential CAMs. As a result, Marcum failed to properly evaluate in certain issuer audits whether one or more matters were CAMs. Although such matters were required to be communicated to audit committees under AS 1301, *Communications with Audit Committees*, and related to accounts or disclosures that were material to the financial statements, Marcum failed to properly evaluate whether the matters involved especially challenging, subjective, or complex auditor judgment.

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21 QC §§ 20.03, .17.

22 AS 3101.01.

23 AS 3101.11.

24 *Id.*

35. As a result, Marcum violated QC § 20 by failing to establish policies and procedures sufficient to provide it with reasonable assurance that it would comply with AS 3101.11.

vii. Marcum's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Audit Committee Communications

36. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that the firm complies with applicable professional standards and regulatory requirements.[25] AS 1301 requires the auditor to communicate certain matters related to the conduct of an audit to an issuer's audit committee. These matters include, among other things, the terms of the audit arrangement; the audit strategy; significant and critical accounting policies and practices; critical accounting estimates; the names, locations, and planned responsibilities of other independent public accounting firms or other persons, who are not employed by the auditor, that perform audit procedures in the current period audit; the auditor's evaluation of the company's ability to continue as a going concern; and a schedule of any uncorrected misstatements related to accounts and disclosures that the auditor presented to management.[26]

37. AS 1301 also requires the auditor to communicate to the audit committee significant changes to the planned audit strategy or the significant risks initially identified and the reasons for such changes.[27]

38. In several instances across multiple issuer audits in 2021, Marcum failed to make certain required audit committee communications in accordance with AS 1301. In certain audits, Marcum failed to communicate some or all of the issuer's critical accounting policies and practices and/or critical accounting estimates.[28] For certain SPAC audits that had equity restatements, Marcum elevated equity to a significant risk area in connection with the restatement audit, but failed to communicate the change to the audit committee.[29] In other

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25 QC §§ 20.03, .17.

26 AS 1301.

27 AS 1301.11.

28 AS 1301.12.

29 AS 1301.11.

audits, Marcum identified uncorrected misstatements during the audit, but failed to communicate the misstatements to the audit committee.[30]

39. In addition, in audits where Marcum used a third-party firm to assist with audit procedures, for example, in approximately 483 SPAC audits in 2021, Marcum failed to communicate the names, locations, and planned responsibilities of the third-party firm to the audit committee.[31]

40. As a result, Marcum violated QC § 20 by failing to establish policies and procedures sufficient to provide it with reasonable assurance that it would comply with AS 1301.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. In ordering sanctions, the Board took into consideration certain remedial steps Marcum has undertaken, including revisions to certain quality control policies and procedures.

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $3 million on Marcum.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board,

30 AS 1301.18.

31 AS 1301.10(d).

(ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Sections 105(c)(4)(C) and 105(c)(4)(G) of the Act and PCAOB Rules 5300(a)(3) and (9), the Board orders Marcum to make functional changes to its supervisory structure by requiring the Firm to create a new role and hire an individual, not unacceptable to the PCAOB staff, to serve as head of the Firm's quality control system ("Chief Quality Officer"), who will, among other things, be tasked with implementing and overseeing the Firm's compliance with the

independent consultant's recommendations pursuant to this Order. Within ninety (90) days after entry of this Order, Marcum shall submit to the PCAOB staff a proposal setting forth the identity and qualifications of one or more possible Chief Quality Officer candidates. Marcum may not hire as the Chief Quality Officer any individual who has provided legal, auditing, or other services to, or has had any affiliation with, Marcum during the two years prior to entry of this Order. The Chief Quality Officer should have the experience, competence, authority, and capacity to carry out the assigned responsibilities. The Chief Quality Officer's duties and responsibilities shall include supervising the design, implementation, and operation of Marcum's quality control system in accordance with applicable professional and regulatory requirements and the Firm's policies and procedures. The PCAOB Staff shall have ten (10) business days to communicate whether the Chief Quality Officer candidate(s) is/are not unacceptable to the PCAOB Staff.

D. Pursuant to Sections 105(c)(4)(C) and 105(c)(4)(G) of the Act and PCAOB Rules 5300(a)(3) and (9), Marcum is required to incorporate in its governance structure a committee responsible for the oversight function for the audit practice (the "Audit Oversight Committee") that includes at least one person who is not a partner, shareholder, member, other principal, or employee of the Firm and who does not otherwise have a commercial, familial, or other relationship with the Firm that would interfere with the person's exercise of independent judgment with regard to matters related to the quality control system. The Chief Quality Officer shall report to the Audit Oversight Committee.

E. Pursuant to Sections 105(c)(4)(C) and 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(3), (8):

1. Marcum shall retain, within sixty (60) days after the entry of this Order, an independent consultant ("Independent Consultant"), not unacceptable to the PCAOB Staff and Commission Staff in the Division of Enforcement. Marcum shall provide the PCAOB Staff and Commission Staff with notice of possible Independent Consultant candidates no later than thirty (30) days following the entry of this Order. The PCAOB Staff and Commission Staff shall have ten (10) business days to communicate whether the Independent Consultant candidates are not unacceptable to the PCAOB Staff and Commission Staff. Marcum shall, upon request by the PCAOB Staff and Commission Staff, provide information about the Independent Consultant's work plan to the PCAOB Staff and Commission

Staff including the Independent Consultant's experience, ability to staff the engagement, and expertise in auditing and audit firm quality controls. Marcum shall provide to the PCAOB Staff and Commission Staff a copy of the engagement letter detailing the scope of the Independent Consultant's responsibilities within three (3) months after the entry of this Order. If requested by PCAOB Staff and Commission Staff, Marcum shall make the Independent Consultant available to PCAOB Staff and Commission Staff to make presentations, provide updates, and explain the work, progress, and conclusions. The Independent Consultant's compensation and reasonable expenses shall be borne exclusively by Marcum.

Independence

2. To ensure the independence of the Independent Consultant, Marcum shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the PCAOB Staff and Commission Staff; and shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

3. Marcum will require the Independent Consultant to enter into an agreement that provides that, for the period of engagement and for a period of two (2) years after the issuance of the Independent Consultant's final report (as defined in Paragraph IV.E.11), the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing, or other professional relationship with Marcum, or any of its present or former affiliates, directors, officers, partners, employees, or agents acting in their capacity as such. The agreement will also provide that the Independent Consultant will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in the performance of his/her duties under this Order shall not, without prior written consent of the PCAOB Staff and Commission Staff, enter into any employment, consultant, attorney-client, auditing, or other professional relationship with Marcum, or any of its present or former affiliates, directors, officers, partners, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two (2) years after the

issuance of the Independent Consultant's final report (as defined by Paragraph IV.E.11).

4. With respect to PCAOB Staff, Marcum will not assert any legal privilege over communications with or work product prepared by the Independent Consultant.

Scope of Independent Consultant's Review

5. Within the time periods specified below, the Independent Consultant will review and evaluate Marcum's audit, review, and quality control policies and procedures as to, among other aspects, their sufficiency, adequacy, design, implementation, operation, and effectiveness, applicable to an Audit of an Issuer, as that term is defined in PCAOB Rule 1001, regarding the subjects set forth below. The Independent Consultant's purpose for this review and evaluation will be to make recommendations for improvements to policies and procedures that:

    a. Provide reasonable assurance that personnel comply with applicable professional standards, regulatory requirements, and the Firm's standards of quality (*see* QC § 20.03, QC § 20.17, and QC § 20.20) including:

        i. That due professional care is exercised in the planning and performance of the audit and the preparation of the report. *See* AS 1015.

        ii. That auditors are documenting the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions, and that audit documentation contains sufficient information for an experienced auditor, having no previous connection with the engagement to (a) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review. *See* AS 1215.06.

iii. That audit documentation and other documents, including emails that contain audit documentation, are being retained for the length of time required by PCAOB standards and Commission rules or SEC regulations, unless a longer period of time is otherwise required by law. *See* AS 1215.14.

iv. That prior to the audit report release date, the auditor completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report. *See* AS 1215.15.

v. That a complete and final set of audit documentation is assembled for retention as of a date not more than 45 days after the report release date ("documentation completion date") and that documentation requirements are also met for unfinished or incomplete engagements. *See* AS 1215.15.

vi. That audit documentation is not deleted or discarded after the documentation completion date and that any information and documentation added after the documentation completion date must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it. *See* AS 1215.16.

vii. That the auditor is communicating to the audit committee significant risks identified and any changes throughout the course of the engagement. *See* AS 1301.09 and .11.

viii. That the auditor is communicating to the audit committee the matters required to be communicated by AS 1301, either orally or in writing, unless otherwise specified in AS 1301, and is documenting those communications in the work papers, including whether such communications took place orally or in writing. *See* AS 1301.25.

ix. That all audit committee communications required by AS 1301 are made in a timely manner and prior to the issuance of the auditor's report. *See* AS 1301.26.

x. That the auditor is identifying and assessing the risks of material misstatement at the financial statement level and the assertion level. *See* AS 2110.59.

xi. That the auditor is identifying and assessing significant risks consistent with AS 2110.69, 70, and .71.

xii. That the auditor performs and documents procedures to determine whether matters which were communicated, or required to be communicated, to the audit committee and related to accounts or disclosures that were material to the financial statements, were critical audit matters. *See* AS 3101.11, 12, and 17.

xiii. That, with respect to each audit report that Marcum issues for an issuer and that is included in a document filed with the Commission, Marcum files a timely and accurate report on Form AP in accordance with the instructions to that form by the 35th day after the date the audit report is first included in a document filed with the Commission or in the case of a registration statement under the Securities Act, 10 days after the date the audit report is first included in a document filed with the Commission. *See* PCAOB Rule 3211.

b. Provide the Firm with reasonable assurance that the policies and procedures established by the Firm for each of the elements of quality control described in QC § 20 are suitably designed and are being effectively applied, as applicable to the audit standards and PCAOB rules cited in this Order. *See* QC §20.20.

c. Provide the Firm with reasonable assurance that work is assigned to personnel having the degree of technical training and proficiency required in the circumstances and that personnel participate in general and industry-specific continuing professional education and other professional development

activities that enable them to fulfill responsibilities assigned. *See* QC §§ 20.13(b) and (c).

d. Provide the Firm with reasonable assurance that the likelihood of association with a client whose management lacks integrity is minimized. *See* QC § 20.14.

e. Provide the Firm with reasonable assurance that the Firm undertakes only those engagements that the Firm can reasonably expect to be completed with professional competence, including, but not limited to, policies and procedures related to the client acceptance process and staffing capacity as related to client acceptance. *See* QC §§ 20.15(a) and (b).

f. Provide the Firm with reasonable assurance that personnel refer to authoritative literature or other sources and consult, on a timely basis, with individuals within or outside the Firm, when appropriate and that the individuals consulted should have appropriate levels of knowledge, competence, judgment, and authority. *See* QC § 20.19.

g. Provide the Firm with reasonable assurance that quality control policies and procedures are being communicated to personnel and that they are understood and complied with, and that the Firm has established a means of communicating its established quality control policies and procedures, and the changes thereto, to appropriate personnel on a timely basis. *See* QC § 20.23.

6. Marcum shall cooperate fully with the Independent Consultant and shall provide reasonable and timely access to any Firm personnel, information, and records (including audit and consultation documents) as the Independent Consultant may reasonably request for the Independent Consultant's review and evaluation described in Paragraph IV.E.5 and the reports specified in Paragraphs IV.E.7 through IV.E.13 below.

Independent Consultant Reports and Certifications

7. Within eight (8) months after the entry of this Order, Marcum shall require the Independent Consultant to issue a detailed written report ("**Initial Report**") to Marcum: (i) summarizing the Independent

Consultant's review and evaluation of the areas identified in Paragraph IV.E.5 and its subsections above; and (ii) making recommendations, where appropriate, reasonably designed to ensure that audits conducted by Marcum comply with PCAOB standards and rules and any applicable federal securities laws. Marcum shall require the Independent Consultant to provide a copy of the Initial Report to the PCAOB Staff and Commission Staff when the Initial Report is issued. Marcum shall also make the Independent Consultant available to PCAOB Staff and Commission Staff to discuss its work both periodically and after issuance of the report.

8. Marcum will adopt and implement, as soon as practicably possible, but in any event no later than two (2) years after the entry of this Order, and in compliance with the requirements set forth in Paragraphs IV.E.9-15 below, all recommendations of the Independent Consultant in the Initial Report. However, within thirty (30) days of issuance of the Initial Report, Marcum may advise the Independent Consultant in writing of any recommendation that it considers to be unnecessary, unjust, outside the scope of this Order, unduly burdensome, or impractical. Marcum need not adopt any such unnecessary, unjust, outside the scope of this Order, unduly burdensome, or impractical recommendation at that time, but instead may propose in writing to the Independent Consultant an alternative recommendation (an "Alternative Recommendation") designed to achieve the same objective or purpose. Marcum will provide any such Alternative Recommendation(s) to the PCAOB Staff and Commission Staff at the same time that Marcum submits such Alternative Recommendation(s) to the Independent Consultant. Marcum and the Independent Consultant shall engage in good faith negotiations in an effort to reach agreement on any recommendations objected to by Marcum.

9. In the event that the Independent Consultant and Marcum are unable to agree on any Alternative Recommendation(s) within sixty (60) days of the issuance of the Initial Report, Marcum shall abide by the determinations of the Independent Consultant.

10. Within sixty (60) days of issuance of the Initial Report, Marcum will certify to the PCAOB Staff and Commission Staff in writing that (i) Marcum has adopted and has implemented or will implement all recommendations of the Independent Consultant; and (ii) the Independent Consultant agrees

that Marcum has adopted, implemented, and/or has a plan for implementation (the "**Certification of Agreement to Adopt Recommendations"**). Marcum will provide a copy of the Certification of Agreement to Adopt Recommendations to the PCAOB Staff and Commission Staff. To the extent that Marcum has not implemented all recommendations contained in the Initial Report by that time, Marcum will certify to the PCAOB Staff and Commission Staff in writing, no later than thirty (30) days after their implementation, that (i) Marcum has adopted and has implemented all recommendations contained in the Initial Report; and (ii) the Independent Consultant agrees that the recommendations have been adequately adopted and implemented by Marcum ("**Implementation Certification**").

11. Within six (6) months of the issuance of the Initial Report or the Implementation Certification, whichever is later, Marcum shall require the Independent Consultant to complete testing to assess (i) whether Marcum has implemented the written policies and procedures concerning the areas specified in Paragraph IV.E.5 and its subsections above and (ii) the effectiveness of the design and implementation of those policies and procedures. At least thirty (30) days prior to beginning the testing, Marcum shall provide to the PCAOB Staff and Commission Staff a copy of the scope and parameters for testing. The PCAOB Staff and Commission Staff shall have ten (10) days to provide comments. Within thirty (30) days of the completion of this testing, Marcum shall require the Independent Consultant to issue a written report summarizing the results of the Independent Consultant's testing and assessment, and if applicable, any recommendations ("**Final Report**") and to provide a copy of the Final Report to the PCAOB Staff and Commission Staff. At this time, if the Independent Consultant determines that Marcum has adopted and implemented all recommendations set forth in the Initial Report and that Marcum's quality control policies addressing those recommendations and the policies specified in paragraph IV.E.5 and its subsections are functioning effectively, Marcum shall require the Independent Consultant to certify in writing that Marcum has satisfied such undertakings ("**Independent Consultant Certification**") and provide a copy of this certification to the PCAOB Staff and Commission Staff. In all events, Marcum must complete all undertakings concerning the implementation of the recommendations set forth in the Independent Consultant's Initial Report, and any amended recommendations, and provide the

Independent Consultant Certification to the PCAOB Staff and Commission Staff no later than two (2) years after the entry of this Order.

12. To the extent that the Final Report has additional recommendations that Marcum has not implemented, within thirty (30) days of issuance of the Final Report, Marcum will certify to the PCAOB Staff and Commission Staff in writing that it has adopted and has implemented or will implement all additional recommendations of the Independent Consultant ("**Final Certification of Agreement to Adopt Recommendations"**). Marcum will provide a copy of the Final Certification of Agreement to Adopt Recommendations to the PCAOB Staff and Commission Staff. To the extent that Marcum has not implemented all additional recommendations contained in the Final Report by that time, Marcum will certify to the PCAOB Staff and Commission Staff in writing, by thirty (30) days after their implementation, that Marcum has adopted and has implemented all recommendations contained in the Final Report ("**Final Implementation Certification"**). In all events, Marcum must complete all undertakings concerning the implementation of the recommendations set forth in the Independent Consultant's Final Report no later than four (4) months after the issuance of the Final Report.

13. The Initial Report, Final Report, Certification of Agreement to Adopt Recommendations, Implementation Certification, Independent Consultant Certification, Final Certification of Agreement to Adopt Recommendations, and Final Implementation Certification, and any related correspondence or other documents shall be submitted to the Director of the PCAOB's Division of Enforcement and Investigations, 1666 K Street, N.W., Washington, DC, 20006, with a copy to Laura B. Josephs, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC, 20549.

14. The Initial Report and Final Report by the Independent Consultant will likely include confidential financial, proprietary, competitive business or commercial information. Public disclosure of these reports could discourage cooperation, impede pending or potential government investigations, or undermine the objectives of the reporting requirement. For these reasons, among others, these reports and the contents thereof are intended to remain and shall remain non-public, except (1) pursuant

to court order, (2) as agreed to by the parties in writing, (3) to the extent that the PCAOB determines in its sole discretion that disclosure would be in furtherance of the PCAOB's discharge of its duties and responsibilities and in compliance with Section 105(b)(5) of the Act, or (4) if such disclosure is otherwise required by law.

15. No later than sixty (60) days from the date that Marcum signs the Final Implementation Certification, Marcum's CEO and Marcum's Chief Quality Officer shall both certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The PCAOB Staff and Commission Staff may make reasonable requests for further evidence of compliance, and Marcum agrees to provide such evidence. This certification and supporting material shall be submitted to the Director of the PCAOB's Division of Enforcement and Investigations, 1666 K Street, N.W., Washington, DC, 20006, with a copy to Laura B. Josephs, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 100 F Street, N.E., Washington, DC, 20549, no later than sixty (60) days from the date of the completion of the undertakings.

16. For good cause shown, and solely at the discretion of the PCAOB Staff and Commission Staff, the PCAOB Staff and Commission Staff may extend any of the procedural dates relating to the undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

17. If the PCAOB Staff believes that Marcum has not satisfied these undertakings, the PCAOB Staff may petition the Board to reopen the matter to determine whether additional sanctions are appropriate.

F. Pursuant to Section 105(c)(4)(F), (G) of the Act and PCAOB Rule 5300(a)(6), (9), Marcum is required:

1. As of the date of the Final Implementation Certification, to have conducted training related to changes to the Firm's policies and procedures that resulted from the Independent Consultant's Initial Report and Final Report in, among other areas:

a. Audit Documentation;

b. PCAOB reporting requirements (including Forms AP);

c. Risk Assessments;

d. Critical Audit Matters; and

e. Audit Committee Communications.

G. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 21, 2023

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Eddie Wong, CPA, and Neil W. Ehrenkrantz, CPA,

Respondents.

PCAOB Release No. 105-2023-006

June 22, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) Barring Eddie Wong, CPA ("Wong") from being an associated person of a registered public accounting firm[1] and imposing a $100,000 civil money penalty upon Wong; and

(2) Barring Neil W. Ehrenkrantz, CPA ("Ehrenkrantz") from being an associated person of a registered public accounting firm[2] and imposing a $25,000 civil money penalty upon Ehrenkrantz.

The Board is imposing these sanctions on the basis of its findings that Wong and Ehrenkrantz, (collectively, "Respondents") violated PCAOB rules and standards in connection with the audits of an issuer.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit

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

[2] Ehrenkrantz may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **Eddie Wong, CPA,** was, at all relevant times, a certified public accountant licensed by the State of New York (License No. 052907). Wong was, at all relevant times, a partner of Friedman LLP ("Friedman"). Wong served as the engagement partner for Friedman's audits of the consolidated financial statements of Kingold Jewelry, Inc. ("Kingold" or the "Company") for the years ended December 31, 2016, 2017 and 2018 and Kingold's internal control over financial reporting ("ICFR") as of December 31, 2017 and 2018 (collectively, "the Audits"). Wong was, at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

2. **Neil W. Ehrenkrantz, CPA,** was, at all relevant times, a certified public accountant licensed by the States of New York (License No. 097426) and New Jersey (License No. 20CC01176000). Ehrenkrantz was, at all relevant times, a partner of Friedman. Ehrenkrantz performed the engagement quality review ("EQR") for the Audits. Ehrenkrantz was, at all relevant times, an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities

3. **Friedman LLP** is a limited liability partnership organized under the laws of the State of New York and headquartered in New York, New York.[5] Friedman is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Friedman issued audit reports containing unqualified opinions on Kingold's financial statements for the years ended December 31, 2016, 2017, and 2018 and adverse opinions on the effectiveness of Kingold's ICFR as of December 31, 2017 and 2018.

4. **Kingold Jewelry, Inc.** was, at all relevant times, a Delaware corporation headquartered in the People's Republic of China ("PRC"). Kingold's public filings disclose it was a designer and manufacturer of gold jewelry and Chinese ornaments. Kingold sold its products directly to distributors, retailers, and other wholesalers, which then sold these products to consumers through retail counters located in department stores and jewelry stores in the PRC. Kingold was, at all relevant times, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).[6]

C. Summary

5. This matter concerns Respondents' violations of PCAOB rules and standards in connection with Friedman's audits of Kingold's financial statements for the fiscal years ended December 31, 2016, 2017, and 2018 and Kingold's ICFR as of December 31, 2017 and 2018. Wong authorized Friedman's issuance of audit reports containing unqualified opinions on Kingold's financial statements for 2016, 2017, and 2018 and adverse opinions on Kingold's ICFR

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[5] Substantially all of Friedman LLP's assets were acquired by Marcum LLP as of September 1, 2022. Friedman subsequently filed a Form 1-WD to withdraw its PCAOB registration, which is pending.

[6] On August 21, 2020, Kingold's stock was delisted from a U.S.-based exchange after it filed a Form 25 with the Securities and Exchange Commission to withdraw its securities from listing and registration on the exchange.

for 2017 and 2018. Ehrenkrantz provided concurring approval of issuance of Friedman's audit reports for the Audits.

6. In conducting the Audits, Wong failed to exercise due professional care and skepticism by, among other things, failing to obtain sufficient appropriate audit evidence concerning gold inventories pledged as collateral to secure loans from banks and financial institutions ("Pledged Gold"), and failing to identify or evaluate certain significant unusual transactions.

7. Wong failed to perform sufficient audit procedures to address management's assertions as to the existence of Pledged Gold inventory shown on Kingold's balance sheets at the relevant year-ends. He did not obtain confirmation from the custodians of the Pledged Gold, as would ordinarily be expected for inventories housed by outside custodians. Furthermore, Wong did not perform sufficient additional procedures under the circumstances, such as observing physical inventories of Pledged Gold, and thus failed to obtain reasonable assurance with respect to Pledged Gold's existence. Wong also failed to perform sufficient appropriate audit procedures in the 2016 and 2017 audits to identify significant unusual transactions, which were unusual due to their timing, size and nature, or to evaluate whether the business purpose (or lack thereof) of identified significant unusual transactions indicated that they may have been entered into to engage in fraudulent financial reporting or asset misappropriation, including the 2016 and 2017 significant unusual Pledged Gold loan transactions, and the other significant unusual transactions Wong had identified in 2016 and 2017.

8. In addition, Ehrenkrantz violated AS 1220, *Engagement Quality Review*, by providing his concurring approval for the issuance of the Firm's audit reports for the Audits without appropriately evaluating the engagement team's assessment of and responses to significant risks with due professional care.

D. Background

9. Starting in 2016, and continuing throughout 2017 and 2018, Kingold reported certain gold inventory, not available for use in production, as "Investments in gold" on its balance sheets ("Investments in Gold").[7] The Investments in Gold represented the value of the significant quantities of Pledged Gold inventory collateralizing Kingold's loan transactions with various lenders. From $186 million at year-end 2015 (representing 40% of total assets), the

[7] Prior to 2016, Pledged Gold was included within "Inventories" on Kingold's balance sheets.

value of Pledged Gold increased more than eight-fold, to $1.8 billion at year-end 2016, which represented 78% of total assets.

10. From December 31, 2015 to December 31, 2016, Kingold's total assets also grew by $1.8 billion, representing an over 350% increase, which was principally driven by the increases in Pledged Gold and related loans. This growth in gold inventory arose from the Company repeatedly using proceeds from earlier Pledged Gold loans to purchase more gold, which in turn was pledged to obtain more loans, the proceeds of which were used to purchase more gold. As of 2016 year-end, Kingold reported outstanding Pledged Gold loan balances of $1.5 billion, or 74% of total liabilities.

11. During 2017, the amount of Kingold's Pledged Gold increased by $0.7 billion, or 42%, resulting in Investments in Gold of $2.5 billion, or 83% as a percent of total assets at 2017 year-end. Pledged Gold loan balances also increased to $1.8 billion, or 66% of total liabilities at 2017 year-end. During 2018, Investments in Gold slightly decreased to $2.3 billion or 85% of total assets and Pledged Gold loans similarly decreased to $1.5 billion or 73% of total liabilities at year-end. During 2017 and 2018, Kingold repaid some of its Pledged Gold loan transactions, but also entered into multiple new Pledged Gold loan transactions with new lenders.

12. On July 6, 2020, Kingold disclosed that it had received notices of default between November 2019 and June 2020 on a number of its Pledged Gold loans, for which the adequacy and integrity of certain Pledged Gold was under dispute.[8] Shortly thereafter, Kingold disclosed a government investigation had been launched regarding the adequacy and integrity of gold in the control of the lenders.[9]

13. On August 15, 2020, Friedman resigned as the auditor of Kingold, and the Firm requested that Kingold take immediate steps to notice that reliance should no longer be placed on the Firm's previously issued audit reports on the Company's 2016, 2017 and 2018 financial statements. The non-reliance was based on Friedman's conclusion that it was unable to obtain Kingold's support to conduct a satisfactory investigation of information, of which it had become aware, about Kingold's financial statements.[10]

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8 *See* Kingold Jewelry, Inc. Form 8-K (July 6, 2020).

9 *See* Kingold Jewelry, Inc. Form 8-K (July 14, 2020).

10 *See* Kingold Jewelry, Inc. Form 8-K (August 20, 2020).

E. Wong Violated PCAOB Rules and Auditing Standards in Connection with the Audits

14. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[11] Among other things, PCAOB standards require an auditor to exercise due professional care, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[12] As described below, Wong violated PCAOB rules and standards in connection with the Audits.[13]

i. Wong Failed to Obtain Sufficient Appropriate Evidence Concerning the Pledged Gold Inventory During the Audits

15. PCAOB standards state that "[t]he auditor must plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion."[14] "To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based."[15] "Observation of inventories is a generally accepted auditing procedure. The independent auditor who issues an opinion when he has not employed them must bear in mind that he has the burden of justifying the opinion expressed."[16]

16. Under AS 2510, "[i]f inventories are in the hands of public warehouses or other outside custodians, the auditor ordinarily would obtain direct confirmation in writing from the

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11 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

12 *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*.

13 All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits and reviews discussed herein.

14 AS 1105.04.

15 *Id.* at .06.

16 AS 2510.01, *Auditing Inventories*.

custodian."[17] If such inventories represent a significant proportion of current or total assets, the auditor should apply one or more of the following procedures as considered necessary in the circumstances: (a) test the issuer's procedures for investigating the warehouse and evaluating its performance; (b) obtain an independent accountant's report on the warehouse's control procedures relevant to the custody of goods, or apply alternative procedures to gain reasonable assurance that the information received from the warehouse is reliable; (c) observe physical counts of the goods, if practicable and reasonable; (d) if warehouse receipts have been pledged as collateral, confirm with lenders pertinent details of the pledged receipts (on a test basis, if appropriate).[18]

17. In each of the 2016, 2017 and 2018 audits, Kingold management represented that the Pledged Gold was stored with third-party custodians designated by lenders and could not be accessed for on-site inventory observation. In the 2016 and 2017 audits, Wong and the engagement team assessed a "high risk," and in the 2018 audit a "significant risk," of material misstatements for inventory, including Pledged Gold.

18. After the 2016 eight-fold increase in Pledged Gold, Wong, Ehrenkrantz and the engagement team discussed and considered AS 2510 in their 2016 audit planning meeting. Although they initially planned to obtain direct confirmation from custodians of the Pledged Gold, Wong later improperly decided that solely obtaining confirmation from lenders of their year-end records of the Pledged Gold's recorded quantity, purity, and storage location would be sufficient to address the risks of existence for the Pledged Gold. Wong and the engagement team continued this approach in the 2017 and 2018 audits, notwithstanding the fact that Pledged Gold remained the most significant asset on Kingold's balance sheets.[19]

19. Despite the magnitude of, and higher identified audit risks for, the Pledged Gold in the 2016, 2017 and 2018 audits, Wong and the engagement team did not obtain any confirmation of the Pledged Gold from the third-party custodians. Furthermore, Wong and the engagement team did not perform sufficient additional procedures under the circumstances, such as observing physical counts of the Pledged Gold, or obtaining an independent

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17 *Id*. at .14.

18 *Id*.

19 For the 2018 audit Wong and the engagement team determined that confirmation with the insurer was no longer necessary.

accountant's report on the custodians' control procedures relevant to the custody of Pledged Gold, to obtain reasonable assurance of the existence of the Pledged Gold.

20. As a result of Friedman's failure to obtain confirmation of Kingold's Pledged Gold inventory from its custodians or perform other sufficient additional procedures, Wong and the engagement team failed to obtain sufficient appropriate evidence to support the existence of the Investments in Gold for Friedman's 2016, 2017 and 2018 audits. Accordingly, Wong violated AS 1015, AS 1105 and AS 2510.

ii. Wong Failed to Identify or Evaluate Significant Unusual Transactions in the 2016 and 2017 Audits

21. PCAOB standards state that "[s]ignificant transactions that are outside the normal course of business for the company or that otherwise appear to be unusual due to their timing, size, or nature ('significant unusual transactions') may be used to engage in fraudulent financial reporting or conceal misappropriation of assets."[20] To address the fraud risk of management override of controls, PCAOB standards require auditors to take into account information obtained from procedures performed during the audit to identify significant unusual transactions and then to evaluate whether the business purposes for significant unusual transactions indicate that the transactions may have been entered into to engage in fraud.[21]

a. Significant Unusual Transactions in the 2016 Audit

22. In the 2016 audit of Kingold, Wong failed to identify the 2016 transactions entered into to borrow significant funds secured by Pledged Gold as significant unusual transactions, because he did not properly take into account information he obtained in the audit indicating that they were unusual due to their timing, size, and nature.[22] At the time of the 2016 audit, Wong knew that these type of transactions had not been entered into by Kingold at any significant scale prior to 2016, and that to meet the pledge requirements for certain of these transactions, Kingold had to lease gold from a related party. Wong also understood that, in every month during 2016, Kingold executed new Pledged Gold loan transactions that resulted in multiple, successive layers of leverage—the cumulative nature of these transactions caused Kingold's assets to grow in 2016 by over 350%, with a corresponding

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20 AS 2401.66, *Consideration of Fraud in a Financial Statement Audit*.

21 *See id*. at .57; .66 - .67.

22 *Id*. at .66.

increase in liabilities. Furthermore, these transactions were only approved retroactively by Kingold's Board of Directors, at Wong's specific request, during the 2016 audit. Wong accepted oral representations from management that the Company was buying such significant quantities of gold to avoid further price increases in materials for future production, and to speculate on the price of gold.

23. Prior to the start of the 2016 audit, Wong and the engagement team had obtained and reviewed a report that had been posted on an investor stock research website, which contained allegations of, among other things, certain undisclosed related party transactions and undisclosed debt guarantees to financial institutions provided by Kingold with respect to loans obtained by a specified related party and another specified third-party. During the 2016 audit, Wong learned that the Company had failed to include material transactions in the interim financial statements and disclosures in its Form 10-Q filings for each of the three quarters of 2016. Specifically, these transactions included a significant, material loan Kingold had received from a related party and two transactions involving Kingold's guarantees of the debt of a related party and a third-party, which matched with some of the allegations specified in the previously received report. Kingold subsequently filed an amended Form 10-Q for each of the three quarters in 2016 to report and disclose these previously undisclosed transactions.

24. Wong identified these previously undisclosed related party and debt guarantee transactions as significant unusual transactions in the 2016 audit.[23] Similar to the Pledged Gold loan transactions, these transactions had not been contemporaneously approved by Kingold's Board of Directors.[24]

25. Although Wong specifically raised these previously undisclosed transactions as significant unusual transactions in the 2016 audit written communications to the audit committee, he did not design and perform sufficient appropriate procedures to obtain an understanding of their business purpose to evaluate whether the business purpose (or lack thereof) indicated they may have been entered into to engage in fraudulent financial reporting or to conceal misappropriation of assets. Wong improperly relied on uncorroborated management representations that such transactions enhanced Kingold's credit position with

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[23] The previously undisclosed debt guarantee transactions consisted of an unrelated third party and a related party borrowing funds from financial institutions, with Kingold providing guarantees to the financial institutions for repayment of those loans. These parties, in turn, lent the proceeds of those borrowings to Kingold, on an interest-free basis, the equivalent amount of which was used by Kingold to collateralize its related guarantees to the financial institutions.

[24] Approval was only retroactively obtained during the 2016 audit, at Wong's specific request.

the lenders, without understanding why such credit enhancements were needed, or why the related and third-parties were involved.[25]

b. Significant Unusual Transactions in the 2017 Audit

26. Kingold's transactions borrowing significant funds secured by Pledged Gold continued to grow in 2017, in a similar pattern as in 2016. In contrast to his failure to identify such transactions as significant unusual transactions during the previous year's audit, Wong identified these newly executed 2017 Pledged Gold loan transactions as significant unusual transactions. Despite identifying these 2017 transactions as significant unusual transactions, Wong improperly relied on uncorroborated representations from management similar to those he accepted in the previous year's audit.[26]

27. The sale by Kingold of gold with significant value to a related party in 2017 was also identified as a significant unusual transaction in the 2017 audit. Like the Pledged Gold loan transactions, these transactions had not been contemporaneously approved by Kingold's Board of Directors.[27] Wong accepted management representations that these gold sales transactions were meant to provide access to sell gold to additional sources for sales not accessible to Kingold.

28. Although Wong raised all these transactions as significant unusual transactions in the 2017 audit written communications to the audit committee, he did not design and perform sufficient appropriate procedures to obtain an understanding of their business purpose to evaluate whether the business purpose (or lack thereof) indicated they may have been entered into to engage in fraudulent financial reporting or to conceal misappropriation of assets, as required to address the fraud risk of management override.[28] As in the previous year, Wong improperly relied on management representations about these transactions.[29]

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[25] *See* AS 1015 and AS 2805.02, *Management Representations*.

[26] As in the prior year, the Pledged Gold loan transactions also were only approved by Kingold's Board of Directors retroactively, at Wong's specific request during the 2017 audit.

[27] Such approval was only retroactively obtained during the 2017 audit, again at Wong's specific request.

[28] *See* AS 2401.66A and .67.

[29] *See* AS 1015 and AS 2805.02.

29. Because he improperly relied on uncorroborated management representations and failed to perform sufficient appropriate procedures to identify or evaluate the significant unusual transactions in both the 2016 and 2017 audits, Wong violated AS 1015, AS 2401, and AS 2805.

F. Ehrenkrantz Violated PCAOB Rules and Auditing Standards in Connection with His EQR of the Audits

30. An EQR is required for all audits and reviews conducted pursuant to PCAOB standards.[30] The EQR is intended to "serve as a meaningful check on the work performed by the engagement team."[31] The EQR reviewer is responsible for evaluating the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[32] Among other things, the EQR reviewer should evaluate the engagement team's assessment of, and audit responses to, significant risks identified by the engagement team or the EQR reviewer.[33] An EQR reviewer should further evaluate whether the audit documentation indicates the engagement team responded appropriately to significant risks and supports the conclusions reached by the engagement team with respect to the matters reviewed.[34] The EQR reviewer may provide concurring approval of issuance of an audit report only if, after performing the EQR with due professional care, he or she is not aware of a significant engagement deficiency.[35]

31. Ehrenkrantz served as the EQR reviewer on the 2016, 2017 and 2018 Kingold audits and provided his concurring approval for the issuance of the Firm's audit reports for those years.

32. Ehrenkrantz knew that during the 2016 and 2017 audits, the engagement team had identified a high risk of material misstatements for inventory, including Pledged Gold. He also knew that for the 2018 audit, the Firm assessed a significant risk of material misstatement for inventory, including Pledged Gold. Ehrenkrantz also learned through discussions with the

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30 *See* AS 1220.01.

31 PCAOB Rel. No. 2009-004 (July 28, 2009) at 2.

32 *See* AS 1220.09.

33 *See id.* at .10(b).

34 *See id.* at .11.

35 *See id.* at .12.

engagement teams that they planned only to obtain confirmation of the lenders' records of the Pledged Gold and not to obtain confirmations from the custodians or to perform other procedures, such as observing the Pledged Gold in the 2016 audit. Ehrenkrantz was aware of, and did not object to, continuing this approach in the 2017 and 2018 audits. In concurring with the engagement team's audit approach to exclude confirmation with the custodians, Ehrenkranz failed to properly evaluate the engagement teams' significant engagement planning judgments with respect to the Pledged Gold inventory.[36]

33. During the 2016 audit, Ehrenkrantz also understood the Pledged Gold loan transactions in 2016 were a significant risk. He was aware these transactions were new and understood the impact they had on Kingold's financial statements. However, Ehrenkrantz, in concurring with the engagement team's overall approach to the audit that excluded procedures to identify significant unusual transactions in its key risk areas, further failed to properly evaluate the engagement teams' significant engagement planning judgments.[37]

34. Ehrenkrantz also failed, during the 2016 and 2017 audits, to properly evaluate the engagement team's audit responses to the fraud risks posed by the Pledged Gold loan transactions and other significant unusual transactions.[38] He understood that the engagement team undertook no specific steps to identify significant unusual transactions in the Audits, improperly believing that transactions could not be considered significant unusual transactions if they could be understood to relate to the company's line of business. In the 2016 and 2017 audits, he failed to address the engagement team's failures to respond to fraud risks by properly evaluating the business purpose (or lack thereof) of transactions identified to Kingold's audit committee as significant unusual transactions.

35. During the Audits, Ehrenkrantz failed to evaluate, with due professional care, the significant judgments made, and the related conclusions reached, by the engagement teams in forming their overall conclusions on the Audits.[39] Specifically, Ehrenkrantz failed to properly evaluate the engagement teams' significant planning judgments; and the engagement teams' assessments of, and audit responses to, significant risks they had identified, including the risks associated with the Pledged Gold inventory and significant unusual transactions. Ehrenkrantz also failed to properly evaluate whether the audit documentation supported the engagement

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36 *See id.* at .10(a).

37 *See id.*

38 *See id*. at .10(b).

39 *See id.* at .09 and .12.

team's conclusions with respect to significant unusual transactions and Pledged Gold inventory, in violation of PCAOB rules and auditing standards.[40]

36. As a result of the significant engagement deficiencies described above, Ehrenkrantz provided his concurring approvals of issuance in the 2016, 2017 and 2018 audits without performing his engagement quality reviews with due professional care.[41] Accordingly, Ehrenkrantz violated AS 1220 and AS 1015.

IV.

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

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Eddie Wong is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); [42]

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

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Neil W. Ehrenkrantz is barred from being an associated person of a registered public

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40 *See id.* at .11.

41 *See id*. at .12; AS 1015.01.

42 As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Wong. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[43]

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

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4): (i) a civil money penalty in the amount of $100,000 is imposed on Eddie Wong; and (ii) a civil money penalty in the amount of $25,000 is imposed on Neil W. Ehrenkrantz.

1. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act.

2. Each Respondent shall pay his civil money penalty within ten days of the issuance of this order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b)

[43] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act, discussed *supra*, at n. 42, will apply with respect to Ehrenkrantz.

claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondents' payment of the civil money penalties pursuant to this Order, in any private action brought against Respondents based on substantially the same facts as set out in the findings in this Order.

4. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. By consenting to this Order, each Respondent understands that failing to pay his civil money penalty, described above, may alone be grounds to deny any petition pursuant to PCAOB Rule 5302(b) for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 22, 2023

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Total Asia Associates PLT,

Respondent.

PCAOB Release No. 105-2023-007

June 23, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Total Asia Associates PLT ("TAA," "Firm," or "Respondent");

(2) revoking the registration of TAA, a registered public accounting firm;[1] and

(3) imposing a civil money penalty of $80,000 on TAA.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and quality control standards by failing to implement and maintain quality control policies and procedures to ensure that its personnel complied with applicable professional standards, regulatory requirements, and the Firm's standards of quality.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings

[1] The Firm may reapply for registration after two years from the date of this Order.

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order, as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Total Asia Associates PLT** is a partnership organized under the laws of Malaysia and headquartered in Kuala Lumpur, Malaysia. At all relevant times, the Firm was licensed by the Malaysian Institute of Accountants (License No. AF002128). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns the Firm's failure to comply with PCAOB rules and quality control standards. The Firm failed to establish engagement performance and monitoring policies and procedures sufficient to provide it with reasonable assurance that its policies and procedures were suitably designed and effectively applied. During the period related to its year-end audits subject to PCAOB rules and standards from 2017 through 2020, the Firm's system of quality control failed to provide reasonable assurance that the work performed by its engagement personnel met applicable professional standards and regulatory requirements.

3. Additionally, the Firm's system of quality control failed to provide reasonable assurance that appropriate and effective monitoring took place.

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

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

C. The Firm Violated PCAOB Quality Control Standards

i. TAA's Quality Control Policies and Procedures Failed to Provide the Firm with Reasonable Assurance that the Work Performed by Engagement Personnel Met Professional Standards and that Personnel Participated in Relevant Training

4. PCAOB rules require registered public accounting firms to comply with the Board's quality control standards.[4] PCAOB quality control standards, in turn, require each registered firm to effectively design, implement, and maintain a system of quality control in the firm's accounting and auditing practice.[5] A firm's system of quality control should, among other things, include policies and procedures for engagement performance. A firm should establish policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[6] Quality control policies and procedures for engagement performance should encompass all phases of the design and execution of an engagement.[7] To the extent appropriate and as required by applicable professional standards, including SEC and PCAOB rules and/or standards, these policies and procedures should also cover planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement. These policies and procedures also should address engagement quality reviews ("EQRs").[8]

5. At all relevant times, the Firm failed to establish policies and procedures to provide reasonable assurance that the Firm used audit methodology, guidance materials, and practice aids ("Audit Methodology") designed to comply with PCAOB auditing standards and other regulatory requirements. For year-end audits subject to PCAOB rules and standards from 2017 through 2020, the Firm's partners, personnel, and engagement quality reviewers used commercially available guidance materials from 2015 for the Firm's Audit Methodology, but the Firm failed to update its Audit Methodology. For example, the Firm's Audit Methodology failed to address the requirements for critical audit matters ("CAMs"), including the required

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4 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

5 Quality Control Standard 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20"), .01-.02.

6 QC § 20.17.

7 QC § 20.18.

8 *Id.*

disclosure in the audit opinion and related communications to the audit committee.[9] These CAMs requirements were effective for the Firm for fiscal years ending on or after December 15, 2020.[10] As a result, for multiple 2020 audits, the Firm used outdated audit methodology and failed to comply with the requirements under PCAOB standards relating to CAMs.

6. Policies and procedures should also be established to provide a firm with reasonable assurance that personnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill their assigned responsibilities.[11] During the period related to its 2017-2020 year-end audits, the Firm failed to have effective policies and procedures that provided it with reasonable assurance that personnel assigned to engagements participated in continuing professional education and other professional development activities related to U.S. generally accepted accounting principles ("U.S. GAAP"), PCAOB standards, and SEC reporting requirements, rules, and regulations. In addition, from 2019 through 2020, Firm partners and engagement quality reviewers failed to receive any training in U.S. GAAP, PCAOB standards, and SEC reporting requirements, rules, and regulations. The Firm also failed to ensure that its personnel received training related to the requirements for EQRs and to the requirements under PCAOB standards related to CAMs for audits of fiscal years ending on or after December 15, 2020.

ii. TAA Was Aware of Significant Audit Deficiencies in its EQRs, Yet Failed to Improve its Policies and Procedures

7. A firm should also establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures are suitably designed and are being effectively applied. Monitoring involves an ongoing consideration and evaluation of the (a) relevance and adequacy of the firm's policies and procedure; (b) appropriateness of the

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9 *See* AS 3101.11-.17, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

10 Generally, CAM requirements were effective for audits for fiscal years ending on or after June 30, 2019, for large accelerated filers and for fiscal years ending on or after December 15, 2020, for all other companies to which CAM requirements apply. Total Asia's audits required CAMs for fiscal years ending on or after December 15, 2020.

11 QC § 20.13c; QC § 40.02c.

firm's guidance materials and any practice aid; (c) effectiveness of professional development activities; and (d) compliance with the firm's policies and procedures.[12]

8. Monitoring involves a firm considering and evaluating compliance with its policies and procedures on an ongoing basis.[13] Monitoring procedures, taken as a whole, should enable the firm to obtain reasonable assurance that its system of quality control is effective.[14] Procedures that provide the firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the firm's policies and procedures contribute to the monitoring element. Among other things, a firm's monitoring procedures may include inspection procedures, preissuance or postissuance review of selected engagements, determination of any corrective actions to be taken and improvements to be made in the quality control system, communication to appropriate firm personnel of any weaknesses identified, and follow up to ensure that any necessary modifications are made to the quality control policies and procedures on a timely basis.[15]

9. As part of the Firm's quality control process, TAA performed postissuance reviews of select audits, or "cold file reviews," beginning in November 2018. TAA's "cold file reviews" generated reports that identified deficiencies related to the Firm's EQRs that indicated noncompliance with the Firm's policies and procedures on EQR documentation and violations of PCAOB standards. Specifically, the Firm's reports noted that in multiple audits for 2016, 2017, and 2018, the Firm's engagement quality reviewer left the review procedures checklist blank and gave no indication that an EQR had been performed, in violation of PCAOB standards.[16] Despite the Firm's awareness of these deficiencies, the Firm's monitoring process did not consider and evaluate the relevance and adequacy of its policies and procedures.[17] The Firm failed to make changes to, or improve, its policies and procedures to address their prior failures to have identified EQR deficiencies.

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12 *See* QC § 20.20; Quality Control Standard 30, *Monitoring a CPA Firm's Accounting and Auditing Practice* ("QC § 30"), .02.

13 *See* QC § 30.02d.

14 QC § 30.03.

15 *Id*.; *see also* QC §§ 30.04-.08.

16 AS 1220, *Engagement Quality Review,* .19-.20.

17 QC §§ 30.03-.05.

IV.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Total Asia Associates PLT is revoked.

C. After two years from the date of this Order, Total Asia Associates PLT may reapply for registration by filing an application for registration pursuant to PCAOB Rule 2101.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $80,000 is imposed upon TAA. All funds collected by the PCAOB as a result of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Respondent shall pay the civil money penalties within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006. By consenting to this Order, Total Asia Associates PLT acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any reapplication for registration pursuant to PCAOB Rule 2101.

1. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

2. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

E. Pursuant to Sections 105(c)(4)(G) of the Act and PCAOB Rules 5300(a)(9), should TAA submit any future application for registration, the Firm is required:

1. prior to the Board's consideration of any such application by the Board, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable PCAOB rules and standards;

2. prior to the Board's consideration of any such application by the Board, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable PCAOB rules and standards, of any Firm audit personnel who participate in any way in the planning or performing of any audit or interim review of an issuer or any SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Securities Exchange Act of 1934 Rule 17a-5, 17 C.F.R. § 240.17a-5, as amended);

3. within ninety days from the date the Board grants any future application of the Firm for registration ("Future Registration Date") and before the Firm's commencement of any audit or interim review of an issuer or

commencement of any SEC Registered Broker-Dealer Engagement, to ensure training pursuant to the policy described in paragraph IV.E.2 above on at least one occasion; and

4. within 120 days from the Future Registration Date, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs IV.E.1-3 above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 23, 2023

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of CohnReznick LLP,

Respondent.

PCAOB Release No. 105-2023-008

July 11, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring CohnReznick LLP ("CohnReznick" or "Respondent");

(2) imposing a $20,000 civil money penalty on CohnReznick; and

(3) requiring CohnReznick to comply with its policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that CohnReznick failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, on a timely basis.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **CohnReznick** is a partnership organized under the laws of New Jersey. CohnReznick has offices in multiple locations and is licensed to practice public accounting by the state of New Jersey (License No. 20CB00324300), as well as other states where it has offices. CohnReznick is a member of the Nexia International network of firms and is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns CohnReznick's failure to timely disclose to the Board on Form 3 four reportable events regarding two disciplinary proceedings brought by the U.S. Securities and Exchange Commission ("Commission") against CohnReznick and certain of its personnel. PCAOB rules require registered firms, including CohnReznick, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that CohnReznick is required to report on Form 3 are its becoming aware that the firm and/or certain of its personnel have become respondents in certain disciplinary proceedings, and the conclusion of such proceedings.

3. On June 8, 2022, the Commission issued an order sanctioning CohnReznick for deficiencies in its system of quality controls that led to audit failures in connection with a quarterly review and year-end audit of one client, and a year-end audit of another client.[2] The initiation and conclusion of the Commission's proceeding against CohnReznick constituted reportable events under Form 3, but CohnReznick failed to file a Form 3 reporting either event until December 12, 2022.

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

[2] *CohnReznick LLP*, Exchange Act Rel. No. 95066 (June 8, 2022).

4. The Commission issued another order on June 8, 2022 sanctioning three CohnReznick partners who were involved in one of the year-end audits serving as the basis for the Commission's concurrent order against CohnReznick.[3] The initiation and conclusion of the Commission's proceeding against the three partners constituted reportable events under Form 3, but CohnReznick failed to file a Form 3 reporting either event until December 12, 2022.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[4] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[5]

6. Registered firms must also report when they become aware that "in a matter arising out of his or her conduct in the course of providing audit services or other accounting services to an issuer, broker, or dealer, a partner, shareholder, principal, owner, member, or audit manager of the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative disciplinary proceeding other than a Board disciplinary proceeding."[6]

7. Another reportable event occurs when a firm has become aware that a reportable proceeding (*i.e.*, a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[7]

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[3] *Stephen M. Wyss, CPA, Stephen H. Jackson, CPA, and Robert G. Hilbert, CPA*, Exchange Act Rel. No. 95067 (June 8, 2022).

[4] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[5] PCAOB Form 3, at Item 2.7 (italics in the original removed).

[6] *Id.*, at Item 2.8 (italics in the original removed).

[7] *Id.*, at Item 2.10.

8. No later than June 8, 2022, CohnReznick became aware that the Commission had initiated and concluded a disciplinary proceeding against the firm concerning weaknesses in the firm's system of quality controls that resulted in deficiencies in the audits of two issuer clients.[8]

9. CohnReznick was also aware no later than June 8, 2022, that the Commission had initiated and concluded a related disciplinary proceeding against three firm partners who participated in one of the deficient issuer audits that was the subject of the Commission's concurrent order against the firm.

10. The initiation and conclusion of the Commission proceedings constituted reportable events under Form 3. Accordingly, the firm was required to report those events to the Board on Form 3 within thirty days of their occurrence.[9] However, CohnReznick reported the initiation and conclusion of the two Commission proceedings approximately five months after the deadline for doing so.

11. CohnReznick's internal compliance and reporting systems failed to identify the initiation and conclusion of the Commission proceedings against CohnReznick and the firm's partners as being reportable to the PCAOB on Form 3 on a timely basis. As a result, CohnReznick inappropriately notified the PCAOB of the initiation and conclusion of relevant disciplinary proceedings after the deadline for doing so.

IV.

12. CohnReznick has represented to the Board that, since the events described in this order, it has enhanced documentation of existing policies and implemented changes to its policies and procedures for the purpose of providing CohnReznick with reasonable assurance of compliance with PCAOB reporting requirements:

a. CohnReznick has revised and supplemented its policies and procedures for the purpose of providing CohnReznick with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by CohnReznick personnel who participate in CohnReznick's

[8] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

[9] *See* PCAOB Rule 2203(a).

PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. CohnReznick has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any CohnReznick personnel who participate in CohnReznick's PCAOB reporting process; and

c. CohnReznick has assigned the role of compliance with PCAOB reporting matters to a team of individuals within CohnReznick who possess adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within CohnReznick to fulfill those requirements on behalf of CohnReznick.

V.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon CohnReznick.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. CohnReznick shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies CohnReznick as a respondent in these proceedings, sets forth the title and PCAOB release number of these

proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K. Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-order interest.

4. With respect to any civil money penalty amounts that CohnReznick shall pay pursuant to this Order, CohnReznick shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of CohnReznick's payment of the civil money penalty pursuant to this Order, in any private action brought against CohnReznick based on substantially the same facts as set out in the findings in this Order.

5. CohnReznick understands that failure to pay the civil money penalty described above may result in summary suspension of CohnReznick's registration, pursuant to PCAOB Rule 5304(a), following written notice to CohnReznick at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), CohnReznick is required to comply with its PCAOB reporting policies and procedures, including:

1. those intended to provide reasonable assurance that reportable events are identified by CohnReznick personnel who participate in CohnReznick's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. those ensuring training concerning PCAOB reporting requirements, at least annually, of any CohnReznick personnel who participate in CohnReznick's PCAOB reporting process; and

3. those assigning the role of compliance with PCAOB reporting matters to a team of individuals within CohnReznick who possess adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within CohnReznick to fulfill those requirements on behalf of CohnReznick.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 11, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Edward Turner, CPA,

Respondent.

PCAOB Release No. 105-2023-009

July 18, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Edward Turner, CPA ("Turner" or "Respondent");

(2) barring Turner from being associated with a registered public accounting firm; and

(3) imposing a civil money penalty in the amount of $50,000 on Turner.

The Board is imposing these sanctions on the basis of its findings that Turner failed to cooperate with the Board's 2022 inspection of a broker-dealer audit and review by improperly altering audit documentation and providing the altered documentation, and other misleading information, to PCAOB inspectors.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Respondent admits to the facts, findings, and violations set forth below, and consents

to the entry of this Order.[1] Respondent also admits to the Board's jurisdiction over him and the subject matter of these proceedings.

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Edward Turner, CPA** is, and at all relevant times was, a certified public accountant licensed by the Texas State Board of Public Accountancy (license no. 018002). Turner is a founding partner of Turner, Stone & Company, L.L.P. ("Turner Stone" or the "Firm"), which is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Turner was the engagement partner for Turner Stone's audit of the financial statements and accompanying supplemental information, and review of the exemption report, for Broker-Dealer A for the fiscal year ("FY") ended May 31, 2021 (the "Audit and Review"). Turner was, at all relevant times, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Broker-Dealer

2. **Broker-Dealer A**, at all relevant times, was a Florida corporation headquartered in Fort Myers, Florida. At all relevant times, Broker-Dealer A was registered with the U.S. Securities and Exchange Commission ("Commission") as a broker and dealer in securities. At all relevant times, Broker-Dealer A was a "broker" and "dealer," as those terms are defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii). At all relevant times,

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

Broker-Dealer A was a "non-carrying" broker-dealer (*i.e.*, a broker-dealer that does not maintain custody of customer funds or securities).[3]

C. Summary

3. This matter concerns Respondent's failure to cooperate with the Board's 2022 inspection of Turner Stone's Audit and Review of Broker-Dealer A, and Respondent's violations of PCAOB audit documentation standards in connection with the Audit and Review.

4. After the completion of the Firm's Audit and Review of Broker-Dealer A, and over six months after the documentation completion date,[4] Respondent learned that the PCAOB's Division of Registration and Inspections ("DRI") would be inspecting the Audit and Review. In the days that followed leading up to the inspection, Respondent obtained a document from Broker-Dealer A that the engagement team had not obtained previously, used it to create a new work paper, added the new work paper to the audit file, and deleted from the audit file a work paper that had been prepared and signed off on during the Audit and Review. Respondent then backdated the new work paper to create the impression that it had been prepared, and signed off on by both Respondent and the engagement quality reviewer ("EQR Reviewer"), during the Audit and Review.

5. Respondent provided the altered audit file to DRI without identifying the improper alterations and deletion. When DRI asked about the new work paper during the inspection, Respondent acknowledged the conduct described above only in part, and made additional misrepresentations to DRI.

6. As a result, and as further described below, Respondent violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, and AS 1215.

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[3] Broker-Dealer A claimed an exemption pursuant to paragraph (k)(1) of Rule 15c3-3 under the Securities Exchange Act of 1934 ("Exchange Act"), 17 C.F.R. § 240.15c3-3(k)(1).

[4] *See* AS 1215.15, *Audit Documentation* (defining "documentation completion date" as a date not more than 45 days after an auditor releases an audit report).

D. Respondent Violated PCAOB Rules and Standards in Connection with the Board's 2022 Inspection of the Audit and Review of Broker-Dealer A

i. Relevant Rules and Standards

7. Exchange Act Rule 17a-5[5] ("Rule 17a-5") generally requires a broker-dealer that claims it was exempt from Exchange Act Rule 15c3-3[6] throughout the most recent fiscal year to file annually with the Commission: (a) a financial report containing certain financial statements and supporting schedules (*i.e.*, supplemental information);[7] (b) an exemption report;[8] (c) a report prepared by an independent public accountant based on an examination of the financial report;[9] and (d) a report prepared by an independent public accountant based on a review of the statements made by the broker-dealer in the exemption report.[10] Rule 17a-5 also requires that audits and reviews of broker-dealers be performed in accordance with PCAOB standards.[11]

8. PCAOB rules require that registered public accounting firms and their associated persons comply with the Board's auditing and related professional practice standards.[12]

9. PCAOB Rule 4006 requires registered public accounting firms and their associated persons to "cooperate with the Board in the performance of any Board inspection."[13] Implicit in that cooperation requirement is a requirement that auditors provide accurate and truthful information to DRI.[14]

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5 17 C.F.R. § 240.17a-5.

6 17 C.F.R. § 240.15c3-3.

7 *See* Rule 17a-5(d)(1)(i)(A), (d)(2); *see also* SEC Form X-17A-5; 17 C.F.R. § 249.617.

8 *See* Rule 17a-5(d)(1)(i)(B)(2), (d)(4).

9 *See* Rule 17a-5(d)(1)(i)(C), (g)(1).

10 *See* Rule 17a-5(d)(1)(i)(C), (g)(2)(ii).

11 *See* Rule 17a-5(g).

12 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; *see also* PCAOB Rule 3200, *Auditing Standards*.

13 PCAOB Rule 4006.

14 *See Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018); *see also* PCAOB Staff Audit Practice Alert No. 14, at *3 (Apr. 21, 2016) ("Th[e] duty to cooperate [under PCAOB Rule 4006] includes

10. The Board's audit documentation standard states, in part: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[15] The Board's documentation standard also states that "[a]udit documentation must not be deleted or discarded after the documentation completion date," and with respect to any documentation added the auditor must "indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[16]

ii. Respondent Failed to Cooperate with the Board's 2022 Inspection of the Audit and Review and Violated PCAOB Audit Documentation Standards

11. Broker-Dealer A filed its annual report on Form X-17A-5 Part III for the 2021 FY with the Commission on July 29, 2021. Included in that annual report were (a) Broker-Dealer A's financial report, including financial statements and supplemental information; (b) Broker-Dealer A's exemption report; (c) Turner Stone's audit report dated July 16, 2021, which expressed an unqualified opinion on Broker-Dealer A's financial statements and supplemental information; and (d) Turner Stone's review report dated July 16, 2021, which stated that the Firm was not aware of any material modifications that should be made to the statements made by Broker-Dealer A in its exemption report for them to be fairly stated, in all material respects.

12. Turner was the engagement partner for Turner Stone's FY 2021 Audit and Review of Broker-Dealer A, and authorized the Firm's issuance of Turner Stone's audit and review reports dated July 16, 2021 (the "Audit and Review Reports"), which stated that the Audit and Review were conducted in accordance with PCAOB standards.

13. The documentation completion date for the Audit and Review was August 30, 2021 (45 days after the July 16, 2021 release date for the Firm's Audit and Review Reports).

14. On March 17, 2022, DRI informed the Firm and Turner that it would inspect the FY 2021 Audit and Review of Broker-Dealer A beginning on April 11, 2022.

15. On March 21, 2022, after learning that DRI would inspect the Audit and Review, Turner obtained from Broker-Dealer A's management a statement of fees ("Fee Statement"), which Turner and the engagement team had not obtained during the Audit and Review. Turner

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an obligation not to provide improperly altered documents or misleading information in connection with the Board's inspection processes." (citations omitted)).

15 AS 1215.15.

16 AS 1215.16.

added notations to the Fee Statement to prepare a new work paper addressing fees earned by Broker-Dealer A, but not yet paid, as of year-end. Turner added the new work paper to the audit file, and deleted from the audit file a less detailed work paper related to the same issue that the engagement team had prepared and signed off on during the Audit and Review.

16. Turner failed to document the date he added the new work paper to the audit file, the name of the person who prepared it, or the reason for adding it. To the contrary, also on March 21, 2022, Turner backdated his sign-off on the new work paper, and the sign-off of the EQR Reviewer, to July 8, 2021 and July 13, 2021, respectively—prior to the July 16, 2021 report release date. Turner added the EQR Reviewer's sign-off by using the EQR Reviewer's password to log in to the engagement software.

17. On April 6, 2022, Turner provided DRI with a copy of the altered audit file for the Audit and Review, including the new work paper and backdated sign-offs. Turner failed to disclose that he had obtained the Fee Statement, prepared and added the new work paper, deleted a work paper, and backdated the sign-offs after the documentation completion date.

18. During the inspection, DRI identified that the new work paper appeared to have been created or altered after the documentation completion date, and raised the issue with Turner. Turner acknowledged adding and backdating the new work paper after learning that DRI would inspect the Audit and Review, but falsely stated that the engagement team had obtained the Fee Statement during the Audit and Review, and had accidentally left the work paper out of the audit file. Turner failed to disclose to DRI that he had obtained the Fee Statement and prepared the new work paper only after learning the Audit and Review would be inspected, or that he had deleted a work paper from the audit file.

19. Turner's conduct described above violated PCAOB Rule 4006 and AS 1215.

IV.

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

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Edward Turner, CPA, is barred from being an associated person of a registered public

accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[17]

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon Edward Turner, CPA.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Edward Turner, CPA as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. Respondent understands that his failure to pay the civil money penalty described above may alone be grounds to deny any request for leave to petition to terminate a bar pursuant to PCAOB Rule 5302(c).

4. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-order interest.

[17] As a consequence of the bar imposed in this Order, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Turner. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

5. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 18, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of MSPC, Certified Public Accountants and Advisors, A Professional Corporation,

Respondent.

PCAOB Release No. 105-2023-010

July 28, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring MSPC Certified Public Accountants and Advisors, A Professional Corporation ("MSPC," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $30,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to make certain required communications to the audit committee of an issuer client under AS 1301, *Communications with Audit Committees*, and failed to appropriately document other communications with the issuer's audit committee.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, MSPC has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **MSPC, Certified Public Accountants and Advisors, A Professional Corporation** ("MSPC," the "Firm," or "Respondent") is a professional corporation headquartered in Cranford, NJ. At all relevant times, MSPC was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for three issuer clients.

B. Issuer

2. **SFL Corporation LTD** ("SFL"), formerly Ship Finance International Limited, is a corporation headquartered in Hamilton, Bermuda. Its public filings disclose that it is engaged primarily in the ownership and operation of vessels and offshore related assets, and involved in the charter, purchase, and sale of assets. At all relevant times, SFL was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). MSPC issued an audit report that SFL included in its Form 20-F Annual Report filed with the U.S. Securities and Exchange Commission for fiscal year 2020 (the "2020 Audit").

C. Other Relevant Entities

3. **BDO LLP** (United Kingdom) ("BDO UK") is a limited liability partnership headquartered in London, United Kingdom. At all relevant times, BDO UK was registered with

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

the Board pursuant to Section 102 of the Act and PCAOB rules. Employees from BDO UK performed certain audit procedures under the supervision of MSPC in connection with the 2020 Audit.[2]

D. Respondent Failed to Disclose Significant Risks to SFL's Audit Committee in Violation of AS 1301.09

4. Pursuant to PCAOB auditing standards, an auditor must communicate with a client's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[3] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment.[4]

5. PCAOB auditing standards require each auditor to determine whether identified and assessed risks are significant risks.[5] A significant risk is defined as a risk of material misstatement that requires special audit consideration.[6] To determine whether an identified and assessed risk is significant, the auditor should evaluate whether the risk requires special audit consideration because of the nature of the risk, or the likelihood and potential magnitude of misstatement related to the risk.[7]

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[2] On April 23, 2021, MSPC filed a Form AP concerning the 2020 Audit as required by PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*, and reported that BDO UK's percentage of participation in the audit was 47%.

[3] AS 1301.01, *Communications with Audit Committees*.

[4] *Id.* at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301) ("AS 1301 Adopting Release"), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See Auditing Standard No. 16—Communications With Audit Committees; Related Amendments to PCAOB Standards;* and *Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (August 15, 2012).

[5] AS 2110.59, *Identifying and Assessing Risks of Material Misstatement.*

[6] AS 2110.A5.

[7] AS 2110.70.

6. PCAOB auditing standards also require each auditor to determine whether information gathered from risk assessment procedures indicates that one or more fraud risk factors are present. Fraud risk factors are events or conditions that indicate "(1) an incentive or pressure to perpetrate fraud, (2) an opportunity to carry out the fraud, or (3) an attitude or rationalization that justifies fraudulent action."[8] Under PCAOB standards, a fraud risk is a significant risk.[9]

7. In connection with the 2020 Audit, MSPC identified improper revenue recognition and management override of controls as fraud risks and significant risks in its risk assessment procedures. MSPC sent a letter to SFL's audit committee dated November 30, 2020, that contained certain required communications concerning audit planning matters. While certain significant risks were communicated in the audit committee letter, the Firm failed to communicate the significant risks associated with improper revenue recognition and management override of controls.

8. Accordingly, MSPC violated AS 1301.09 in connection with the 2020 Audit.

E. Respondent Failed to Document the Communication of the Names, Locations, and Planned Responsibilities of Other Persons Who Performed Audit Procedures for the 2020 Audit, in Violation of AS 1301.25

9. PCAOB standards specify that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms or other persons, who were not employed by the auditor, that performed audit procedures in the current period audit.[10] The auditor must document those communications in the work papers, whether they took place orally or in writing.[11]

10. In connection with the 2020 Audit, MSPC failed to document in the work papers communications to SFL's audit committee about the name, location, and planned

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8 AS 2110.65.

9 AS 2110.71b., Note.

10 *See* AS 1301.10d.

11 AS 1301.25.

responsibilities of employees from BDO UK, who were not employed by MSPC and performed audit procedures in the 2020 Audit. Accordingly, MSPC violated AS 1301.25 in connection with the 2020 Audit.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that Firm personnel will communicate to audit committees all matters required by AS 1301; and

2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these conditions may constitute a

violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 28, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Mancera, S.C.,

Respondent.

PCAOB Release No. 105-2023-011

July 28, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Mancera, S.C. ("EY Mexico," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $40,000 upon the Firm; and

(3) requiring the Firm to comply with its policies and procedures directed toward ensuring compliance with PCAOB standards for communications with audit committees.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to make certain required communications to the audit committee of an issuer audit client under AS 1301, *Communications with Audit Committees.*

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, EY Mexico has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Mancera, S.C.** is a civil partnership headquartered in Mexico City, Mexico, and is a member of Ernst & Young Global Limited ("EY Global"). At all relevant times, EY Mexico was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for four issuer clients.

B. Issuer

2. **Fomento Economico Mexicano, S.A.B. de C.V.** ("FEMSA") is a corporation headquartered in Monterrey, Mexico. Its website discloses that it is a soft drink bottler and convenience store operator in Latin America. At all relevant times, FEMSA was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). EY Mexico issued an audit opinion on the FEMSA's consolidated financial statements on April 14, 2021, as of and for the year ended December 31, 2020 (the "2020 Audit").

C. Other Relevant Entities

3. **Pistrelli, Henry Martin y Asociados S.R.L.** ("EY Argentina") is a limited liability partnership headquartered in Buenos Aires, Argentina, and is a member firm of EY Global. At all relevant times, EY Argentina was registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and was also registered with the Professional Counsel in Economic

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

Science of the Province of Buenos Aires (File 196 Vol. I Folio 196). EY Argentina performed audit procedures in the 2020 Audit.

4. **Ernst & Young Auditores Independentes S.S.** ("EY Brazil") is a professional company headquartered in Sao Paulo, Brazil. It is a member firm of EY Global. At all relevant times, EY Brazil was registered with the Board pursuant to Section 102 of the Act and PCAOB rules and was licensed by the Regional Accounting Counsel Sao Paulo State-Conselho Regional de Contabilidade (license no. CRC2SP 015.199/O-6). EY Brazil performed audit procedures in the 2020 Audit.

5. **EY Servicios Profesionales de Auditoria y Asesorias SpA.** ("EY Chile") is a simplified corporation headquartered in Santiago, Chile. It is a member firm of EY Global. At all relevant times, EY Chile was registered with the Board pursuant to Section 102 of the Act and PCAOB rules and was licensed by Superintendencia de Valores y Seguros (license no. 511). EY Chile performed audit procedures in the 2020 Audit.

6. **Ernst & Young Audit S.A.S.** ("EY Colombia") is a simplified joint stock company headquartered in Bogota, Colombia. It is a member firm of EY Global. At all relevant times, EY Colombia was registered with the Board pursuant to Section 102 of the Act and PCAOB rules and was licensed by the Education Minister – Central Accountants Board (license no. TR-530). EY Colombia performed audit procedures in the 2020 Audit.

7. **Ernst & Young, S.A.** ("EY Costa Rica") is a corporation headquartered in San Jose, Costa Rica. It is a member firm of EY Global. At all relevant times, EY Costa Rica was registered with the Board pursuant to Section 102 of the Act and PCAOB rules and was licensed by Colegio de Contadores Publicos de Costa Rica (license no. 500.114). EY Costa Rica performed audit procedures in the 2020 Audit.

8. **Ernst & Young Ecuador E&Y Cia. Ltda.** ("EY Ecuador") is a limited liability company headquartered in Quito, Ecuador. It is a member firm of EY Global. EY Ecuador is not, and never has been, registered with the Board. EY Ecuador performed audit procedures in the 2020 Audit.

9. **Ernst & Young Nicaragua, S.A.** ("EY Nicaragua") is a corporation headquartered in Managua, Nicaragua. It is a member firm of EY Global. EY Nicaragua is not, and never has been, registered with the Board. EY Nicaragua performed audit procedures in the 2020 Audit.

10. **Ernst & Young Limited Corporation** ("EY Panama") is a limited corporation headquartered in Panama City, Panama. It is a member firm of EY Global. At all relevant times, EY Panama was registered with the Board pursuant to Section 102 of the Act and PCAOB rules and was licensed by the Junta Tecnica de Contabilidad (license no. CPA P.J. 188).

EY Panama performed audit procedures in the 2020 Audit.

11. **Ernst & Young UY S.R.L.** ("EY Uruguay") is a limited liability company headquartered in Montevideo, Uruguay. It is a member firm of EY Global. It is not, and never has been, registered with the Board. EY Uruguay performed audit procedures in the 2020 Audit.

12. The entities described in paragraphs 3 through 11 are public accounting firms, as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii).

D. Respondent Failed to Make Required Audit Committee Communications in Violation of AS 1301

13. Pursuant to PCAOB auditing standards, an auditor must communicate with a client's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[2] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment.[3]

14. PCAOB standards specify that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms[4] or other persons,

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[2] AS 1301.01, *Communications with Audit Committees*.

[3] *Id.* at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301) ("AS 1301 Adopting Release"), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See Auditing Standard No. 16—Communications With Audit Committees; Related Amendments to PCAOB Standards; and Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (August 15, 2012).

[4] The term "other independent public accounting firms" includes "firms that perform audit procedures in the current period audit regardless of whether they otherwise have any relationship with the auditor." AS 1301.10d, Note.

who were not employed by the auditor, that performed audit procedures in the current period audit.[5]

15. In connection with the 2020 Audit, EY Mexico failed to inform FEMSA's audit committee of the name, location, and planned responsibilities of the following independent public accounting firms that were not employed by EY Mexico that performed audit procedures in the 2020 Audit: EY Argentina, EY Brazil, EY Chile, EY Colombia, EY Costa Rica, EY Ecuador, EY Nicaragua, EY Panama, and EY Uruguay.

16. Accordingly, EY Mexico violated AS 1301.10d in connection with the 2020 Audit.

IV.

17. EY Mexico has represented to the Board that, since this deficiency was identified by the PCAOB during its 2021 inspection, it has established and implemented the following changes to its policies and procedures for the purpose of providing EY Mexico with reasonable assurance of compliance with PCAOB standards for communications with audit committees:

a. EY Mexico has implemented updated audit planning and results guidance for communicating the names, locations, and planned responsibilities of other independent public accounting firms performing audit procedures in an audit; and

b. EY Mexico has communicated this updated guidance to relevant personnel, and has provided relevant training to manager and above assurance personnel.

[5] *Id.* In the AS 1301 Adopting Release, the Board explained the rationale for identifying other independent public accounting firms for the audit committee as follows: "The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators." AS 1301 Adopting Release at Appendix 4, p. A4-15.

V.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $40,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply

for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), EY Mexico is required to comply with its audit committee communications policies and procedures, including those intended to provide reasonable assurance that, as part of communicating its overall audit strategy, EY Mexico communicates with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms or other persons, who were not employed by the auditor, that performed audit procedures in the audit.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 28, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of BPM LLP,

Respondent.

PCAOB Release No. 105-2023-012

July 28, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring BPM LLP ("BPM," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $50,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules relating to independence in connection with the audit of GigCapital2, Inc. ("GigCapital2").

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, BPM has submitted an Offer of Settlement ("Offer") that the Board has determined to

accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **BPM LLP** is a limited liability partnership formed under California law and headquartered in San Francisco, California. It is licensed with the California Board of Accountancy (license no. 7836). At all relevant times, BPM was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Issuer

2. **GigCapital2, Inc**., now known as UpHealth, Inc., was, at all relevant times, an entity incorporated in Delaware and headquartered in Palo Alto, California. It was created for the purpose of effecting a merger, share exchange, asset acquisition, stock purchase, reorganization, recapitalization or other similar business combination with one or more businesses.[2] At all relevant times, GigCapital2 was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).BPM issued audit reports that GigCapital2 included in its Form 10-Ks filed with the U.S. Securities and Exchange Commission ("Commission") for the years ended December 31, 2019 and December 31, 2020.

C. BPM Failed to Obtain Audit Committee Pre-Approval of Tax Compliance Services, in Violation of Rule 3520 and Rule 3524

3. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[3] That requirement includes an obligation to satisfy the

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

[2] In June 2021, GigCapital2 acquired UpHealth Holdings, a company providing digital services for the healthcare industry. The resulting entity thereafter renamed itself UpHealth, Inc.

[3] *See* PCAOB Rule 3520, *Auditor Independence.*

independence criteria set out in the rules and standards of the PCAOB and all other independence criteria set out in the Commission's rules and regulations under the federal securities laws.[4]

4. Rule 3524, *Audit Committee Pre-approval of Certain Tax Services*, provides that, in connection with seeking audit committee pre-approval to perform for an issuer audit client any permissible tax service, a registered public accounting firm describe, in writing, to the audit committee of the issuer, among other things, the scope of the service, the fee structure of the engagement, and any side letter or other amendment to the engagement letter, or any other agreement between the firm and the audit client relating to the service.

5. Rule 2-01(c)(7)(i) of Commission Regulation S-X provides that "[a]n accountant is not independent of an issuer" unless, "[b]efore the accountant is engaged by the issuer…to render audit or non-audit services, the engagement is approved by the issuer's…audit committee."[5]

6. BPM performed audit services for GigCapital2 in connection with that issuer's financial statements for the years ended December 31, 2019 and December 31, 2020.

7. At the same time that BPM performed these audits, BPM also performed tax compliance services for GigCapital2.

8. BPM failed to obtain pre-approval from GigCapital2's audit committee to provide tax compliance services.

9. Accordingly, BPM violated Rule 3520 and Rule 3524 by not fulfilling the requirements of Rule 2-01(c)(7)(i) of Commission Regulation S-X, and thus was not independent of GigCapital2.

IV.

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

[4] *See* PCAOB Rule 3520, note 1.

[5] 17 C.F.R. § 210.2-01(c)(7).

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006;

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest;

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order; and

5. Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that Firm personnel will communicate to audit committees all matters required by PCAOB Rules 3520 and 3524 and Rule 2-01(c)(7) of Commission Regulation S-X; and

2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 28, 2023

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Plante & Moran, PLLC,

Respondent.

PCAOB Release No. 105-2023-013

July 28, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Plante & Moran, PLLC ("Plante Moran," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $40,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules relating to independence in connection with the audits of GrowGeneration Corp. ("GrowGeneration") and Startek, Inc. ("Startek").

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Plante Moran has submitted an Offer of Settlement ("Offer") that the Board has

determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Plante & Moran, PLLC** is a professional limited liability company formed under Michigan law and headquartered in Southfield, Michigan. It is licensed with the Michigan Department of Licensing and Regulatory Affairs (license no. 1102003462). At all relevant times, Plante Moran was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Issuers

2. **GrowGeneration Corp.**, was, at all relevant times, an entity incorporated in Colorado and headquartered in Denver, Colorado. It operates a chain of hydroponic garden centers and markets products and systems used in hydroponic gardening. At all relevant times, GrowGeneration was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Plante Moran issued an audit report that GrowGeneration included in its Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") for the year ended December 31, 2020.

3. **Startek, Inc.**, was, at all relevant times, a global business process outsourcing company incorporated in Delaware and headquartered in Greenwood Village, Colorado. At all relevant times, Startek was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Plante Moran issued an audit report that Startek included in its Form 10-KT filed with the Commission for the year ended December 31, 2018.

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

C. Plante Moran Failed to Obtain Audit Committee Pre-Approval of Services in Violation of Rule 3520 and Rule 3524

4. PCAOB rules and standards require that a registered public accounting firm and its associated persons must be independent of the firm's audit client throughout the audit and professional engagement period.[2] That requirement includes an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB and all other independence criteria set out in the Commission's rules and regulations under the federal securities laws.[3]

5. Rule 3524, *Audit Committee Pre-approval of Certain Tax Services*, provides that, in connection with seeking audit committee pre-approval to perform for an issuer audit client any permissible tax service, a registered public accounting firm describe, in writing, to the audit committee of the issuer, among other things, the scope of the service, the fee structure of the engagement, and any side letter or other amendment to the engagement letter, or any other agreement between the firm and the audit client relating to the service.

6. Rule 2-01(c)(7)(i) of Commission Regulation S-X provides that "[a]n accountant is not independent of an issuer" unless, "[b]efore the accountant is engaged by the issuer…to render audit or non-audit services, the engagement is approved by the issuer's…audit committee."[4]

i. GrowGeneration

7. Plante Moran audited GrowGeneration's financial statements for the year ended December 31, 2020, issuing an audit opinion that the issuer included in its Form 10-K filed with the Commission in March 2021.

8. During the time that Plante Moran performed that audit, it also performed additional audit-related services in connection with a Form S-1 filing comfort letter and a Form S-3 filing comfort letter.

9. Plante Moran failed to obtain pre-approval from GrowGeneration's audit committee to provide these additional services.

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[2] *See* PCAOB Rule 3520.

[3] *See* PCAOB Rule 3520, note 1.

[4] 17 C.F.R. § 210.2-01(c)(7).

10. Accordingly, Plante Moran violated Rule 3520 by not fulfilling the requirements of Rule 2-01(c)(7)(i) of Commission Regulation S-X, and thus was not independent of GrowGeneration.

ii. Startek

11. Plante Moran audited Startek's financial statements for the year ended December 31, 2018, issuing an audit opinion that Startek included in its Form 10-KT filed with the Commission in March 2019.

12. During the time that Plante Moran performed that audit, it also provided tax return preparation services for two Startek employees who were not in a financial reporting oversight role. Startek paid for these services.

13. Plante Moran failed to obtain pre-approval from Startek's audit committee to provide these tax return preparation services.

14. Accordingly, Plante Moran violated Rule 3520 and Rule 3524 by not fulfilling the requirements of Rule 2-01(c)(7)(i) of Commission Regulation S-X, and thus was not independent of Startek.

IV.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $40,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order,

certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006;

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest;

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order; and

5. Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that Firm personnel will

communicate to audit committees all matters required by PCAOB Rule 3520, PCAOB Rule 3524, and Rule 2-01(c)(7) of Commission Regulation S-X; and

2. Within 120 days of the entry of this Order, to provide a certification, signed by its Managing Partner, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 28, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of S. R. Snodgrass, P.C.,

Respondent.

PCAOB Release No. 105-2023-014

July 28, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring S. R. Snodgrass, P.C. ("S. R. Snodgrass," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $35,000 upon the Firm; and

(3) requiring the Firm to comply with its policies and procedures directed toward ensuring compliance with PCAOB independence rules in obtaining pre-approval from issuers' audit committees for audit and non-audit services.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules relating to independence in connection with the audit of Penns Woods Bancorp, Inc. ("Penns Woods").

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, S. R. Snodgrass has submitted an Offer of Settlement ("Offer") that the Board has

determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **S. R. Snodgrass, P.C.** is a corporation formed under Pennsylvania law and headquartered in Cranberry Township, Pennsylvania. It is licensed to practice public accounting in multiple jurisdictions, including with the Pennsylvania Bureau of Professional and Occupational Affairs (license no. AF001478L) and the West Virginia Board of Accountancy (license no. F00728). At all relevant times, S. R. Snodgrass was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Issuer

2. **Penns Woods Bancorp, Inc.**, was, at all relevant times, a bank holding corporation incorporated under Pennsylvania law and headquartered in Williamsport, Pennsylvania. At all relevant times, Penns Woods was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). S. R. Snodgrass issued an audit report that Penns Woods included in its Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") for the year ended December 31, 2019.

C. S. R. Snodgrass Failed to Obtain Audit Committee Pre-Approval of Information Technology Consulting Services, in Violation of PCAOB Rule 3520

3. PCAOB rules and standards require that a registered public accounting firm and its associated persons must be independent of the firm's audit client throughout the audit and professional engagement period.[2] That requirement includes an obligation to satisfy the

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

[2] *See* PCAOB Rule 3520, *Auditor Independence.*

independence criteria set out in the rules and standards of the PCAOB and all other independence criteria set out in the Commission's rules and regulations under the federal securities laws.[3]

4. Rule 2-01(c)(7)(i) of Commission Regulation S-X provides that "[a]n accountant is not independent of an issuer" unless, "[b]efore the accountant is engaged by the issuer…to render audit or non-audit services, the engagement is approved by the issuer's…audit committee."[4]

5. S.R. Snodgrass issued an audit opinion for Penns Woods concerning the issuer's internal control over financial reporting as of December 31, 2019, which Penns Woods included in its Form 10-K filed with the Commission on March 11, 2020.

6. During the time that S. R. Snodgrass performed this audit, the Firm also performed information technology consulting services for Penns Woods.

7. S. R. Snodgrass failed to obtain pre-approval from Penns Woods's audit committee to provide these information technology consulting services.

8. Accordingly, S. R. Snodgrass violated Rule 3520 by not fulfilling the requirements of Rule 2-01(c)(7)(i) of Commission Regulation S-X, and thus was not independent of Penns Woods.

IV.

9. S. R. Snodgrass has represented to the Board that, since the events described in this Order, it has established and implemented the following changes to its policies and procedures for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB independence rules in obtaining pre-approval from issuers' audit committees for audit and non-audit services:

a. S. R. Snodgrass has revised its policies and procedures to restrict the Firm's ability to create accounts for issuer clients in its billing system until the Firm receives, and Firm personnel log that it has received, an engagement letter approved by the issuer's audit committee;

[3] *See* PCAOB Rule 3520, Note 1.

[4] 17 C.F.R. § 210.2-01(c)(7).

b. S. R. Snodgrass has revised its policies and procedures to require that any engagement letter for a service, prior to issuance to an issuer client, is signed by the lead audit engagement partner; and

c. S. R. Snodgrass required all Firm assurance partners to attend a training about the requirements of PCAOB Rule 3520 and the above-referenced revised policies and procedures.

V.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $35,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006;

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest;

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order; and

5. Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required to comply with its revised policies and procedures concerning independence, including those intended to provide reasonable assurance that Firm personnel comply with PCAOB independence rules in obtaining pre-approval from issuers' audit committees for audit and non-audit services.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 28, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of BDO Taiwan,

Respondent.

PCAOB Release No. 105-2023-015

August 8, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring BDO Taiwan, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $35,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm filed an Annual Report on Form 2 with the PCAOB that contained inaccurate information, in violation of PCAOB Rule 2200, *Annual Report.*

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **BDO Taiwan** is a firm located in Taiwan R.O.C. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Filed a Form 2 with the PCAOB Containing Inaccurate Information in Violation of PCAOB Rule 2200

2. PCAOB Rule 2200 requires that registered public accounting firms file annual reports with the Board on Form 2 "following the instructions to that form." The instructions to the Form 2 require firms to identify and provide certain information relating to any issuer audit reports with respect to which the firm played a substantial role during the reporting period. They also require that a firm representative certify that the information contained on the Form 2 is accurate and complete.

3. On June 30, 2021, the Firm filed an Annual Report on Form 2 with the PCAOB for the reporting period April 1, 2020 through March 31, 2021. On that Form 2, the Firm indicated that it had not played a substantial role in the audit of any issuers during the reporting period. However, a Form AP filed by another registered firm indicated that the Firm had, in fact, played a substantial role in the audit of an issuer, China United Insurance Service, Inc., during the reporting period. The Form 2 contained a certification that it did not "contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading."

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

The Form 2 also contained a certification that the Firm has not "failed to include in this Form any information or affirmation that is required by the instructions to this form."

4. The Firm's internal compliance and reporting systems failed to identify the Firm's substantial role in the audit of China United Insurance Service, Inc. as being reportable to the PCAOB. As a result, the Firm inappropriately failed to notify the PCAOB of its role in that audit.

5. By filing a Form 2 with the Board that inaccurately stated the Firm had not played a substantial role in the audit of an issuer during the reporting period, the Firm violated PCAOB Rule 2200.

6. The PCAOB's Division of Registration and Inspections notified the Firm of the inaccurate information on the Form 2 on four occasions between August 2021 and October 2021, but the Firm failed to file an amended Form 2 correcting the inaccuracy.

7. On June 7, 2023, after receiving notice of the deficiency from the PCAOB Division of Enforcement and Investigations, the Firm filed an amended Form 2 indicating that it played a substantial role with respect to an issuer during the reporting period.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $35,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W.,

Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a).

4. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures to provide reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 2200, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the actions taken to satisfy the conditions specified above, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 8, 2023

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

1666 K Street NW
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Jendrach Accounting and Professional Services,

Respondent.

PCAOB Release No. 105-2023-016

August 8, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Jendrach Accounting and Professional Services, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $25,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm filed an Annual Report on Form 2 with the PCAOB that contained inaccurate information, in violation of PCAOB Rule 2200, *Annual Report*.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Jendrach Accounting and Professional Services** is a limited liability corporation located in Greenfield, Wisconsin. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Filed a Form 2 with the PCAOB Containing Inaccurate Information in Violation of PCAOB Rule 2200

2. PCAOB Rule 2200 requires that a registered public accounting firm file annual reports with the Board on a Form 2 "following the instructions to that form." The instructions to the Form 2 require firms to identify and provide certain information relating to any issuer or broker or dealer audit reports issued during the reporting period. They also require that a firm representative certify that the information contained on the Form 2 is accurate and complete.

3. In its 2021 Annual Report, the Firm indicated that it had not issued any audit reports for any broker or dealer during the reporting period. However, SEC filings indicate that the Firm had, in fact, issued an audit report for a broker-dealer, GM Securities, LLC ("GM Securities"), during the reporting period. The Form 2 contained a certification that it "did not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading." The Form 2 also contained a certification that the Firm has not "failed

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

to include in this Form any information or affirmation that is required by the instructions to this form."

4. The PCAOB's Division of Registration and Inspections emailed the Firm on four occasions between February 2022 and April 2022 in an attempt to resolve this issue but the Firm failed to file an amended Form 2.

5. The Firm's internal compliance and reporting systems failed to identify the Firm's audit of GM Securities as being reportable to the PCAOB. As a result, the Firm inappropriately failed to notify the PCAOB that it issued an audit report for that entity.

6. By filing a Form 2 with the Board that inaccurately stated the Firm had not issued an audit report for a broker or dealer during the reporting period, the Firm violated PCAOB Rule 2200.

7. On March 23, 2023, after receiving notices of the deficiencies from the PCAOB's Division of Enforcement and Investigations, the Firm belatedly filed an amended Form 2 indicating that the Firm issued an audit report for the broker-dealer, GM Securities, during the reporting period.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance,

Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a).

4. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures to provide reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 2200, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the actions taken to satisfy the conditions specified above, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 8, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Moore MSLL Lima Lucchesi Auditores e Contadores Ltda.,

Respondent.

PCAOB Release No. 105-2023-017

August 8, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Moore MSLL Lima Lucchesi Auditores e Contadores Ltda., a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $25,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to file a required Form 3 reporting a change in the Firm's legal name, in violation of PCAOB Rule 2203, *Special Reports*.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Moore MSLL Lima Lucchesi Auditores e Contadores Ltda.** is a firm located in São Paulo, Brazil. At all relevant times, the Firm remained the same legal entity and was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to File Form 3 in Violation of PCAOB Rule 2203

2. PCAOB Rule 2200, *Annual Report*, requires that registered public accounting firms file annual reports with the Board on a Form 2 "following the instructions to that form." The instructions to the Form 2 require firms to identify their current legal names and any other names used in audit reports.

3. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. One such specified event is if the firm has changed its legal name while otherwise remaining the same legal entity that it was before the name change.[2]

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

[2] Under the PCAOB's reporting framework, a registered firm's name change may be reported on Form 3 only if the firm remains the same legal entity that it was before the name change. If the name change occurs in connection with a more significant change in which the firm, as previously constituted, ceases to exist, the new entity does not automatically succeed to the registration status of the former entity and may not report the event on Form 3 as a name change. Instead, the new legal entity, if it wishes to register with the PCAOB, must file a PCAOB Form 1 or PCAOB Form 4.

4. The Firm's Application for Registration on Form 1 filed with the PCAOB on November 14, 2013, lists the Firm's legal name as Moore Stephens Lima Lucchesi Auditores e Contadores. However, on August 20, 2021, the Firm filed an Annual Report on Form 2 with the PCAOB for the reporting period April 1, 2020 through March 31, 2021 ("2021 Annual Report"), which listed the Firm's legal name as "Moore MSLL Lima Lucchesi Auditores e Contadores." The Firm also filed an Annual Report on Form 2 with the PCAOB on June 27, 2022, for the reporting period April 1, 2021 through March 31, 2022 ("2022 Annual Report"), which listed the Firm's legal name as "Moore MSLL Lima Lucchesi Auditores e Contadores." At no point prior to filing the 2021 Annual Report or 2022 Annual Report did the Firm file a Form 3 with the PCAOB indicating that the Firm's legal name had changed.

5. The PCAOB's Division of Registration and Inspections ("DRI") emailed the Firm on four occasions between November 2021 and January 2022 in an attempt to resolve this issue but the Firm failed to respond to any of DRI's messages or to file a Form 3 reporting the Firm's change in legal name. Instead, the Firm filed the 2022 Annual Report that included a different legal name than the one specified in the Firm's Application for Registration on Form 1.

6. The Firm belatedly filed a Form 3 on December 21, 2022, reporting the change in its legal name, after receiving notice of the deficiency from the PCAOB's Division of Enforcement and Investigations. The Firm subsequently filed another Form 3 on January 19, 2023, further updating its legal name to include the suffix, "Ltda." following the previously reported updated legal name of "Moore MSLL Lima Lucchesi Auditores e Contadores."

7. The Firm's internal compliance and reporting systems failed to identify the name change as being reportable to the PCAOB. As a result, the Firm inappropriately failed to notify the PCAOB of the name change.

8. In violation of PCAOB Rule 2203, the Firm failed to file a Form 3 reporting a change in its legal name.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a).

4. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures to provide reasonable assurance that reportable events are identified by Firm personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 2203, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the actions taken to satisfy the conditions specified above, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 8, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Blue & Co., LLC,

Respondent.

PCAOB Release No. 105-2023-018

August 8, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Blue & Co., LLC ("Blue" or "Respondent"), a registered public accounting firm;

(2) imposing a civil money penalty in the amount of $75,000 on Blue; and

(3) requiring Blue to review and certify its auditor independence policies and procedures.

The Board is imposing these sanctions on the basis that, in connection with six audits of three issuer employee benefit plans over the course of two years, Blue violated applicable auditor independence requirements by failing to comply with partner rotation requirements.

In ordering these sanctions, the Board took into account Blue's extraordinary cooperation in this matter, including self-reporting and remedial actions, as described in more detail below.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Blue & Co., LLC** is a limited liability company organized under the laws of Indiana and headquartered in Carmel, Indiana. Blue is licensed to practice public accounting by the Indiana Accountancy Board (License No. FP59400100), among other state boards. Blue is, and at all relevant times was, registered with the Board, and is a "registered public accounting firm" as that term is defined in Section 2(a)(12) of the Act and PCAOB rules.

B. Issuers

2. **Ashland Employee Savings Plan** ("Ashland ESP") is, according to its public filings, a defined contribution plan for certain employees of Ashland Inc., ("Ashland"), a Delaware corporation headquartered in Wilmington, Delaware. At all relevant times, Ashland ESP was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

3. **Ashland Union Employee Savings Plan** ("Ashland UESP") is, according to its public filings, a defined contribution plan for certain employees of Ashland. At all relevant times, Ashland UESP was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. **International Specialty Products Inc. 401(k) Plan** ("ISP Plan" and, together with Ashland ESP and Ashland UESP, the "Benefit Plans") is, according to its public filings, a defined contribution plan for certain employees of International Specialty Products Inc., a wholly-

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

owned subsidiary of Ashland. At all relevant times, ISP Plan was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Blue's violations of partner rotation requirements. Specifically, Blue allowed the same individual ("Partner A") to serve as the engagement partner during the 2018 and 2019 Ashland ESP, Ashland UESP, and ISP Plan audits immediately after Partner A had served as the engagement quality reviewer or engagement partner during the 2013 through 2017 audits of those same three issuers.

6. After the 2017 audits of the Benefit Plans, Partner A had served in the engagement partner or engagement quality reviewer role for five consecutive years. Accordingly, Partner A's service as engagement partner on the 2018 and 2019 audits of the Benefit Plans impaired Blue's independence under the U.S. Securities and Exchange Commission's ("Commission") partner rotation rules, which provide that an auditor is not independent if an individual serves as engagement partner or engagement quality reviewer for more than five consecutive years.

7. In addition, Blue violated PCAOB quality control standards by failing to implement and monitor adequate policies and procedures to provide reasonable assurance that firm personnel would comply with applicable auditor independence requirements.

D. Blue Violated PCAOB Rules and Standards

8. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[2] PCAOB rules further require registered public accounting firms to comply with the Board's quality control standards.[3]

i. Blue Violated PCAOB Rules and Standards by Failing to Comply With Partner Rotation Requirements

9. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit clients throughout the audit and

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[2] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[3] *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

professional engagement period.[4] A registered public accounting firm's or associated person's independence obligation with respect to an issuer audit client encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in Commission rules and regulations.[5]

10. Rule 2-01(c)(6) of the Commission's Regulation S-X provides that an accountant is not independent of an audit client if any audit partner performs the services of a lead partner (*i.e.,* engagement partner) or engagement quality reviewer for more than five consecutive years.[6]

11. Blue served as each Benefit Plan's auditor for the fiscal years ended December 31, 2013, through December 31, 2019. Following each of its 2013 through 2019 audits of the Benefit Plans, Blue issued an unqualified audit report on each Benefit Plan's financial statements that was included in a Form 11-K filed with the Commission.

12. Partner A served as the engagement quality reviewer for the 2013 and 2014 audits of the Benefit Plans. Partner A then served as the engagement partner for the 2015 through 2019 audits of the Benefit Plans. Thus, the 2018 and 2019 audits of the Benefit Plans represented the sixth and seventh consecutive years, respectively, that Partner A served as the engagement partner or engagement quality reviewer.

13. Because Partner A performed the services of a lead partner or engagement quality reviewer for more than five consecutive years, Blue failed to maintain its independence during the 2018 and 2019 audits of the Benefit Plans in violation of PCAOB Rule 3520 and AS 1005.

ii. Blue Violated PCAOB Quality Control Standards

14. PCAOB quality control standards provide that each registered public accounting firm should establish policies and procedures to provide the firm with reasonable assurance that "personnel maintain independence (in fact and in appearance) in all required

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4 PCAOB Rule 3520, *Auditor Independence*; AS 1005, *Independence*.

5 PCAOB Rule 3520, Note 1.

6 17 C.F.R. § 210.2-01(c)(6).

circumstances" and "that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[7]

15. PCAOB quality control standards also provide that policies and procedures for monitoring "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied,"[8] and that "its system of quality control is effective."[9]

16. As evidenced by Blue's violations of auditor independence requirements, Blue failed to implement, effectively apply, and appropriately monitor quality control policies and procedures sufficient to provide reasonable assurance that its personnel would maintain independence in fact and in appearance.

17. Specifically, Blue lacked independence policies or procedures to provide reasonable assurance that its personnel would comply with partner rotation requirements. Similarly, Blue lacked monitoring procedures sufficient to identify the failure of its independence policies and procedures to provide reasonable assurance that firm personnel would comply with partner rotation requirements.

18. These quality control failures contributed to Blue's violations of PCAOB rules and standards related to auditor independence. As a result, Blue violated QC § 20 and QC § 30.

IV.

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

In ordering sanctions, the Board took into account Respondent's extraordinary cooperation in this matter.[10] First, Blue voluntarily self-reported the matter to PCAOB staff near the beginning of the Board's 2021 inspection of the firm. Second, Blue promptly instituted

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[7] QC §§ 20.09, .17, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[8] *Id. at* .20.

[9] QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[10] *See Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations*, PCAOB Rel. No. 2013-003 (Apr. 24, 2013).

remedial measures, including: reviewing the staffing on in-progress audits to ensure there were no additional partner rotation violations; creating a new partner rotation tracking sheet that is maintained by the firm's quality control department and used in the partner assignment process; instituting a process to monitor partner rotation and other PCAOB deadlines in a central log maintained by the firm's quality control department; instituting annual meetings with all staff who work on PCAOB audits to discuss rule changes, policy updates, training opportunities, and audit practices; and instituting an annual Advanced Employee Benefit Plan Training for employee benefit plan auditors. Absent Blue's extraordinary cooperation, the civil money penalty imposed would have been significantly larger, and the Board may have imposed additional sanctions.

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $75,000 is imposed on Blue.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Blue shall pay this civil money penalty within ten (10) days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to interest.

4. With respect to any civil money penalty amounts that Blue shall pay pursuant to this Order, Blue shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Blue's payment of the civil money penalty pursuant to this Order, in any private action brought against Blue based on substantially the same facts as set out in the findings in this Order.

5. Blue understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to it at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by Blue. Within 90 days of the date of this Order, Blue shall review and evaluate its quality control or other policies and procedures intended to provide the firm with reasonable assurance that its personnel and other associated persons comply with auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards.

2. Reporting. Within 120 days of the date of this Order, Blue shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the area specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by Blue or, if Blue concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the firm believes changes are not warranted. In addition, Blue shall submit any additional information and evidence concerning the Report, the information in the Report, and Blue's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within 150 days of the date of this Order, Blue's head of quality assurance shall certify in writing ("Certificate of

Implementation") to the Director of the Division of Enforcement and Investigations that Blue has implemented all of the modifications and additions to its policies and procedures, if any, that were described in the Report. The Certificate of Implementation shall provide written evidence of Blue's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. Blue shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. Blue understands that a failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 8, 2023

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

1666 K Street NW
Washington, DC 20006

Office: 202-207-9100
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www.pcaobus.org

Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Ciro E. Adams, CPA, LLC, and Ciro E. Adams, CPA,

Respondents.

PCAOB Release No. 105-2023-019

August 8, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Ciro E. Adams, CPA, LLC ("Firm"), a registered public accounting firm, and Ciro E. Adams, CPA ("Adams") (collectively, "Respondents");

(2) revoking the Firm's registration;[1]

(3) barring Adams from being an associated person of a registered public accounting firm;[2]

(4) imposing a $40,000 civil money penalty jointly and severally upon the Firm and Adams (collectively, "Respondents"); and

(5) requiring Adams to complete 40 hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license, before filing any petition for Board consent to associate with a registered public accounting firm.

The Board is imposing these sanctions on the basis of its findings that Respondents violated PCAOB rules and auditing standards in connection with four audits of two issuers.

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[1] The Firm may reapply for registration after two years from the date of this Order.

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

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **Ciro E. Adams, CPA, LLC** is a limited liability corporation organized under the laws of the state of Delaware and headquartered in Wilmington, Delaware. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice by the Delaware Board of Accountancy (license no. CF-0000758).

2. **Ciro E. Adams, CPA** is the Firm's sole partner and owner, and is a certified public accountant licensed by the Delaware Board of Accountancy (license no. CA-0001890). At all

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

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

relevant times, Adams was an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuers

3. **Professional Diversity Network, Inc.** ("PDN") is a Delaware corporation headquartered in Chicago, Illinois. PDN is, and at all relevant times was, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). According to its public filings, PDN's business focuses on operating professional networks targeting diverse affinity groups.

4. **Alpha Investment Inc.** ("Alpha") is a Delaware corporation headquartered in Columbus, Ohio. Alpha is, and at all relevant times was, an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). According to its public filings, Alpha's business focuses on issuing loans to borrowers seeking funding to acquire or refinance commercial real estate properties.

C. Summary

5. This matter concerns violations of PCAOB rules and auditing standards by the Firm and Adams during the Firm's audits of PDN's financial statements for the fiscal years ended December 31, 2019, 2020, and 2021 (the "2019 PDN Audit," "2020 PDN Audit," and "2021 PDN Audit," respectively and, collectively, the "PDN Audits") and its audit of Alpha's financial statements for the fiscal year ended December 31, 2020 ("2020 Alpha Audit").

6. The Firm issued audit reports for the PDN Audits and the 2020 Alpha Audit that contained unqualified audit opinions on the companies' financial statements for the relevant periods. Adams served as engagement partner on the 2020 Alpha Audit and each of the PDN Audits, and authorized the issuance of the Firm's audit reports for each of those audits.

7. As detailed below, in performing the PDN Audits and the 2020 Alpha Audit, Respondents failed to (1) exercise due professional care and professional skepticism; (2) obtain sufficient appropriate audit evidence supporting significant accounts, including accounts designated as a fraud risk or significant risk; and (3) comply with multiple other PCAOB auditing standards.

D. Respondents Violated PCAOB Rules and Auditing Standards

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

Board's auditing and related professional practice standards.[5] Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism, and to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[6] While an auditor may use inquiry to obtain information, inquiry alone does not provide sufficient appropriate evidence to support a conclusion about a relevant assertion.[7] When using information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information.[8] An auditor should also design and implement responses to address any assessed risks of material misstatement.[9]

9. PCAOB standards further require that auditors evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[10] When evaluating audit results, the auditor is required to conclude on whether sufficient appropriate audit evidence has been obtained to support his or her opinion on the financial statements.[11]

10. As described below, the Firm and Adams violated these and other PCAOB standards in connection with the PDN Audits and the 2020 Alpha Audit.

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5 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

6 *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*.

7 *See* AS 2301.39, *The Auditor's Responses to the Risks of Material Misstatement*; *see also* AS 1105.17, Note ("Inquiry of company personnel, by itself, does not provide sufficient audit evidence to reduce audit risk to an appropriately low level for a relevant assertion . . .").

8 *See* AS 1105.10.

9 *See* AS 2301.03 and .05.

10 *See* AS 2810.30, *Evaluating Audit Results*.

11 *See* AS 2810.33.

i. The PDN Audits

a. Revenue Testing

11. The engagement team for each of the PDN Audits identified revenue recognition as a significant risk and a fraud risk.

12. PDN derived a portion of its revenue from annual and monthly membership fees which it processed using a company-developed application.[12] Revenue from monthly memberships was recognized in the same month PDN collected the fees. For annual memberships, PDN recorded deferred revenue when the contract was entered into and subsequently recognized revenue ratably over the contract period. PDN tracked the revenue to be deferred from new and renewed annual contracts, and calculated the amounts to be recognized as revenue each month, in spreadsheets prepared by PDN using reports from the company-developed membership application.

13. During each of the PDN Audits, Respondents performed certain procedures to test monthly and annual membership revenue, which all relied on reports from PDN's membership application and/or the company-prepared spreadsheets. However, Respondents failed to perform procedures to test the accuracy and completeness, or test the controls over the accuracy and completeness, of those reports and spreadsheets.[13]

14. PDN derived another portion of its revenue from direct sales related to recruitment services, for which PDN recognized revenue ratably over the lifetime of the applicable contracts and used spreadsheets to track deferred revenue amounts.[14] PDN often entered into contracts to provide multiple recruiting services to the same customer, resulting in multiple revenue streams.

15. For both the 2019 and 2020 PDN Audits, Respondents selected certain direct sales transactions entered into during the year and tested the selected transactions by (1) obtaining the issuer-prepared deferred revenue spreadsheet and recalculating the monthly revenue amounts, and (2) examining the relevant sales orders, invoices, and payments received. For both audits, Respondents failed to evaluate whether PDN's accounting for direct

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[12] Membership fees constituted 49%, 32%, and 16.5% of PDN's total reported revenue in 2019, 2020, and 2021, respectively.

[13] *See* AS 1105.10.

[14] Direct sales constituted 29% and 40% of PDN's total reported revenue in 2019 and 2020, respectively.

sales revenue was in accordance with U.S. GAAP.[15] For example, Respondents failed to consider PDN's identification of performance obligations, the allocation of the transaction price to each performance obligation, and when PDN satisfied its performance obligations in order to determine that PDN recognized revenue in the proper period.[16]

16. During the 2019 PDN Audit, Respondents selected only direct sales transactions entered into between January 2019 and April 2019 for substantive testing. As a result, Respondents failed to test revenue recognized from any transactions entered into prior to 2019 for which revenue was recognized in the current year or from any transactions that occurred during the last eight months of the year, which totaled 82% of direct sales revenue recognized during the year.[17]

17. During the 2020 PDN Audit, Respondents selected 15 contracts entered into during the year from the deferred revenue schedule for substantive testing. The revenue recognized in 2020 relating to those 15 contracts, however, equaled only 7% of direct sales revenue reported during the year. The sample size was not determined using any reasoned or informed basis. In determining the sample size, Respondents failed to appropriately take into account the factors identified in AS 2315.23.[18] Furthermore, Respondents once again did not test any contracts entered into prior to 2020 for which revenue was recognized during the fiscal year, despite such contracts comprising 51% of the direct sales revenue reported in 2020.[19]

18. Accordingly, Respondents violated AS 1105, AS 2810, AS 2315, and AS 2301 by failing to obtain sufficient appropriate audit evidence, failing to evaluate whether the financial statements were presented fairly and in conformity with U.S. GAAP, and failing to adequately respond to risks of material misstatement when testing revenue as part of the PDN Audits. As a result, Respondents also violated AS 1015 by failing to exercise due professional care, including professional skepticism.

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15 *See* AS 2810.30.

16 *See* FASB ASC 606, *Revenue from Contracts with Customers*.

17 *See* AS 2315.24, *Audit Sampling* ("Sample items should be selected in such a way that the sample can be expected to be representative of the population. Therefore, all items in the population should have an opportunity to be selected.").

18 Those factors include: (1) tolerable misstatement for the population; (2) the allowable risk of incorrect acceptance (based on assessments of inherent risk, control risk, and detection risk); and (3) the characteristics of the population, including the expected size and frequency of misstatements.

19 *See* AS 2315.24; AS 1105.04; AS 2301.11-.15.

b. Acquisition Accounting

19. PDN disclosed that, in September 2021, it had acquired a roughly 46% interest in a company called RemoteMore USA, Inc. ("RM") for $1,363,333. PDN also disclosed that it included the results of operations for RM in its consolidated 2021 financial statements at gross amounts on the basis that it had significant influence over RM's operations.

20. PDN accounted for the acquisition as a purchase transaction and, as such, was required to record the identifiable assets acquired and liabilities assumed at fair value.[20] On the date of acquisition, PDN recorded intangible assets of $938,183, goodwill of $935,683, and noncontrolling interest of $510,184. At year-end 2021, the goodwill and intangible assets associated with RM constituted approximately 18% of PDN's total assets. RM's net loss for the period post-acquisition constituted 13% of PDN's net loss from continuing operations for 2021.

21. During the 2021 PDN Audit, Respondents failed to evaluate whether PDN's accounting for the acquisition of RM shares was in accordance with U.S. GAAP.[21] For example, Respondents failed to consider whether it was appropriate for PDN to account for the transaction as a purchase transaction and consolidate RM in its financial statements given PDN's minority ownership interest in RM. Specifically, Respondents failed to test PDN's assertion—on which it based the consolidation of RM—that PDN had significant influence over RM's operations.

22. Respondents also failed to test the valuation and existence of the intangible assets acquired during the RM acquisition, which consisted primarily of amounts recorded for the future value of contracts RM had with six customers. Respondents obtained a schedule prepared by PDN reflecting management's calculation of the fair value of the contracts. However, other than performing inquiries of PDN's management, Respondents failed to perform any procedures to determine whether the intangible assets existed and were properly valued.[22]

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[20] *See* FASB ASC 805, *Business Combinations*. Purchase transactions are accounted for using the acquisition method of accounting. Under this method, a company must, among other things, recognize and measure the assets acquired and the liabilities assumed, and recognize and measure goodwill.

[21] *See* AS 2810.30.

[22] *See* AS 1105.17, Note.

23. Finally, PDN disclosed in its 2021 Form 10-K that it tested goodwill for impairment on an annual basis at December 31.[23] PDN also disclosed that RM did not begin operations until just a few months prior to PDN's acquisition of RM's shares, that between the date of the acquisition and year-end 2021 RM incurred a loss before taxes of over $350,000, and that there was substantial doubt about PDN's own ability to continue as a going concern. Despite these factors indicating that the goodwill associated with RM might be impaired, Respondents failed to perform any procedures to test whether that goodwill was properly valued at year-end 2021.

24. Accordingly, Respondents violated AS 2810 and AS 1105 by failing to evaluate whether the transaction was recorded in accordance with U.S. GAAP and failing to obtain sufficient appropriate audit evidence when testing PDN's accounting associated with the RM acquisition as part of the 2021 PDN Audit. As a result, Respondents also violated AS 1015 by failing to exercise due professional care, including professional skepticism.

ii. The 2020 Alpha Audit

a. Valuation of Notes Receivable

25. At year-end 2020, two notes receivable—with counterparties Partners South Holdings LLC ("Partners South") and Paris Lakes Medical Assets ("Paris Lakes")—along with related accrued interest constituted approximately 99% of Alpha's total assets. Both loans had been originated and funded in prior years. Alpha disclosed that both loans were secured by assets purportedly obtained by the counterparties with the loan proceeds.

26. Respondents tested the existence and valuation of the notes by obtaining copies of the loan agreements, agreeing amounts disbursed in prior years relating to the loans to bank statements, and confirming the outstanding principal and interest as of year-end.

27. However, the procedures performed by Respondents were insufficient to determine whether the notes receivable balances were properly valued at year-end. Although Respondents confirmed the amounts outstanding with the counterparties at year-end, they failed to perform any procedures concerning whether the notes receivable balances were collectible. For example, Respondents failed to assess the counterparties' financial health and their ability to pay the outstanding amounts. Likewise, Respondents failed to perform any

[23] Goodwill is periodically tested for impairment—the condition that exists when the carrying amount of goodwill on a company's books exceeds its implied fair value. *See* FASB ASC 350, *Intangibles – Goodwill and Other*. Such testing must occur annually, or more frequently if there is an indication of impairment. If the testing results in an impairment, the carrying amount of the goodwill must be reduced by the amount of the impairment. *See id.*

procedures to test the existence or valuation of any collateral securing either note. Respondents also failed to obtain or test any impairment analysis performed by Alpha and, to the contrary, concluded a material weakness existed in Alpha's internal controls due to the fact that a supporting analysis was not prepared for estimating the allowance for loan losses and bad debts with respect to loans receivable.

28. The failure to perform sufficient procedures regarding any potential impairment on the Partners South note receivable was particularly acute because (1) Alpha identified Partners South as a related party[24] owned by a former officer and director of Alpha, and (2) Partners South had not made quarterly interest payments or provided its financial statements to Alpha, both of which were required by the agreement between Alpha and Partners South.[25]

29. Similarly, Respondents failed to perform sufficient appropriate audit procedures relating to the valuation of the Paris Lakes note. Respondents included information in the work papers that recognized that the most recent financial statements Alpha received from Paris Lakes were from 2018 and thus were not relevant for the 2020 Alpha Audit. However, Respondents failed to obtain more recent financial information concerning Paris Lakes.

30. Accordingly, Respondents violated AS 1105 and AS 2410 by failing to obtain sufficient appropriate audit evidence when testing the Partners South and Paris Lakes notes receivable as part of the 2020 Alpha Audit. As a result, Respondents also violated AS 1015 by failing to exercise due professional care, including professional skepticism.

b. Related Party Transactions

31. PCAOB standards require auditors to perform sufficient appropriate audit procedures to determine whether transactions with related parties have been properly identified, accounted for, and disclosed in the financial statements.[26] Respondents were required to obtain an understanding of Alpha management's process for: identifying related parties and relationships and transactions with related parties; authorizing and approving

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[24] *See* FASB ASC 850-50-5, *Related Party Disclosures* ("Transactions involving related parties cannot be presumed to be carried out on an arm's-length basis, as the requisite conditions of competitive, free-market dealings may not exist.").

[25] *See* AS 2410.12, *Related Parties* ("For each related party transaction that is either required to be disclosed in the financial statements or determined to be a significant risk, the auditor should . . . [e]valuate the financial capability of the related parties with respect to significant uncollected balances, loan commitments, supply arrangements, guarantees, and other obligations, if any.").

[26] *See id.* at .14 and .17.

transactions with related parties; and accounting for and disclosing relationships and transactions with related parties in its financial statements.[27]

32. During the 2020 Alpha Audit, Respondents identified related party transactions as a significant risk. Respondents also identified a material weakness relating to segregation of duties to support the identification, authorization, approval, accounting for, and disclosure of related party transactions and significant unusual transactions.

33. Other than performing inquiries of Alpha's CEO about related party transactions—to which he responded there were none, despite Alpha's financial statements disclosing related party transactions—Respondents failed to perform any procedures to obtain an understanding of the company's relationships and transactions with its related parties that might reasonably be expected to affect the risks of material misstatement of the financial statements.[28]

34. Further, during the 2020 Alpha Audit, Respondents became aware of certain information indicating that management did not disclose all related party relationships in its financial statements. While performing substantive procedures, Respondents identified a series of payments recorded as consulting fees made to an entity that Respondents identified in the work papers as Alpha's parent company.[29] These payments, totaling 13.6% of Alpha's reported loss for the year, were not disclosed as related party transactions. Respondents failed to perform any procedures to resolve the inconsistencies in the audit evidence concerning related parties and relationships and transactions with related parties, or to evaluate whether the consulting fee payments were properly disclosed.[30] Respondents also failed to perform procedures to test the accuracy and completeness of the related parties and relationships and transactions with related parties identified by the company, taking into account the information gathered during the audit.[31]

35. Accordingly, Respondents violated AS 2410, AS 2805, and AS 1105 by failing to obtain sufficient appropriate audit evidence and failing to perform sufficient procedures concerning related party transactions and relationships during the 2020 Alpha Audit. As a

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27 *See id.* at .04.

28 *See id.* at .03; AS 2805.02, *Management Representations*.

29 In fact, the entity was another subsidiary of Alpha's primary shareholder rather than Alpha's parent company.

30 *See* AS 1105.29; AS 2410.17.

31 *See* AS 2410.14.

result, Respondents also violated AS 1015 by failing to exercise due professional care, including professional skepticism.

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Ciro E. Adams, CPA, LLC and Ciro E. Adams, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Ciro E. Adams, CPA, LLC is revoked;

C. After two years from the date of this Order, Ciro E. Adams, CPA, LLC may reapply for registration by filing an application pursuant to PCAOB Rules 2101 and 5302(a);

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Ciro E. Adams, CPA is barred from being an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[32]

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

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $40,000 is imposed jointly and severally upon Ciro E. Adams, CPA, LLC and Ciro E. Adams, CPA.

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[32] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Adams. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondents shall pay the civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer in accordance with instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Ciro E. Adams, CPA, LLC and Ciro E. Adams, CPA as respondents in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. Respondents understand that their failure to pay the civil money penalty imposed upon them may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b) or a reapplication for registration pursuant to PCAOB Rules 2101 and 5302(a).

4. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-order interest.

5. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondents' payment of the civil money penalty pursuant to this Order, in any private action brought against Respondents based on substantially the same facts as set out in the findings in this Order.

G. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Ciro E. Adams, CPA is required to complete, prior to filing any petition to terminate his bar and for Board consent to reassociate with a registered public accounting firm, 40 hours of continuing professional education and training relating to PCAOB auditing standards (such hours shall be in addition to, and shall not be counted in, the continuing professional education he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 8, 2023

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of K G Somani & Co. LLP and Anuj Somani,

Respondents.

PCAOB Release No. 105-2023-020

August 8, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring K G Somani & Co. LLP ("KGS" or the "Firm"), a registered public accounting firm, and Anuj Somani ("Somani" and, together with KGS, "Respondents");

(2) imposing civil money penalties in the amounts of $125,000 on KGS and $50,000 on Somani;

(3) suspending Somani from being an associated person of a registered public accounting firm for a period of one year from the date of this Order;

(4) limiting Somani's activities for an additional period of one year following the termination of his suspension; and

(5) requiring KGS to engage an independent consultant to review and make recommendations concerning its system of quality control.

The Board is imposing these sanctions on the bases that (1) in connection with an issuer audit, Somani violated PCAOB rules and standards; and (2) KGS violated PCAOB rules and quality control standards.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit

reports, that disciplinary proceedings be, and hereby are, instituted against Respondents pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (together, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents each consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **K G Somani & Co. LLP** is a partnership organized under the laws of India and headquartered in New Delhi, India. The Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules since July 23, 2009.

2. **Anuj Somani** was, at all relevant times, a partner of KGS and an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). He served as the engagement partner for KGS's integrated audit of the financial statements and internal control over financial reporting ("ICFR") of Ebix, Inc. ("Ebix") for the fiscal year ended December 31, 2020.

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

[2] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Issuer

3. **Ebix, Inc.** is a Delaware corporation headquartered in Johns Creek, Georgia. According to its public filings, Ebix is a supplier of on-demand infrastructure exchanges to the insurance, financial services, travel, and healthcare industries. At all relevant times, Ebix was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. This matter concerns Somani's violations of PCAOB standards during the 2020 Ebix audit. Specifically, Somani and the KGS engagement team failed to perform all necessary audit procedures prior to releasing KGS's audit opinion on Ebix's ICFR.

5. Instead, after the issuance of the audit opinion, Somani and the engagement team continued to perform audit procedures, ultimately creating dozens of work papers after the audit opinion had been issued and included in a Form 10-K that Ebix filed with the U.S. Securities and Exchange Commission ("Commission"). Indeed, the engagement team continued to modify work papers even after the documentation completion date.[3]

6. Based on this conduct, Somani violated PCAOB standards concerning the performance, supervision, and documentation of the audit.

7. In addition, this matter also concerns KGS's violation of PCAOB quality control standards by failing to implement and monitor adequate policies and procedures to provide reasonable assurance that Firm personnel would comply with applicable professional standards with respect to audit performance, supervision, and documentation.

D. Background

8. Ebix engaged KGS as its auditor on March 5, 2021. The 2020 Ebix audit was KGS's first audit under PCAOB standards, and Somani was assigned to serve as the engagement partner.

9. On April 27, 2021, less than two months after being engaged, KGS issued audit reports expressing unqualified opinions on Ebix's 2020 financial statements and ICFR. Those audit reports were included in a Form 10-K that Ebix filed with the Commission on April 27, 2021.

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[3] *See* AS 1215.15, *Audit Documentation* (defining "documentation completion date" as a date not more than 45 days after an auditor releases an audit report).

10. In the days and weeks following the April 27, 2021 release of KGS's audit reports, the engagement team continued to perform audit procedures, such as obtaining audit evidence from Ebix management, following up on what the team referred to as "pending open items," and completing reviews of the work papers. Much of the engagement team's post-report audit work concerned incomplete ICFR testing.

11. On May 9, 2021, for example, an engagement team member drafted an email listing "pending open items" with respect to controls concerning, among other things, "Year End [Tax] Provision," "[Tax] Reconciliation" and "Fin 48."[4] Five days later, an engagement team member sent KGS's engagement quality reviewer an email with the subject "Data pending . . . for tax," listing various categories of audit evidence that remained outstanding with respect to management's review of controls over tax. At least 11 work papers related to the testing of tax controls were modified after KGS released its ICFR audit report.

12. Similarly, on May 11, 2021, an Ebix employee emailed KGS personnel that "I know that you are awaiting some follow up from Ebix related to [controls] EL#9, EL#11 and EL#12, as well as BA#2."

13. On June 9, 2021, an engagement team member circulated a "SOX [ICFR] Testing Summary" with fields for the "Data Available or not" for various Ebix entities and processes. For several entries, the "Data Available or not" field indicated that data was "Pending."

14. Indeed, as late as June 11, 2021—the documentation completion date—an engagement team member emailed other KGS personnel follow up points with respect to ICFR testing work papers and instructed: "Please ensure the following and confirm once it is complete. Will start my review post that." The engagement team member was told later that day, "You can start your review now."

15. In all, KGS's work paper files for the 2020 Ebix audit include more than 60 work papers for which the metadata indicates they were created after the report release date of April 27, 2021. These work papers related to, *inter alia*, testing of controls over revenue, accounts receivable, and payroll.

16. Moreover, KGS's work paper files for the 2020 Ebix audit include more than 100 additional work papers that were created or modified after the June 11, 2021 documentation completion date.

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[4] *See* FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes.*

17. Even after all of the engagement team's post-audit report and post-documentation completion date modifications to the work papers, numerous work papers were missing preparer and/or reviewer signoffs. And other work papers that contained such signoffs failed to indicate the signoff date.[5]

E. Somani Violated PCAOB Rules and Standards

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

i. Somani Failed to Perform All Necessary Audit Procedures Prior to the Report Release Date

19. PCAOB standards require that "[p]rior to the report release date, the auditor must have completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report."[7]

20. As discussed above, following the issuance of KGS's audit reports, Somani and the KGS engagement team continued to create and modify work papers, complete audit procedures, and perform reviews, particularly with respect to audit work concerning Ebix's ICFR.

21. As reflected by the volume of audit work that the engagement team performed after issuing KGS's ICFR opinion, Somani failed to ensure that all necessary audit procedures were completed prior to the release of KGS's ICFR audit report. Accordingly, Somani violated AS 1215.

ii. Somani Failed to Appropriately Document the Audit Work

22. PCAOB standards require that "[a]udit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement . . . [t]o determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review."[8] PCAOB

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5 *See* AS 1215.06.

6 PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

7 AS 1215.15.

8 *Id*. at .06.

standards further require an auditor to assemble a complete and final set of audit documentation "as of a date not more than 45 days after the report release date (*documentation completion date*)."[9] Any documentation added after the documentation completion date "must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[10]

23. Somani and his engagement team repeatedly failed to document who prepared and reviewed work papers or when they did so; failed to assemble a complete set of audit documentation by the documentation completion date; and, with respect to dozens of work papers modified after the documentation completion date, failed to note the date of and reason for the modifications, or the individuals who made the modifications. Accordingly, Somani violated AS 1215.

iii. Somani Failed to Properly Supervise the Engagement Team

24. PCAOB standards provide that "the engagement partner is responsible for the proper supervision of the work of the engagement team members and for compliance with PCAOB standards."[11] As part of his supervisory responsibilities, the engagement partner should "[r]eview the work of engagement team members to evaluate whether: (1) The work was performed and documented; (2) The objectives of the procedures were achieved; and (3) The results of the work support the conclusions reached."[12]

25. Somani failed to properly review the engagement team's work to ensure that all necessary procedures were performed and documented prior to releasing KGS's audit reports. Accordingly, Somani violated AS 1201.

iv. Somani Failed to Exercise Due Professional Care

26. PCAOB standards provide that "[d]ue professional care is to be exercised in the planning and performance of the audit and the preparation of the report."[13]

27. Somani failed to exercise due professional care in violating PCAOB standards by failing to perform all necessary audit procedures prior to the release of KGS's ICFR opinion,

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9 *Id*. at .15.

10 *Id*. at .16.

11 AS 1201.03, *Supervision of the Audit Engagement*.

12 *Id*. at .05(c).

13 AS 1015.01.

failing to appropriately document the Ebix audit work, and failing to adequately supervise the KGS engagement team. Accordingly, Somani also violated AS 1015.

F. KGS Violated PCAOB Rules and Quality Control Standards

28. PCAOB rules require registered public accounting firms to comply with the Board's quality control standards.[14] PCAOB quality control standards, in turn, require each registered firm to effectively design, implement, and maintain a system of quality control to provide reasonable assurance that its personnel comply with applicable professional standards.[15] As part of this requirement, the firm should establish quality control policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[16] Among other areas, a firm's policies and procedures should address the documentation of each engagement in accordance with applicable professional standards.[17]

29. As evidenced by Somani's violations of PCAOB standards concerning the performance and supervision of audit work, KGS lacked adequate policies and procedures to ensure that all necessary audit procedures would be completed prior to the release of its audit report. The Firm also lacked adequate policies and procedures to ensure that its personnel would comply with PCAOB supervision and documentation standards.

30. PCAOB quality control standards also provide that policies and procedures for monitoring "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied,"[18] and that "its system of

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14 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

15 QC §§ 20.01-.03, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

16 *See id*. at .17.

17 *See id*. at .18.

18 *Id*. at .20.

quality control is effective."[19] "Monitoring involves an ongoing consideration and evaluation of the . . . [r]elevance and adequacy of the firm's policies and procedures."[20]

31. KGS failed to establish monitoring procedures that would have identified that its quality control policies and procedures relating to engagement performance were not sufficiently relevant or adequate to ensure compliance with PCAOB standards. For example, KGS's monitoring procedures were not sufficient to alert the firm that its policies and procedures failed to prevent the performance of audit procedures and creation of work papers after the report release date, a lack of documentation showing who prepared or reviewed work papers and when they did so, or work paper modifications after the documentation completion date.

32. Accordingly, KGS violated QC § 20 and QC § 30 by failing to implement and monitor adequate policies and procedures to provide the Firm with reasonable assurance that its personnel would comply with PCAOB standards concerning the performance, supervision, and documentation of audit work.

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), K G Somani & Co. LLP and Anuj Somani are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Anuj Somani is suspended, for one year from the date of this Order, from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[21]

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19 QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

20 *Id*. at .02.

21 As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Somani. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy

C. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year following the suspension ordered in Paragraph IV.B above, Anuj Somani's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Anuj Somani shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*;

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $125,000 is imposed on K G Somani & Co. LLP, and a civil money penalty in the amount of $50,000 is imposed on Anuj Somani.

1. All funds collected by the PCAOB as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act.

2. Each Respondent shall pay the respective civil money penalty as follows: K G Somani & Co. LLP shall pay $75,000 within ten days of the issuance of this Order and an additional $50,000 within 365 days of the issuance of this Order; and Anuj Somani shall pay $25,000 within ten days of the issuance of this Order and an additional $25,000 within 365 days of the issuance of this Order. Respondents shall make each payment by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting

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or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to interest.

4. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondents' payment of the civil money penalty pursuant to this Order, in any private action brought against Respondents based on substantially the same facts as set out in the findings in this Order.

5. K G Somani & Co. LLP understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to it at the address on file with the PCAOB at the time of the issuance of this Order.

E. Pursuant to Sections 105(c)(4)(C), (F), and (G) of the Act and PCAOB Rules 5300(a)(3), (6), (8), and (9), the Board orders that:

1. <u>Independent Consultant.</u>

a. K G Somani & Co. LLP shall retain and pay for an independent consultant not unacceptable to the PCAOB staff who has experience with, and is knowledgeable concerning, PCAOB auditing and quality control standards ("Independent Consultant"). Within 60 days after the entry of this Order, K G Somani & Co. LLP shall submit to the PCAOB staff a proposal

setting forth the identity, qualifications, and proposed terms of retention of the Independent Consultant. K G Somani & Co. LLP may not retain as the Independent Consultant any individual or entity that has provided legal, auditing, or other services to, or has had any affiliation with, K G Somani & Co. LLP during the two years prior to the date of this Order.

b. To ensure the independence of the Independent Consultant, K G Somani & Co. LLP: (i) shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the PCAOB staff; and (ii) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

c. K G Somani & Co. LLP will enter into an agreement with the Independent Consultant that provides that, for the period of the engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing, or other professional relationship with K G Somani & Co. LLP or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. The agreement also will provide that the Independent Consultant will require that any firm with which the Independent Consultant is affiliated or of which the Independent Consultant is a member, and any person engaged to assist the Independent Consultant in performance of the Independent Consultant's duties under this Order, shall not, without prior written consent of the PCAOB staff, enter into any employment, consultant, attorney-client, auditing, or other professional relationship with K G Somani & Co. LLP or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such, for the period of the engagement and for a period of two years after the engagement.

d. K G Somani & Co. LLP shall cooperate fully with the Independent Consultant and shall provide reasonable access to its personnel, information, and records as the Independent Consultant may reasonably request for the Independent Consultant's review,

evaluation, and reports described in Paragraphs IV.E.2 and IV.E.3 below.

e. If K G Somani & Co. LLP, despite its best, good-faith efforts, is unable to identify an Independent Consultant candidate that meets all of the above-listed criteria, K G Somani & Co. LLP may seek approval from the PCAOB staff of alternative candidates or alternative terms that K G Somani & Co. LLP believes to be otherwise suitable.

2. Areas Independent Consultant Is To Review. Within the periods specified in Paragraph IV.E.3 below, the Independent Consultant will review and evaluate the following:

a. K G Somani & Co. LLP's quality control policies and procedures as they relate to assurance that its personnel comply with applicable PCAOB standards;

b. The resources K G Somani & Co. LLP is devoting to provide reasonable assurance of its personnel's compliance with PCAOB standards, including the expertise, experience, and staffing of K G Somani & Co. LLP's quality control personnel; and

c. K G Somani & Co. LLP's professional education and training policies and materials relating to compliance with PCAOB standards.

3. Independent Consultant Reports and Certifications.

a. Within 90 days of the Independent Consultant being retained, K G Somani & Co. LLP shall require the Independent Consultant to issue a detailed written report ("Report") to K G Somani & Co. LLP: (i) summarizing the Independent Consultant's review and evaluation of the areas identified in Paragraph IV.E.2 above, and (ii) making recommendations, where appropriate, reasonably designed to ensure that K G Somani & Co. LLP's system of quality control provides reasonable assurance of its personnel's compliance with applicable PCAOB standards. K G Somani & Co. LLP shall require the Independent Consultant to provide a copy of the Report to the PCAOB staff when the Report is issued.

b. K G Somani & Co. LLP will adopt, as soon as practicable, all recommendations of the Independent Consultant in the Report; provided, however, that within 30 days of the issuance of the Report, K G Somani & Co. LLP may advise the Independent Consultant and the PCAOB staff in writing of any recommendation that it considers to be unnecessary, unduly burdensome, or impractical. K G Somani & Co. LLP need not adopt any such recommendation at that time, but instead may propose in writing to the Independent Consultant and the PCAOB staff an alternative proposal designed to achieve the same objective or purpose. K G Somani & Co. LLP and the Independent Consultant will engage in good faith negotiations in an effort to reach agreement on any recommendations objected to by K G Somani & Co. LLP.

c. In the event that the Independent Consultant and K G Somani & Co. LLP are unable to agree on an alternative proposal within forty-five days, K G Somani & Co. LLP either will abide by the determinations of the Independent Consultant or will seek approval from the PCAOB staff to engage, at K G Somani & Co. LLP's expense, a qualified third party not unacceptable to the PCAOB staff to promptly resolve the issue(s).

d. Within 60 days of the issuance of the Report and the resolution of any issues that are the subject of disagreement between K G Somani & Co. LLP and the Independent Consultant, K G Somani & Co. LLP will certify to the PCAOB staff in writing that it has adopted and has implemented or will implement all recommendations of the Independent Consultant ("Certification of Compliance"). K G Somani & Co. LLP will provide a copy of the Certification of Compliance to the PCAOB staff.

e. Within 120 days of the issuance of the Report, K G Somani & Co. LLP shall require the Independent Consultant to test whether K G Somani & Co. LLP has implemented and enforced the Independent Consultant's recommendations and to assess the effectiveness of those implemented recommendations. K G Somani & Co. LLP shall require the Independent Consultant to issue a written final report summarizing the results of the Independent Consultant's test and assessment ("Final Report")

and to provide a copy of the Final Report to the PCAOB staff. At this time, if the Independent Consultant determines that the undertakings discussed herein have been completed to the satisfaction of the Independent Consultant, K G Somani & Co. LLP shall require the Independent Consultant to certify in writing that the undertakings have been so completed ("Independent Consultant Certification") and to provide a copy of this certification to the PCAOB staff.

f. The Report, Final Report, Certification of Compliance, and Independent Consultant Certification shall be submitted to the Director of the Division of Enforcement and Investigations.

g. For good cause shown, the PCAOB staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

h. K G Somani & Co. LLP agrees that the Division of Enforcement and Investigations may petition the Board to reopen this matter to determine whether additional sanctions or findings are appropriate if it believes that K G Somani & Co. LLP has not satisfied any provision in Section IV of this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 8, 2023

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of RAM Associates & Company LLC and Parameswara K. Ramachandran,

Respondents.

PCAOB Release No. 105-2023-021

August 8, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring RAM Associates & Company LLC ("RAM" or "Firm") and Parameswara K. Ramachandran ("Ramachandran") (collectively, "Respondents");

(2) revoking the Firm's registration;[1]

(3) barring Ramachandran from being an associated person of a registered public accounting firm;[2]

(4) imposing a civil money penalty in the amount of $150,000, jointly and severally, on the Firm and Ramachandran; and

(5) requiring the Firm to undertake certain remedial actions concerning quality control directed toward satisfying requirements applicable to audits and reviews of issuers before filing, and to provide evidence of such measures with, any future registration application.

The Board is imposing these sanctions on the basis of its findings that: (a) Respondents violated PCAOB rules and standards in connection with the audits of the financial statements of an issuer client; (b) the Firm violated PCAOB standards concerning engagement quality reviews in connection with two audits of an issuer; (c) the Firm failed to timely file required Form APs, in

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[1] RAM may reapply for registration after two years from the date of this Order.

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

violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*; (d) the Firm violated PCAOB rules and quality control standards; and (e) Ramachandran substantially contributed to the Firm's violations of PCAOB rules and quality control standards.[3]

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement (the "Offers") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds that:[5]

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[3] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits and reviews discussed herein.

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

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

A. Respondents

1. **RAM Associates & Company LLC** is a limited liability company organized under the laws of the state of New Jersey and headquartered in Hamilton, New Jersey. The Firm is licensed by the New Jersey Division of Consumer Affairs (license no. 20CB00489700). The Firm was, at all relevant times, registered with the PCAOB pursuant to Section 102 of the Act and PCAOB rules.

2. **Parameswara K. Ramachandran** is the owner and managing partner of the Firm and a certified public accountant licensed by the New Jersey Division of Consumer Affairs (license no. 20CC01148500). At all relevant times, he was the sole partner of the Firm and served as the engagement partner on issuer audits. Ramachandran is, and at all relevant times was, an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). He was the engagement partner for each of the relevant audits discussed below.

B. Issuers

3. **Ameri Holdings Inc. (n/k/a Enveric Biosciences, Inc.)** ("Ameri") was, at all relevant times, a Delaware corporation headquartered in Suwanee, Georgia. Ameri's public filings disclose that it was engaged in delivering cloud, digital, and enterprise services. Ameri was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), at the time the Firm audited its financial statements for fiscal years 2018 through 2019.

4. **TripBorn, Inc.** ("TripBorn") was, at all relevant times, a Delaware corporation headquartered in Gujarat, India. TripBorn's public filings disclose that it was an online travel agency. TripBorn was an issuer, as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), at the time the Firm audited its financial statements for fiscal year 2018.

C. Summary

5. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the audits of Ameri for the years ended December 31, 2018, and December 31, 2019. Respondents failed to: (1) obtain sufficient appropriate audit evidence in auditing the valuation of Ameri's goodwill and using the work of a specialist retained by Ameri; (2) timely assemble for retention a complete and final set of audit documentation; (3) communicate all required matters to Ameri's audit committee; and (4) obtain audit committee preapproval for tax services.

6. In addition, the Firm violated PCAOB standards related to engagement quality reviews and, with regard to audits of both TripBorn and Ameri, PCAOB rules concerning filing Form APs.

7. The Firm also violated quality control standards because the Firm failed to establish an appropriate system of quality control to provide it with reasonable assurance that the work performed by engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality. The Firm also failed to establish policies and procedures, including monitoring procedures, to provide it with reasonable assurance that its system of quality control was suitably designed and being effectively applied.

8. Finally, Ramachandran violated PCAOB rules by directly and substantially contributing to the Firm's violations of PCAOB rules, auditing standards, and quality control standards.

D. Respondents Violated PCAOB Rules and Standards in Performing the 2018 and 2019 Ameri Audits

9. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[7] Among other things, PCAOB standards require an auditor to exercise due professional care in the planning and performance of the audit and the preparation of the report, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[8]

10. As relevant here, the Firm issued three audit reports containing an unqualified audit opinion on Ameri's financial statements: (1) an audit report dated March 25, 2019

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[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[7] AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

[8] *See* AS 1015.01, .07, *Due Professional Care in the Performance of Work*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 1105.04, *Audit Evidence*.

concerning financial statements for the year ended December 31, 2018 ("2018 Ameri Audit"); (2) an audit report dated March 25, 2020 concerning financial statements for the year ended December 31, 2019 ("2019 Ameri Audit"); and (3) an audit report concerning Ameri's restated 2019 financial statements with a dual date of August 11, 2020 ("2019 Ameri Restatement Audit"), filed in an amended Form 10-K/A filed with the Securities and Exchange Commission ("Commission"). Ramachandran served as the engagement partner and authorized the issuance of these audit reports.

11. As described below, Respondents failed to comply with PCAOB rules and standards.

i. Respondents Failed to Perform Goodwill Valuation Testing in the 2018 and 2019 Ameri Audits

12. Ameri reported total assets of $29.6 million and $25.3 million as of December 31, 2018 and 2019, respectively, of which approximately $13.7 million consisted of goodwill in both years. Ameri's goodwill arose from business combinations in prior years.

13. Ameri recorded a goodwill impairment charge of $8.2 million or approximately 78% of the pre-tax loss for the year ended December 31, 2018. Ameri concluded that its goodwill was not impaired as of and for the year ended December 31, 2019.

14. Respondents identified the valuation of goodwill as a significant risk and a critical accounting estimate in the 2018 and 2019 Ameri Audits.

15. PCAOB standards require the auditor to evaluate the reasonableness of accounting estimates made by management in the context of the financial statements taken as a whole.[9] The auditor's objective when evaluating accounting estimates is to obtain sufficient appropriate evidential matter to provide reasonable assurance that all accounting estimates that could be material to the financial statements have been developed, those estimates are reasonable in the circumstances, and the accounting estimates are presented in conformity with applicable accounting principles and are properly disclosed.[10]

16. To determine whether goodwill is properly valued, it should be tested for impairment at least annually, and whenever there is an indication that it may be impaired.[11]

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9 AS 2501.04, *Auditing Accounting Estimates*.

10 AS 2501.07.

11 *See* ASC 350, *Intangibles – Goodwill and Other*.

Impairment is the condition that exists when the carrying amount of goodwill on a company's books exceeds its fair value. If the testing results in an impairment, the carrying amount of the goodwill must be reduced by the amount of the impairment.

17. Respondents understood that Ameri relied on a valuation report prepared by a third-party specialist to determine whether goodwill was impaired and to estimate the impairment loss, if any, in 2018 and 2019. The valuation analysis prepared by the specialist relied on data and assumptions provided by Ameri, namely future income statement projections, without the specialist performing any procedures to evaluate the reasonableness of this information.

18. In evaluating the reasonableness of an accounting estimate, PCAOB standards require the auditor to obtain an understanding of how management developed the estimate. Based on that understanding, the auditor should use one or a combination of the following approaches: (a) review and test the process used by management to develop the estimate; (b) develop an independent expectation of the estimate to corroborate the reasonableness of management's estimate; and (c) review subsequent events or transactions occurring prior to the date of the auditor's report.[12]

19. PCAOB standards further require that when using the work of a specialist, auditors should evaluate the professional qualifications of the specialist and obtain an understanding of the nature of the work performed or to be performed.[13] Additionally, auditors should: "(a) obtain an understanding of the methods and assumptions used by the specialist; (b) make appropriate tests of data provided to the specialist; and (c) evaluate whether the specialist's findings support the related assertions in the financial statements."[14]

20. Respondents used the valuation report of the specialist engaged by Ameri as evidential matter to evaluate whether goodwill was properly valued in both the 2018 and 2019 audits, but failed to perform procedures required by PCAOB standards. They understood that Ameri used certain projected amounts—such as projected revenue growth rate and projected growth margins—as key assumptions in formulating the income statement projections on which it based its impairment analysis. Respondents, however, failed to perform procedures to evaluate those assumptions or otherwise test the process for generating those projected

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12 AS 2501.10.

13 AS 1210.08-.09, *Using the Work of a Specialist*.

14 AS 1210.12.

amounts. Nor did they develop an independent expectation of the projected income statements or review subsequent events or transactions to evaluate their reasonableness.

21. Moreover, Respondents failed to evaluate the professional qualifications of the third-party specialist or to perform any procedures to understand the work performed or the methods and assumptions used by the third-party specialist in determining the fair value of Ameri's goodwill, and failed to test the data provided by management, including five years of income statement projections.

22. Accordingly, Respondents failed to obtain sufficient appropriate evidence to test the goodwill estimate, in violation of AS 2501, and failed to determine whether the work of the specialist was suitable for the auditor's purposes and supported the auditor's conclusion in the goodwill valuation testing, in violation of AS 1210.

ii. Respondents Violated AS 1215 by Failing to Timely Assemble a Complete and Final Set of Audit Documentation for Two Audits

23. PCAOB standards require that "the auditor must prepare audit documentation in connection with each engagement conducted pursuant to the standards of the PCAOB."[15] PCAOB standards further require that "a complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[16]

24. The Firm issued an initial audit report for the 2019 Ameri Audit financial statements on March 25, 2020. Therefore, its documentation completion date was on or about May 9, 2020. The Firm issued an audit report for the 2019 Ameri restated financial statements on March 25, 2020, except as to note 17 in the financial statements (related to operating lease assets and liabilities), which was dated as of August 11, 2020. Thus, the documentation completion date for the 2019 Ameri Restatement Audit was on or about September 25, 2020.

25. Respondents did not finish assembling for retention the audit documentation for the 2019 Ameri Audit and the 2019 Ameri Restatement Audit until March 2021, after the documentation completion dates for both audits. As a result, Respondents violated AS 1215.

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15 AS 1215.04, *Audit Documentation*.

16 AS 1215.15.

iii. Respondents Failed to Communicate All Required Matters to Audit Committee

26. PCAOB standards require the auditor to communicate certain matters related to the conduct of an audit to the issuer's audit committee.[17] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment procedures.[18] The auditor should establish an understanding of the terms of the audit engagement with the audit committee.[19] The auditor should also communicate to the audit committee the results of the auditor's evaluation of whether the presentation of the financial statements and the related disclosures are in conformity with the applicable financial reporting framework.[20]

27. In connection with the 2018 and 2019 Ameri Audits, Respondents issued letters to Ameri's audit committee dated March 25, 2019, January 28, 2020, and March 24, 2020. Despite issuing those letters, Respondents failed to address certain required communications.

28. In connection with the 2018 Ameri Audit, Respondents did not establish an understanding of the terms of the audit engagement with the audit committee, did not communicate with the audit committee an overview of the overall audit strategy, including the timing of the audit, or discuss with the audit committee the significant risks identified during the engagement team's risk assessment procedures prior to the issuance of the audit report.

29. In connection with the 2019 Ameri Audit, Respondents communicated to the audit committee some, but not all, of the significant risks identified during the engagement team's risk assessment procedures. In addition, Respondents did not communicate to the audit committee the results of the audit of the restated financial statements.

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17 AS 1301.01, *Communications with Audit Committees*.

18 *Id.* at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See Auditing Standard No. 16—Communications With Audit Committees; Related Amendments to PCAOB Standards; and Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (Aug. 15, 2012).

19 AS 1301.05.

20 AS 1301.13(e).

30. As a result, Respondents violated AS 1301.

iv. Respondents Failed to Obtain Audit Committee Pre-Approval of Tax Compliance Services in Violation of Rules 3520, 3524, and 3526

31. PCAOB rules require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[21] That requirement includes an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB and all other independence criteria set out in the Commission's rules and regulations under the federal securities laws.[22]

32. Rule 3524, *Audit Committee Pre-approval of Certain Tax Services*, provides that, in connection with seeking audit committee pre-approval to perform any permissible tax service for an issuer audit client, a registered public accounting firm shall describe, in writing, to the audit committee of the issuer, among other things, the scope of the service, the fee structure of the engagement, and any side letter or other amendment to the engagement letter, or any other agreement between the firm and the audit client relating to the service.

33. Rule 3526, *Communication with Audit Committees Concerning Independence*, provides that a registered firm must, at least annually for each audit client, describe in writing to the audit committee of an audit client certain relationships that may reasonably be thought to bear on independence.

34. Rule 2-01(c)(7)(i) of Commission Regulation S-X provides that "[a]n accountant is not independent of an issuer" unless, "[b]efore the accountant is engaged by the issuer . . . to render audit or non-audit services, the engagement is approved by the issuer's . . . audit committee."[23]

35. At the same time that the Firm performed the 2018 Ameri Audit, it prepared federal and state tax returns for Ameri.

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21 *See* PCAOB Rule 3520, *Auditor Independence*.

22 *See* PCAOB Rule 3520, Note 1.

23 17 C.F.R. § 210.2-01(c)(7). The definition of accountant includes "any accounting firm with which the certified public accountant . . . is affiliated." 17 C.F.R. § 210.2-01(f)(1).

36. Respondents failed, however, to obtain pre-approval from Ameri's audit committee for the Firm to provide these tax compliance services while Respondents performed the 2018 Ameri Audit.

37. Accordingly, Respondents violated PCAOB Rules 3520 and 3524 by not fulfilling the requirements of Rule 2-01(c)(7)(i) of Commission Regulation S-X, and thus was not independent of Ameri.

38. Moreover, with respect to the 2018 Ameri Audit, Respondents did not make any communication in writing to Ameri's audit committee about all relationships between the Firm and Ameri that may reasonably be thought to bear on independence.

39. Accordingly, Respondents violated PCAOB Rule 3526.

E. The Firm Violated PCAOB Standards Relating to Engagement Quality Reviews

40. PCAOB standards require that an engagement quality review be performed on all audits.[24] A firm may grant permission to a client to use an engagement report only after an engagement quality reviewer provides concurring approval of issuance.[25] An engagement quality reviewer from the firm that issues the engagement report must be a partner or another individual in an equivalent position.[26]

41. Documentation of an engagement quality review should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the engagement quality reviewer, including information that identifies the date the engagement quality reviewer provided concurring approval of issuance, or if no concurring approval of issuance was provided, the reasons for not providing the approval.[27]

42. The Firm's work papers for the 2018 Ameri Audit neither identify, nor include a sign-off of, an individual serving as an engagement quality reviewer. The audit documentation

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24 AS 1220.01, *Engagement Quality Review*.

25 AS 1220.13.

26 AS 1220.03.

27 AS 1220.19.

failed to contain sufficient information to identify all the documents reviewed by, or otherwise to understand all the procedures performed by, any engagement quality reviewer.[28]

43. The Firm assigned a senior manager, not an individual who was a partner or an individual in an equivalent position, as the engagement quality reviewer for the 2019 Ameri Audit, in violation of AS 1220.03.

44. Moreover, the Firm failed to obtain an engagement quality review in relation to its audit of the 2019 restated financial statements of Ameri. As a result, the Firm improperly reissued its audit report for the 2019 restated financial statements without obtaining a concurring approval of issuance from an engagement quality reviewer.[29]

45. For these reasons, the Firm violated AS 1220 in connection with the 2018 Ameri Audit and 2019 Ameri Restatement Audit.

F. The Firm Violated the Form AP Filing Rule

46. PCAOB Rule 3211 requires registered public accounting firms to provide information about engagement partners and other accounting firms that participated in the audits of issuers by filing a Form AP for each audit report issued by the firm for an issuer.

47. A Form AP is due to be filed by the 35th day after the date the audit report is first included in a document filed with the Commission or, in the case of a registration statement, 10 days after the date the audit report is first included in a document filed with the Commission.[30] In the event of any change to an audit report, including any change in the dating of the report, the firm must file a new Form AP the first time the revised audit report is included in a document filed with the Commission.[31]

48. The Firm failed to timely file three Form APs related to the audits of TripBorn with the PCAOB. Ramachandran served as engagement partner and authorized the issuance of each of these audit reports.

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28 *See id.*

29 *See* AS 1220.13.

30 PCAOB Rule 3211(b).

31 PCAOB Rule 3211(a), Note 2.

49. The Firm issued an audit report dated June 29, 2018, containing an unqualified audit opinion on TripBorn's financial statements for the fiscal year ended March 31, 2018. The Firm belatedly filed the related Form AP on August 20, 2018.

50. The Firm reissued that audit report with a dual date of July 10, 2019 when TripBorn's 2018 financial statements were restated and filed in an amended Form 10-K/A with the Commission. The Firm again reissued that audit report with a dual date of September 9, 2019 when TripBorn's 2018 financial statements were restated yet again in September 2019. The Firm belatedly filed the Form APs on March 30, 2023 in connection with these two reissuances of its 2018 audit report, long after the 35-day deadline for each of those audit reports had passed and only after receiving notice of the deficiencies from the Division of Enforcement and Investigations.

51. The Firm also failed to timely file two Form APs related to audits of Ameri.

52. The Firm's audit report for the 2018 Ameri Audit was first included in a document filed with the Commission on March 26, 2019. Accordingly, the Firm was required to file a Form AP by April 30, 2019. However, the Firm did not file a Form AP until June 28, 2019.

53. The Firm's dual-dated audit report for the 2019 Ameri Restatement Audit was first included in a Form 10-K/A filed with the Commission on August 12, 2020. The Firm did not file the related Form AP until April 26, 2021, more than 7 months after the due date of September 16, 2020, and only after receiving notice of the deficiencies from the PCAOB Division of Registration and Inspections.

54. The Firm's repeated failures to timely file Form APs violated Rule 3211.

G. The Firm Violated PCAOB Rules and Quality Control Standards

55. PCAOB rules require a registered public accounting firm and its associated persons to comply with PCAOB quality control standards.[32] These standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice.[33] A firm's system of quality control provides a critical foundation and infrastructure for a firm's audit quality as it should "ensure that services are competently

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[32] *See* PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[33] *See* Quality Control Standard 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

delivered and adequately supervised."[34] The quality control system should include policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[35]

56. As described below, the Firm failed to establish policies and procedures sufficient to provide reasonable assurance that its personnel complied with applicable professional standards and regulatory requirements.

i. The Firm's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Engagement Quality Reviews

57. PCAOB quality control standards require that a firm's system of quality control include policies and procedures that address engagement quality reviews pursuant to AS 1220.[36]

58. Throughout the relevant period, the Firm lacked sufficient policies and procedures to provide reasonable assurance that the work performed by engagement personnel met applicable professional standards with regard to its engagement quality reviews. Specifically, the Firm's policies and procedures failed to provide reasonable assurance that each issuer audit would be subject to an engagement quality review, that such a review would be documented, that the engagement quality reviewer would document his or her concurring approval of issuance, and that the engagement quality reviewer, if from the Firm, would be a partner or another individual in an equivalent position, as required by AS 1220.

59. Indeed, the Firm was aware that it had not complied with AS 1220 with respect to the 2018 Ameri Audit, but later failed to have an engagement quality review of the 2019 Ameri Restatement Audit.

60. Accordingly, the Firm violated QC §§ 20.17. and .18.

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34 QC § 20.02.

35 QC § 20.17.

36 QC § 20.18.

ii. The Firm's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Assembly of Audit Documentation for Retention

61. A firm's quality control policies and procedures should also address the documentation of each engagement in accordance with applicable professional standards.[37] As noted above, AS 1215 requires that auditors assemble for retention a complete and final set of audit documentation not more than 45 days after the report release.[38]

62. At all relevant times, the Firm failed to maintain effective policies and procedures to provide it with reasonable assurance that it would comply with AS 1215's requirements regarding audit documentation. Rather, the Firm had a policy requiring that audit documentation be assembled for retention not more than 60 days after the report release date, which was inconsistent with AS 1215.

63. Accordingly, the Firm violated QC §§ 20.17 and .18.

iii. The Firm's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Monitoring

64. PCAOB quality control standards also provide that policies and procedures, including monitoring procedures, should be established to provide the firm with reasonable assurance that its system of quality control was suitably designed and being effectively applied.[39]

65. PCAOB quality control standards further provide that one required element of a quality control system is monitoring.[40] Monitoring involves an ongoing consideration and evaluation of: (a) the relevance and adequacy of the firm's policies and procedures; (b) the appropriateness of the firm's guidance materials and any practice aids; (c) the effectiveness of professional development activities; and (d) compliance with the firm's policies and

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37 QC §§ 20.03, .17, .18.

38 AS 1215.15.

39 QC § 20.20; *see* QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

40 QC § 20.07.

procedures.[41] Monitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective.[42]

66. To satisfy its monitoring obligations, the Firm's policies required that the Firm perform internal inspections. However, as of April 15, 2021, the Firm had not performed an inspection of completed audit files since it had completed one for engagements for the year ended December 31, 2015. In fact, despite being on notice of the failure to have monitoring procedures in place from the PCAOB Division of Registration and Inspections, the Firm did not perform any inspections of issuer audit engagements in the subsequent two years, and a peer review conducted in 2019 excluded the Firm's issuer audit practice.

67. As a result, over the course of at least six years, the Firm failed to perform an internal inspection to assess whether the work performed by its engagement personnel on issuer audits met the applicable professional standards, regulatory requirements, and the Firm's standards of quality.

68. Despite its knowledge of these quality control and engagement-level deficiencies, the Firm repeatedly failed to follow the monitoring requirements set forth in its policies in violation of QC § 30.02. Therefore, the Firm did not undertake monitoring procedures to enable the Firm to obtain reasonable assurance that its system of quality control was effective in violation of QC §§ 20 and 30.

H. Ramachandran Directly and Substantially Contributed to the Firm's Violations

69. PCAOB Rule 3502 states that "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."

70. Ramachandran was the Firm's owner, sole partner, and managing partner for all relevant periods. Accordingly, Ramachandran was responsible for ensuring that the Firm complied with PCAOB rules and standards. He was also principally responsible for developing

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41 QC § 30.02; *see also* QC § 20.20.

42 QC § 30.03.

and maintaining quality control policies and procedures applicable to the Firm's auditing practice. He was on notice of the deficiencies in the Firm's system of quality control discussed above, and was in a position to remediate those deficiencies. In addition, Ramachandran served as the engagement partner for the audits of Ameri and TripBorn discussed above.

71. Ramachandran knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations described above. As a result, Ramachandran violated PCAOB Rule 3502.

IV.

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

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

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

C. After two years from the date of this Order, RAM may reapply for registration by filing an application for registration pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Ramachandran is barred from being an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[43]

[43] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Ramachandran. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $150,000, jointly and severally, on RAM and Ramachandran;

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondents shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Respondents as respondents in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondents' payment of the civil money penalty pursuant to this Order, in any private action brought against either Respondent based on substantially the same facts as set out in the findings in this Order.

5. By consenting to this Order, RAM acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any reapplication for registration pursuant to PCAOB Rule 2101.

6. By consenting to this Order, Ramachandran acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(c).

G. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Before filing with the Board any future registration application, to establish, revise, or supplement, as necessary, policies and procedures to provide the Firm with reasonable assurance that: (a) Firm personnel will document each engagement, including documentation of the engagement quality reviewer's concurring approval of issuance, in accordance with applicable professional standards; (b) the Firm will properly archive audits in accordance with professional standards, and properly document any changes to the audit documentation after the documentation completion date; (c) the Firm will timely comply with PCAOB rules concerning the reporting of certain audit participants; and (d) the Firm has established monitoring procedures sufficient to enable it to obtain reasonable assurance that its system of quality control is suitably designed and being effectively applied.

2. To provide with any future registration application a written certification of compliance with the above requirements, in the form of a narrative, exhibits sufficient to demonstrate compliance, and such additional evidence of and information concerning compliance as the staff of the Division of Registration and Inspections may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 8, 2023

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Warren Averett, LLC,

Respondent.

PCAOB Release No. 105-2023-022

August 29, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Warren Averett, LLC ("Warren Averett" or "Respondent"), a registered public accounting firm;

(2) imposing a civil money penalty in the amount of $200,000 on Warren Averett;

(3) requiring Warren Averett to review and certify its auditor independence policies and procedures.

The Board is imposing these sanctions on the basis that, in connection with two audits of an issuer audit client, Warren Averett violated applicable auditor independence requirements when it audited work performed for the issuer by another accounting firm that sponsored an accounting alliance of which Warren Averett was a member.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Warren Averett, LLC** is a limited liability company organized under the laws of the state of Alabama and headquartered in Birmingham, Alabama. Warren Averett is licensed to practice public accounting by the Alabama State Board of Public Accountancy (Firm No. F2171), among other state boards. Warren Averett is, and at all relevant times was, registered with the Board, and is a registered public accounting firm as that term is defined in Section 2(a)(12) of the Act and PCAOB rules.

B. Issuer

2. **CytoDyn Inc.** ("CytoDyn") is a Delaware corporation headquartered in Vancouver, Washington. According to its public filings, CytoDyn is a clinical-stage biotechnology company focused on developing medical treatments. At all relevant times, CytoDyn was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

3. This matter concerns Warren Averett's violations of auditor independence requirements during the fiscal year 2019 and 2020 CytoDyn audits.

4. Warren Averett is a member of BDO Alliance USA (the "BDO Alliance"), an association of accounting firms that is a wholly-owned subsidiary of BDO USA, LLP ("BDO"). As a

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

member of the BDO Alliance, Warren Averett touted its association with BDO and the quality denoted by the BDO brand name.

5. During the 2019 fiscal year, BDO performed certain purchase price allocation valuation services for CytoDyn with respect to acquired intangible assets. During the 2020 fiscal year, BDO performed certain derivative valuation services for CytoDyn. Warren Averett audited the BDO valuation work as part of its 2019 and 2020 audits of CytoDyn.

6. CytoDyn had an interest in the accuracy of its financial statements, including with respect to the valuation work performed by BDO. Warren Averett likewise had an interest in the quality of BDO's valuation work because Warren Averett marketed itself based on its association with the BDO Alliance and the quality denoted by the BDO brand name. Based on this mutual interest, a reasonable, knowledgeable investor would conclude that Warren Averett was not capable of exercising objective and impartial judgment in auditing BDO's valuation work.

7. Accordingly, Warren Averett violated PCAOB rules and standards requiring an auditor to maintain independence from its audit client. In addition, Warren Averett violated PCAOB quality control standards by failing to implement quality control policies and procedures sufficient to provide reasonable assurance that the independence implications of its BDO Alliance membership would be given appropriate consideration.

D. Background

i. Warren Averett's Membership in the BDO Alliance

8. Warren Averett became a member of the BDO Alliance in 2015. The terms of Warren Averett's BDO Alliance membership were governed by a written agreement (the "Alliance Agreement") and the BDO Alliance USA Policies and Procedures Manual ("Alliance Manual").

9. In return for paying an annual "license fee," Warren Averett received a number of BDO Alliance membership benefits, including the right to use the BDO Alliance brand name and logo "[s]o that [member] firms may fully benefit from BDO USA's domestic presence" and so that "clients and business contacts . . . know that they have access to these resources." Warren Averett also received the right to distribute and co-brand BDO marketing materials, and access to certain other BDO resources.

10. In accordance with these provisions, Warren Averett used its connection to BDO and the BDO Alliance to market itself. For example, a Warren Averett brochure touted: "As an independent member of the BDO Alliance USA, we are able to further enhance our client

services and broaden capabilities overall . . . . BDO Alliance USA membership offers Warren Averett access to the resources of BDO USA, LLP, one of the nation's leading professional services firms."

11. Another marketing brochure advertised that Warren Averett "offers clients the unique resources of both an international and regional firm by utilizing the combined, vast resources made possible by our membership in the BDO Alliance USA."

12. In addition, Warren Averett re-branded certain BDO marketing publications under Warren Averett's own name and published other BDO marketing materials with both BDO and Warren Averett branding.

13. For example, Warren Averett posted on its website numerous articles authored by BDO personnel. At the conclusion of each such article, Warren Averett included a note that "Warren Averett is an independent member of the BDO Alliance USA. This article was borrowed with permission from BDO USA, LLP."

14. Warren Averett also included the BDO Alliance logo on its business cards.

ii. The 2019 and 2020 CytoDyn Audits

15. In November 2018, during CytoDyn's 2019 fiscal year, CytoDyn acquired certain assets, including an algorithm and other intangible assets, from another biotechnology company. CytoDyn engaged BDO to perform a valuation of the acquired intangible assets. As part of its 2019 audit of CytoDyn, Warren Averett performed audit procedures over BDO's valuation by evaluating the methods and assumptions used and concluding that the valuation was reasonable.

16. On August 14, 2019, Warren Averett issued unqualified audit reports on CytoDyn's fiscal year 2019 financial statements and internal control over financial reporting, with an explanatory paragraph describing substantial doubt about the company's ability to continue as a going concern.

17. During CytoDyn's 2020 fiscal year, BDO provided non-audit services to CytoDyn concerning the accounting for and valuation of a derivative. Warren Averett performed audit procedures over the derivative accounting and valuation work during its 2020 audit of CytoDyn.

18. On August 14, 2020, Warren Averett issued an unqualified audit report on CytoDyn's fiscal year 2020 financial statements, with an explanatory paragraph describing substantial doubt about the company's ability to continue as a going concern.

E. Warren Averett Violated PCAOB Rules and Standards

19. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[2] PCAOB rules further require registered public accounting firms to comply with the Board's quality control standards.[3]

i. Warren Averett Failed to Maintain Its Independence

20. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit clients throughout the audit and professional engagement period.[4] A registered public accounting firm's or associated person's independence obligation with respect to an issuer audit client encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in U.S. Securities and Exchange Commission ("Commission") rules and regulations.[5]

21. Rule 2-01(b) of the Commission's Regulation S-X provides that an accountant is not independent of an audit client if, at any point during the audit and professional engagement period, "the accountant is not, or a reasonable investor with knowledge of all relevant facts and circumstances would conclude that the accountant is not, capable of exercising objective and impartial judgment on all issues encompassed within the accountant's engagement."[6] In applying this standard, it is appropriate to "look[] in the first instance to whether a relationship or the provision of a service: [c]reates a mutual or conflicting interest between the accountant and the audit client."[7]

22. A reasonable investor would conclude that Warren Averett was not capable of exercising objective and impartial judgment because there was a mutual interest "between the

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[2] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[3] *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

[4] PCAOB Rule 3520, *Auditor Independence*; AS 1005, *Independence*.

[5] PCAOB Rule 3520, Note 1.

[6] 17 C.F.R. § 210.2-01(b).

[7] 17 C.F.R. § 210.2-01.

accountant [Warren Averett] and the audit client [CytoDyn]" with respect to the reasonableness of BDO's valuation services during the 2019 and 2020 CytoDyn audits.

23. CytoDyn had an interest in the reasonableness of its financial statements, including with respect to the valuation work performed by BDO. Based on its extensive marketing efforts tying itself to the quality denoted by the BDO brand name, Warren Averett also had an interest in the reasonableness of BDO's valuation work.

24. As discussed above, Warren Averett used its membership in the BDO Alliance—and the quality denoted by the BDO brand—to market itself, including by specifically touting its "access to the resources of BDO USA, LLP, one of the nation's leading professional services firms." If Warren Averett had uncovered deficiencies in the quality of BDO's valuation services, that could have raised questions about the quality of BDO's work and undermined the value Warren Averett sought to derive from tying itself to the BDO brand name.

25. Because the mutual interest that CytoDyn and Warren Averett shared with respect to the reasonableness of BDO's valuation services impaired Warren Averett's independence, Warren Averett violated PCAOB Rule 3520 and AS 1005 during the 2019 and 2020 CytoDyn audits.

ii. Warren Averett Violated PCAOB Quality Control Standards

26. PCAOB quality control standards provide that each registered public accounting firm should establish policies and procedures to provide the firm with reasonable assurance that "personnel maintain independence (in fact and in appearance) in all required circumstances" and "that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[8]

27. PCAOB quality control standards also provide that policies and procedures for monitoring "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied,"[9] and that "its system of

[8] QC §§ 20.09, .17, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[9] QC § 20.20.

quality control is effective."[10] "Monitoring involves an ongoing consideration and evaluation of the . . . [r]elevance and adequacy of the firm's policies and procedures."[11]

28. As demonstrated by Warren Averett's violations of auditor independence requirements, Warren Averett failed to implement, effectively apply, and appropriately monitor quality control policies and procedures sufficient to provide reasonable assurance that its personnel would maintain independence in fact and in appearance where non-audit services performed by BDO would be subject to audit procedures by Warren Averett.

29. Indeed, Warren Averett lacked any policies or procedures designed to detect or prevent auditor independence violations that might arise in connection with its membership in the BDO Alliance or any similar alliance of public accounting firms. Nor did Warren Averett perform any analysis of the independence implications of auditing work performed by BDO for an issuer audit client given Warren Averett's membership in the BDO Alliance.

30. Warren Averett likewise failed to establish monitoring procedures that would have identified that its auditor independence policies and procedures were not sufficiently relevant or adequate to ensure compliance with applicable independence requirements where non-audit services performed by BDO would be subject to audit procedures by Warren Averett.

31. These quality control failures contributed to Warren Averett's violations of PCAOB rules and standards related to auditor independence. As a result, Warren Averett violated QC § 20 and QC § 30.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $200,000 is imposed on Warren Averett.

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[10] QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[11] *Id*. at .02.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Warren Averett shall pay this civil money penalty withing ten (10) days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to interest.

4. With respect to any civil money penalty amounts that Warren Averett shall pay pursuant to this Order, Warren Averett shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Warren Averett's payment of the civil money penalty pursuant to this Order, in any private action brought against Warren Averett based on substantially the same facts as set out in the findings in this Order.

5. Warren Averett understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to it at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by Warren Averett. Within 90 days of the date of this Order, Warren Averett shall review and evaluate its quality control or other policies and procedures intended to provide the firm with reasonable assurance that its personnel and other associated persons comply with auditor independence requirements applicable to audits and reviews conducted pursuant to PCAOB standards.

2. Reporting. Within 120 days of the date of this Order, Warren Averett shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the area specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by Warren Averett or, if Warren Averett concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the firm believes changes are not warranted. In addition, Warren Averett shall submit any additional information and evidence concerning the Report, the information in the Report, and Warren Averett's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within 150 days of the date of this Order, Warren Averett's head of quality assurance shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that Warren Averett has implemented all of the modifications and additions to its policies and procedures, if any, that were described in the Report. The Certificate of Implementation shall provide written evidence of Warren Averett's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation.

Warren Averett shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. Warren Averett understands that a failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 29, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of K.R. Margetson Ltd. and Keith R. Margetson,

Respondents.

PCAOB Release No. 105-2023-023

September 12, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring K.R. Margetson Ltd. ("KRM" or the "Firm") and Keith R. Margetson ("Margetson") (collectively, "Respondents");

(2) imposing a $30,000 civil money penalty jointly and severally upon Respondents;

(3) revoking the registration of KRM;[1]

(4) requiring the Firm to undertake certain remedial measures prior to submitting any future registration application; and

(5) barring Margetson from being associated with a registered public accounting firm[2] and limiting Margetson's activities for an additional period of one year following the termination of the bar.

The Board is imposing these sanctions on the basis of its findings that: (a) the Firm and Margetson violated PCAOB rules and standards in connection with the audit of an issuer; (b) the Firm violated PCAOB quality control standards; and (c) Margetson violated PCAOB rules by directly and substantially contributing to the Firm's violations of PCAOB quality control standards.

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1 KRM may reapply for registration after one year from the date of this Order.

2 Margetson may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings, and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **K.R. Margetson Ltd.** is a public accounting firm in North Vancouver, British Columbia. The Firm is licensed by the Chartered Professional Accountants of British Columbia. KRM registered with the Board on April 6, 2004, and has been subject to PCAOB inspection five times. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

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

[4] The Board finds that the Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

2. **Keith R. Margetson** is the sole partner and president of the Firm. He is a Chartered Professional Accountant (CA, CPA) licensed by the Chartered Professional Accountants of British Columbia. At all relevant times, Margetson was an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). He was the engagement partner for the fiscal year ended December 31, 2020 audit of Madison Technologies Inc. ("2020 Madison Audit") and was responsible for KRM's quality control policies and procedures.

B. Issuer

3. **Madison Technologies Inc.** ("Madison") is incorporated under the laws of the state of Nevada. Madison's public filings disclose that during the relevant times, Madison was engaged in the deployment of women's shaving products. KRM issued an audit report on Madison's 2020 financial statements on April 15, 2021. At all relevant times, Madison was an issuer as defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. Over the course of several PCAOB inspections prior to the 2020 Madison Audit, Respondents were put on notice of deficiencies in the Firm's system of quality control and audit work around complex transactions. Notwithstanding their knowledge of these issues, Respondents failed to make adequate changes to improve the Firm's system of quality control so that it would provide reasonable assurance that its personnel complied with professional standards in connection with conducting PCAOB audits.

5. When confronted with a complex transaction during the 2020 Madison Audit—Madison's acquisition of a license in exchange for certain convertible preferred stock—Respondents failed to perform adequate audit procedures to obtain sufficient audit evidence. In particular, Respondents failed to appropriately evaluate the reasonableness of a discount rate used in developing the valuation estimate, in violation of PCAOB standards.

6. As evidenced by Respondents' audit violations even after being put on notice of similar issues as a result of prior PCAOB inspection results, the Firm violated PCAOB quality control standards by failing to properly design and implement adequate quality control policies and procedures. Margetson directly and substantially contributed to those quality control violations.

D. Respondents Violated PCAOB Rules and Standards

7. From 2010 through 2019, the PCAOB performed four inspections of the Firm, identifying and communicating to KRM after each inspection both deficiencies in the Firm's

performance of issuer audits and deficiencies in the Firm's system of quality control. Among other things, PCAOB inspectors repeatedly identified quality control defects related to the Firm's testing of complex transactions. For example, in Part II of the Board's 2010 inspection report, the Board found that the Firm's system of quality control did not provide reasonable assurance that Firm personnel would possess technical competence or appropriately exercise due care and professional skepticism. In Part II of the Board's 2013 inspection report, the Board found that significant deficiencies relating to the Firm's failure to appropriately test the valuation of assets acquired in a business combination provided cause for concern regarding the Firm's quality control policies and procedures relating to the Firm's testing of business combinations. In Part II of the Board's 2016 inspection report, the Board found that the Firm's audit deficiencies were attributable to engagement personnel failing to perform issuer audits with due professional care and professional skepticism. And in Part II of the Board's 2019 inspection report, the Board found that the Firm's system of quality control did not provide reasonable assurance that the work performed by Firm personnel with respect to testing related party transactions would comply with PCAOB standards.

8. The Board's 2010, 2013, 2016, and 2019 inspection reports contained criticisms of KRM's system of quality control that were, in each instance, made public after KRM failed to address the criticisms to the Board's satisfaction within twelve months of the date of the respective report.

9. Despite KRM's awareness of these issues identified during PCAOB inspections, KRM did not implement any meaningful corrective action to improve the Firm's system of quality control, as evidenced by the Firm's recurring inspection criticisms. The Firm's quality control defects contributed to the violations of auditing standards during the 2020 Madison Audit.

i. KRM and Margetson Violated PCAOB Rules and Auditing Standards in the 2020 Madison Audit

10. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken

[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[6]

11. PCAOB standards require the auditor to "plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis" for the auditor's opinion.[7] To be appropriate, audit evidence must be both relevant and reliable.[8]

12. In addition, AS 1015, *Due Professional Care in the Performance of Work*, requires "[d]ue professional care . . . to be exercised in the planning and performance of the audit and the preparation of the report."[9] Due professional care "requires the auditor to exercise professional skepticism[,]" which is an "attitude that includes a questioning mind and a critical assessment of audit evidence."[10] "Gathering and objectively evaluating audit evidence requires the auditor to consider the competency and sufficiency of the evidence."[11]

13. AS 2501, *Auditing Accounting Estimates, Including Fair Value Measurements*, establishes requirements for auditing accounting estimates in significant accounts and disclosures in financial statements, including that an auditor "identify which of the assumptions used by the company are significant assumptions to the accounting estimate, that is, the assumptions that are important to the recognition or measurement of the accounting estimate in the financial statements."[12] AS 2501 further states that an "auditor should evaluate the reasonableness of the significant assumptions used by the company to develop the [accounting] estimate, both individually and in combination." That includes evaluating whether "[t]he company has a reasonable basis for the significant assumptions used and, when applicable, for its selection of assumptions from a range of potential assumptions;" and that the significant assumptions are consistent with relevant factors.[13]

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6 AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

7 AS 1105.04, *Audit Evidence*.

8 *See id.* at .06.

9 AS 1015.01.

10 *Id.* at .07.

11 *Id.* at .08.

12 AS 2501.15.

13 *Id.* at .16 (identifying those factors as relevant industry, regulatory, and other external factors, including economic conditions; the company's objectives, strategies, and business risks; existing

14. Madison disclosed an agreement it entered into, on July 17, 2020, to acquire a license to manufacture, promote, and sell branded women's lifestyle products. Under the terms of the transaction, Madison agreed to issue preferred stock that was convertible into 95 percent of the common stock of Madison.

15. Madison recorded the acquisition of the license in its financial statements as an intangible asset at a value that mainly consisted of the estimated value of the convertible preferred stock issued in exchange. The value attributed to the convertible preferred stock represented more than 80 percent of Madison's total assets.

16. In valuing the convertible preferred stock, and thus the license, Madison applied a 50 percent discount to the value of 95 percent of Madison's common stock into which the preferred stock could be converted. Madison's management attributed the discount to the lightly traded history of Madison's shares.

17. In performing the 2020 Madison Audit, KRM and Margetson did not perform adequate procedures to determine whether the license was properly valued or obtain sufficient evidence to support the conclusion that Madison's valuation was reasonable. In particular, KRM and Margetson did not appropriately evaluate whether Madison had a reasonable basis for its assumption that a 50 percent discount should be applied to the value of its common stock.

18. As a result, Respondents violated AS 2501, AS 1105, and AS 1015 because they (a) failed to perform appropriate procedures to evaluate the reasonableness of the significant assumptions used by the issuer to develop the valuation estimate; (b) failed to obtain sufficient appropriate audit evidence with respect to the valuation of the Madison license; and (c) failed to exercise due care and professional skepticism.

ii. KRM Violated PCAOB Quality Control Standards

19. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[14] These standards require that a registered firm have a system of quality control for its accounting and auditing practice.[15] "A

marketing information; historical or recent experience, taking into account changes in conditions and events affecting the company; and other significant assumptions used by the company in other estimates tested).

[14] *See* PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[15] *See* Quality Control Standard 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20").

system of quality control is broadly defined as a process to provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality."[16]

20. PCAOB quality control standards require firms to establish policies and procedures sufficient to provide it with "reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[17] PCAOB quality control standards further require firms to establish policies and procedures that provide reasonable assurance that the firm "[u]ndertakes only those engagements that the firm can reasonably expect to be completed with professional competence."[18]

21. KRM was repeatedly put on notice by PCAOB inspections of deficiencies in the Firm's system of quality control and audit procedures as to its testing around acquired intangible assets and other complex transactions. Nevertheless, the Firm failed to take steps to ensure that its personnel would comply with PCAOB standards in this area. As a result, and as evidenced by Respondents' violations in connection with the 2020 Madison Audit, the Firm's policies and procedures failed to provide reasonable assurance that the Firm's public audit work would comply with PCAOB standards.

22. As a result of this conduct, KRM violated QC § 20.

iii. Margetson Directly and Substantially Contributed to KRM's Quality Control Violations

23. A person associated with a registered public accounting firm shall not take or omit to take an action "knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[19]

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16 *Id.* at .03.

17 *Id.* at .17.

18 *Id.* at .15.

19 PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

24. As described above, Margetson directly and substantially contributed to KRM's violations of PCAOB rules and quality control standards. As a sole practitioner and KRM's sole partner, Margetson was responsible for developing and maintaining quality control policies and procedures applicable to KRM's public auditing practice.

25. At the time of the 2020 Madison Audit, Margetson knew or was reckless in not knowing that the Firm's system of quality control was inadequate. His failure to adequately address these deficiencies directly and substantially contributed to KRM's violations of QC § 20. As a result, Margetson violated PCAOB Rule 3502.

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), KRM and Margetson are censured.

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

C. Pursuant to PCAOB Rule 2101, after one year from the date of this Order, KRM may reapply for registration.

D. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), KRM is required

1. before filing with the Board any future registration application, to (a) establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing KRM with reasonable assurance of compliance with applicable professional standards, regulatory requirements, and the Firm's standards of quality; (b) establish policies and procedures to provide reasonable assurance that KRM will only accept audit engagements, particularly those involving auditing of complex transactions, that it has the ability to conduct with professional competence and in accordance with professional standards; and (c) establish monitoring procedures that determine corrective actions to be taken and improvements to be made in KRM's quality control system.

2. within ninety days from the date the Board grants any future application of KRM for registration, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, KRM's compliance with paragraph IV.D.1 above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. KRM shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Margetson is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[20]

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

G. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for one year following the termination of the bar ordered in paragraph IV.E above, Margetson's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Margetson shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in the Board's AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in the Board's AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead

[20] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Margetson. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in the Board's AS 1205, *Part of the Audit Performed by Other Independent Auditors.*

H. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed jointly and severally upon KRM and Margetson.

1. All funds collected by the Board as a result of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondents shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. By consenting to this Order, KRM and Margetson acknowledge that their failure to pay the civil money penalty imposed upon them may alone be grounds to deny any application, pursuant to PCAOB Rule 2106, for registration with the Board.

4. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. With respect to any civil money penalty amounts that KRM and Margetson shall pay pursuant to this Order, KRM and Margetson shall not, directly or

indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of KRM and Margetson's payment of the civil money penalty pursuant to this Order, in any private action brought against KRM and Margetson based on substantially the same facts as set out in the findings in this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 12, 2023

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of BDO USA, P.C., Kevin Olvera, CPA, and Michael Musick, CPA,

Respondents.

PCAOB Release No. 105-2023-024

September 26, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) Censuring BDO USA, P.C. ("BDO" or the "Firm"), Kevin Olvera, CPA ("Olvera"), and Michael Musick, CPA ("Musick");

(2) Imposing civil money penalties in the amounts of $2,000,000 upon BDO, $35,000 on Olvera, and $25,000 on Musick;

(3) Limiting Olvera's activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for a period of one year following the date of this Order, as described in Section IV hereto; and

(4) Requiring that Olvera and Musick complete twenty hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license.

The Board is imposing these sanctions on the basis of its findings that BDO, Olvera, and Musick (collectively, "Respondents") violated PCAOB rules and standards in connection with BDO's audit of the fiscal year 2017 financial statements of AAC Holdings, Inc. (the "Audit").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit

reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **BDO USA, P.C.**, a Virginia professional corporation, is a public accounting firm headquartered in Chicago, Illinois, and registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm has offices throughout the U.S. and is licensed in multiple jurisdictions, including under the name BDO USA LLP in Illinois (license no. 066003607). BDO served as the auditor of AAC Holdings, Inc. ("AAC") from 2011 until at least June 2019.[3] On February 23, 2018, BDO issued an audit report in connection with the Audit that contained the

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

[2] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] At all times relevant to this matter, BDO USA, LLP served as the auditor of AAC. However, effective July 1, 2023, the Firm converted from BDO USA, LLP, a limited liability partnership organized under the laws of the state of Delaware, to BDO USA, P.A., a professional service corporation organized under the laws of the state of Delaware. Subsequently, on August 30, 2023, the Firm converted from BDO USA, P.A. to BDO USA, P.C., a professional corporation organized under the laws of the state of Virginia.

Firm's unqualified opinion that AAC's 2017 financial statements presented fairly, in all material respects, AAC's financial position, results of operations, and cash flows in conformity with U.S. Generally Accepted Accounting Principles. Many of the BDO auditors working on the 2017 Audit of AAC worked out of BDO's Nashville, Tennessee office.

2. **Kevin Olvera** is a certified public accountant licensed by the state of Texas (license no. 111136). He is a partner in BDO's Dallas, Texas office, and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Olvera served as an assisting partner for BDO's audit of AAC's 2016 financial statements. BDO then assigned him to serve as a Focused Consulting Reviewer ("FCR") on the 2017 Audit and on BDO's audit of AAC's 2018 financial statements. As the FCR on the Audit, Olvera was assigned to provide technical expertise to the engagement team on areas related to revenue and accounts receivable, and to review the engagement team's Audit work to determine whether certain risks relating to those audit areas (which are the subject of this Order) were adequately addressed.

3. **Michael Musick** is a certified public accountant licensed by the state of Tennessee (license no. 19300). He is a partner in BDO's Nashville, Tennessee office, and an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Musick was the Engagement Quality Review ("EQR") partner on the 2017 Audit.

B. Relevant Entity

4. **AAC** was, at all relevant times, a Nevada corporation headquartered in Brentwood, Tennessee. The company provided healthcare services to clients with drug and alcohol addiction, including testing, diagnostic, behavioral and treatment services. At all relevant times, AAC's common stock was registered under Section 12(b) of the Securities Exchange Act of 1934. At all relevant times, AAC was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). AAC was delisted from the New York Stock Exchange and filed for bankruptcy protection by June 2020.

C. Summary

5. This matter concerns Respondents' violations of PCAOB rules and auditing standards in connection with BDO's Audit of the financial statements of AAC for fiscal year ended December 31, 2017. Respondents failed to fulfill their respective roles in evaluating significant accounting estimates that AAC used to value substantially all of its client-related revenue and related accounts receivable ("AR") for 2017. In April 2019, AAC restated its 2017

annual financial statements and its prior-year annual financial statements (the "Restatement"), reducing reported AR by 32% and 47%, respectively. AAC filed for bankruptcy 14 months later.

6. At all times relevant to this matter, AAC provided healthcare services to clients suffering from substance addiction and behavioral health problems. AAC derived over 90% of its 2017 client-related revenue based on claims it billed to insurance companies and other third-party payors ("insurers") for reimbursement of services that AAC had provided to clients.

7. In its Form 10-K for fiscal year 2017, AAC publicly disclosed that it recognized its client service revenue and AR by estimating the amounts it expected to realize for the services it provided. Specifically, AAC management estimated: (a) the amounts that insurers would pay for covered services at "out-of-network" rates (which AAC referred to as the Estimated Insurance Value ("EIV")); (b) additional amounts insurers would pay as a result of AAC's appeals of claims where the payment received from the insurer was abnormally low (claims that AAC referred to as "Short Pay" claims); and (c) an allowance for doubtful accounts for AR that could become uncollectible in the future (the "AR Allowance"). Despite identifying each of those three estimates as a "significant accounting estimate" during the 2017 Audit, the BDO engagement team failed to obtain sufficient appropriate audit evidence for any of them, and Olvera, in his role as FCR, failed to identify these deficiencies. As described below, those failures occurred despite Respondents encountering several red flags calling into question the reasonableness of the estimates.

8. With respect to the EIV, for example, AAC publicly disclosed that this estimate was "based on [AAC's] historical collection experience," which included considering the type of services provided and collection histories on a per facility basis. During the Audit, however, Respondents knew that AAC was excluding its collection experience for Short Pay claims from the calculation of the EIV for six-to-twelve months, or more. Despite that knowledge, the engagement team failed to adequately evaluate the effect of those exclusions on the reasonableness of the EIV.

9. With respect to Short Pay claims, Respondents were aware that the relevant estimate had arisen out of a recent policy change AAC management had adopted. Prior to the second half of 2016, AAC's practice was to close Short Pay claims when any partial reimbursement was received, writing off the disallowed portion. However, under the new policy, AAC began keeping Short Pay claims open and estimating that it would recover through an appeals process approximately 50% of the disallowed portion of the insurance reimbursement it had initially expected (the "50% success rate"). During the 2017 Audit, the engagement team failed to obtain sufficient audit evidence supporting AAC's 50% success rate estimate, despite knowing of certain data indicating that AAC may be falling significantly short of achieving that projection.

10. With respect to AAC's AR Allowance, Respondents were aware that PCAOB inspectors had identified the Firm's failure to sufficiently test the AR Allowance during BDO's audit of AAC's 2015 financial statements. Nevertheless, when the engagement team conducted the Audit for 2017, it also failed to perform sufficient procedures to evaluate AAC's AR Allowance. The engagement team and Olvera, as the FCR, failed to obtain a sufficient understanding of how AAC management developed the AR Allowance estimate and its key assumptions – *e.g.*, loss rates. The engagement team also failed to adequately test AAC's process for developing the estimate and related assumptions, despite having planned to do so. Instead, the engagement team and Olvera concluded that the 2017 AR Allowance was a reasonable estimate based primarily on their reliance on a flawed "hindsight analysis" that had been developed by AAC and which inappropriately compared gross and net numbers.

11. In sum, the engagement team and Olvera failed to appropriately evaluate three separate significant accounting estimates. As a result, BDO and Olvera violated numerous PCAOB standards, as described below.

12. In addition, in the 2017 Audit, Musick failed to perform his EQR with due professional care in violation of AS 1220, *Engagement Quality Review*.

D. Background

13. AAC was primarily an "out-of-network" healthcare provider, which is a provider that does not have contractual agreements dictating agreed rates to be paid by insurers. As such, AAC assumed some risk by providing services to clients and then billing insurers without having agreed-upon contractual reimbursement rates for services. For 2017, more than 92% of AAC's reported client-related revenues were from insurers, and approximately 79% were paid by insurers at out-of-network rates.

14. For 2017, AAC disclosed in its Form 10-K that it accounted for its client service revenue and AR by estimating net realizable value.[4] Specifically, AAC disclosed that it recorded client service revenue at its established billing rates less an adjustment to reflect the amount it expected to be reimbursed by an insurer based on historic adjustments for out-of-network services not under contract. AAC referred to that adjusted amount as the Estimated Insurance Value, EIV. AAC updated its EIV percentage as of the end of each reporting period. AAC's average EIV rate was 45% at year-end 2016 and 36% at year-end 2017.

[4] *See* Accounting Standards Codification ("ASC") 954-310-30-1, -35-1, -45-1; ASC 954-605-25-4, -605-45-2, -605-45-4.

15. A portion of AAC's AR related to Short Pay claims, those for which insurers had determined an allowable charge that was less than half of AAC's gross charges for services provided at its facilities.[5] For each Short Pay claim, AAC applied a 50% success rate against the portion of the claim's current-period EIV that the insurer had not paid, thus continuing to recognize half of the unpaid current-period EIV as AR ("Short Pay AR"). AAC disclosed in its 2017 Form 10-K that it was continuing to pursue collection of the Short Pay AR.

16. AAC also disclosed that it recorded AR for amounts due from insurers net of the EIV and net of the AR Allowance. The AR Allowance for doubtful accounts reflected management's estimate of AR that could become uncollectible in the future. The recorded value of a particular receivable, however, could vary from period to period because AAC applied its updated EIV rate to outstanding AR at the end of each period.

E. BDO and Olvera Violated PCAOB Rules and Auditing Standards During the 2017 Audit

i. Relevant PCAOB Auditing Standards

17. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the PCAOB's auditing and related professional standards.[6] An auditor is in a position to express an unqualified opinion on an issuer's financial statements when the auditor has conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[7]

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[5] For services provided at AAC's labs, the company generally defined a Short Pay claim as one reimbursed at less than 10% of gross charges for services provided.

[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the 2017 Audit.

[7] *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*; *see also* AS 2810.30-.31, *Evaluating Audit Results* (requiring auditors to evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework, including whether the financial statements contain the information essential for a fair presentation).

18. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit and in the preparation of the report.[8] Due professional care requires that the auditor exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[9] Professional skepticism requires "an ongoing questioning of whether the information and evidence obtained suggests that a material misstatement due to fraud has occurred."[10]

19. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report, including obtaining reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud.[11] PCAOB standards provide that management representations "are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[12] Inquiry of company personnel, by itself, does not provide sufficient audit evidence to reduce audit risk to an appropriately low level for a relevant assertion.[13]

20. PCAOB standards provide that an auditor should identify and assess the risks of material misstatement at the financial statement level and assertion level; in doing so, the auditor should identify significant accounts and disclosures and their relevant assertions.[14] PCAOB standards also require an auditor to design and implement audit responses that address the identified and assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[15] PCAOB standards require an auditor to design and perform

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8 *See* AS 1015.01, *Due Professional Care in the Performance of Work*.

9 *See id*. at .07; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 2401.13, *Consideration of Fraud in a Financial Statement Audit*.

10 AS 2401.13.

11 *See* AS 1105.04, *Audit Evidence*; AS 2401.01, .12.

12 AS 2805.02, *Management Representations*.

13 *See* AS 1105.17, Note.

14 AS 2110.59, *Identifying and Assessing Risks of Material Misstatement*.

15 *See* AS 2301.08.

audit procedures, including substantive procedures and tests of details, that are specifically responsive to the assessed significant risks and fraud risks.[16]

21. PCAOB standards require an auditor to document "the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions."[17] "Audit documentation must clearly demonstrate that the work was in fact performed."[18]

22. The auditor is responsible for evaluating the reasonableness of management's accounting estimates in the context of the financial statements taken as a whole.[19] The auditor's objective when evaluating accounting estimates includes obtaining sufficient appropriate evidential matter to provide reasonable assurance that all accounting estimates that could be material to the financial statements are reasonable in the circumstances, are presented in conformity with applicable accounting principles, and are properly disclosed.[20] In evaluating the reasonableness of an estimate, the auditor normally concentrates on key factors and assumptions that are significant to the estimate.[21]

23. When evaluating the reasonableness of an estimate, the auditor should obtain an understanding of how management developed the estimate, and should use one or a combination of three approaches: (1) reviewing and testing the company's process to develop the accounting estimate; (2) developing an independent expectation of the estimate to corroborate the reasonableness of management's estimate; and (3) reviewing subsequent events and transactions occurring prior to the date of the auditor's report.[22]

24. As described below, the Firm and Olvera violated these and other standards in performing the 2017 Audit.

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16 *See id*. at .11, .13.

17 AS 1215.06, *Audit Documentation*.

18 *Id.*

19 AS 2501.04, *Auditing Accounting Estimates*.

20 *Id*. at .07.

21 *Id.* at .09.

22 *Id*. at .10.

ii. The Materiality and Risk Assessments for the 2017 Audit

25. For 2017, AAC reported total revenue of $318 million, $309 million of which was client-related, and a net loss of $25.1 million. AAC also reported, as of year-end 2017, AR net of the AR Allowance of $94 million, which represented approximately 22% of AAC's total reported assets. For the Audit, the engagement team set a materiality level of $3 million. Musick, the EQR partner, concurred with that materiality level.

26. During the Audit, the engagement team identified AAC's EIV, Short Pay claims, and the AR Allowance as significant accounting estimates. The team also assessed there to be a significant risk of material misstatement related to revenue recognition, Short Pay claims, and the AR Allowance.

27. The engagement team identified revenue recognition as posing a significant risk of material misstatement and a fraud risk because it was "an area of judgment / estimates." In particular, the engagement team identified a risk that management would "manipulate" the raw data utilized in recording the quarterly EIV adjustments. Part of the reason for the engagement team's identification of the fraud risk was due to the complexity of AAC's process to organize its data to record revenue and the fact that much of the process was manual.

28. The engagement team also identified a significant risk of material misstatement related to Short Pay claims because those claims involved estimates and "the application of subsequent collection information."

29. Finally, the engagement team identified AAC's AR Allowance as having a significant risk of material misstatement because the AR Allowance was judgmental in nature and required use of estimates by management.

30. During the 2017 Audit, the engagement team and Olvera were each aware of these significant risks associated with AAC's EIV, Short Pay claims, and AR Allowance. They were also aware that the estimates had a significant effect on AAC's revenue and AR. In response, the engagement team planned to assess the reasonableness of the EIV, Short Pay, and AR Allowance estimates primarily through substantively testing the process used by management to develop the estimates.[23]

31. However, the engagement team failed to design and perform sufficient substantive procedures that (a) specifically responded to the above risks, and (b) adequately

[23] *See id.* at 10(a), .11.

tested management's process for developing the above estimates. Similarly, Olvera failed to identify these deficiencies when performing his focused consulting review.

iii. BDO and Olvera Failed to Appropriately Evaluate the EIV

32. As noted above, AAC recorded the majority of its client service revenue and AR by estimating, through the EIV, the amount insurers would pay for AAC's services at out-of-network rates. During the 2017 Audit, the engagement team failed to obtain sufficient appropriate audit evidence for AAC's EIV, and thus for AAC's reported revenue and AR, and Olvera failed to identify these deficiencies in his focused consulting review. They failed to do so, despite being aware of information indicating that revenue and AR may have been overstated due to an inappropriately high EIV.

33. Each quarter, AAC determined the EIV by analyzing, on a facility-by-facility basis, claims that it had (a) billed to insurers, (b) received some payment for, and (c) closed in either the prior six or twelve months. Using that information, AAC calculated an EIV rate for each facility and applied that rate to all unsettled/open client service claims from the related facility. AAC then used the current EIV rate to adjust its recorded revenue and AR.

34. For the 2017 Audit, the BDO engagement team performed certain testing on AAC's EIV estimate, but that testing did not address an issue that the team and Olvera knew affected the EIV: AAC's change in approach to Short Pay claims, which created a risk that the EIV, and thus AAC's revenue and AR, could be materially inflated.

35. Specifically, the engagement team and Olvera knew that, prior to late 2016, AAC's policy was to close a short-paid claim when the company received any reimbursement from the insurer. In late 2016, however, AAC changed that policy, retroactive to mid-2016, and began to keep Short Pay claims open. AAC kept those claims open while it appealed to the insurers for reimbursement of the disallowed amounts. The engagement team and Olvera were aware that the appeal process could take six-to-twelve months from the payment date, or longer.

36. Because AAC calculated its EIV rate based only on closed claims, the policy change to keep open Short Pay claims, which by definition involved initially low reimbursement by insurers, had a material effect on AAC's revenue and AR. Indeed, in a BDO work paper that Olvera reviewed, AAC management calculated that the exclusion of open Short Pay claims from the EIV rate calculation for the last two quarters in 2016 resulted in a $15 million increase to 2016 revenue, and an $11 million increase to year-end 2016 AR, net of the AR Allowance, and before applying a success rate reduction.

37. The engagement team and Olvera also knew that AAC identified approximately 65% more gross AR for Short Pay claims[24] in 2017 than in 2016, and thus the impact of excluding open Short Pay claim histories in the EIV rate calculation had an even greater impact on revenue and AR in 2017 than in 2016. Yet, during the 2017 Audit, the engagement team and Olvera, in his role as FCR, failed to appropriately consider the effects of AAC's continuing to exclude open Short Pay claims when evaluating the reasonableness of AAC's EIV.

38. *First*, the engagement team failed to obtain an understanding of the magnitude of the effect that AAC's new Short Pay approach had on the 2017 EIV rate and thus on AAC's 2017 revenue and AR.

39. *Second*, despite planning to do so, the engagement team also failed to adequately test whether AAC had been successful in obtaining additional reimbursements on Short Pay claims since the change in policy at the end of 2016. For example, during Audit planning, to address the significant risks presented by the Short Pay estimate, the engagement team documented that "[a]s this issue only arose in the 4th quarter of the prior year, the Company has not had significant collection data available. BDO will begin to evaluate [Short Pay historical collection data] in the 3rd quarter of 2017 and will continue to analyze the collection information as it becomes available to evaluate management's estimate of short pays." During the Audit, though, the engagement team concluded that there was still not sufficient collection data on the 2016 Short Pay claims to reliably indicate AAC's future success in seeking additional reimbursements on Short Pay claims. But the engagement team relied on management representations about the sufficiency of the collection data; it failed to perform adequate procedures to evaluate whether AAC was succeeding or failing in collecting additional reimbursements on Short Pay claims.

40. *Third*, as discussed further below, the engagement team and Olvera failed to address the fact that one of the assumptions that management made in adopting its new approach to Short Pay claims—that AAC would have a 50% success rate in pursuing additional reimbursement on those claims—itself demonstrated that AAC's EIV was improperly inflated. That 50% success rate reflected management's assumption that, when resubmitting or appealing a Short Pay claim, the expected reimbursement would be at a much lower level than on an original claim. That expectation of lower reimbursements on certain claims, however, was not captured in the EIV until AAC closed the claim after engaging in the lengthy resubmission/appeals process.

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[24] Gross AR for a Short Pay claim reflected AAC's original billing reduced by the initial payment by the insurer, but not reduced by the EIV, the 50% success rate, or the AR Allowance.

41. Because the engagement team and Olvera, as the FCR, did not identify or address the material effects that AAC's revised approach to Short Pay claims had on the EIV for 2017, they failed to appropriately evaluate the reasonableness of that significant estimate. Accordingly, BDO and Olvera violated PCAOB standards.[25]

iv. BDO and Olvera Failed to Appropriately Evaluate AAC's 50% Success Rate Estimate on Short Pay Claims

42. AAC's change in approach to Short Pay claims not only affected the EIV rate applied to value revenue and AR, the change also directly increased AAC's AR balance by including an entire category of AR previously excluded from the balance—Short Pay AR. Specifically, because AAC started delaying its closing of Short Pay claims, it also delayed writing off the portion of the claim's EIV that the insurer had not paid.

43. As noted above, however, AAC recognized that it was unlikely to receive reimbursement on Short Pay claims at the same rate as on original claims. For each Short Pay claim, therefore, AAC calculated the difference between what it had initially expected to receive from the insurer and what it actually received; then it applied an estimated success rate of around 50% to that difference (*i.e.*, Short Pay AR). In its 2017 Form 10-K, AAC reported Short Pay AR of $14.6 million, net of the AR Allowance, which was more than four times the materiality level BDO's engagement team had established for the Audit. Despite the significance of the 50% success rate estimate, the engagement team failed to obtain sufficient evidence to support it.

44. AAC first adopted the 50% success rate estimate in late 2016 in consultation with its external legal counsel ("External Counsel"), who stated that he had significant experience representing out-of-network providers in appeals of underpayments of healthcare receivables. In an email exchange during the 2016 audit among the External Counsel, AAC management, and BDO's 2016 engagement partner, the External Counsel stated that a success rate of 50% to 65% was reasonable. During the 2016 audit, members of the BDO engagement team held a telephone call with the External Counsel about Short Pay claims, but they did not obtain any data or other evidence from him supporting the 50% success rate estimate, nor did they obtain a reasonable understanding of any data, methods, or assumptions used by the External Counsel. In fact, when the 2016 engagement partner consulted internally at BDO about "industry statistics related to success by providers in resubmissions/reconsiderations/appeals," he was informed that "such data is not published and is often difficult to correlate from one entity to another entity." These communications with the External Counsel, and the internal

[25] *See* AS 2501.04, .10.

consultation, were documented in BDO's work papers for the 2016 audit of AAC. Going into the 2017 Audit, Olvera had reviewed the 2016 work papers relating to Short Pay claims.

45. As noted above, during the 2017 Audit, the Audit engagement team planned to analyze AAC's success in seeking further collections on Short Pay claims. In fact, doing so was required under PCAOB standards because the engagement team had specifically identified "the application of subsequent collection information" as creating a significant risk of material misstatement for Short Pay claims. Having identified that risk as significant, the team needed to perform tests of details responsive to it.[26]

46. Yet the engagement team performed no such tests during the 2017 Audit, nor did Olvera, in his role as FCR, question the lack of such testing. The engagement team did not test how much Short Pay AR AAC had collected during 2017, how many Short Pay claims AAC had closed, or how many re-bills/appeals of Short Pay claims AAC was pursuing.

47. Moreover, although Olvera had a follow-up call with the External Counsel during the 2017 Audit, the External Counsel merely stated that he still maintained the positions he had advanced during the 2016 audit, without providing any further support.

48. The engagement team and Olvera continued to point to the discussions with the External Counsel to support the 50% success rate estimate during the 2017 Audit, using that information as audit evidence. Notably, the engagement team did not follow the requirements under PCAOB standards for using the External Counsel's work as that of a specialist's.[27] To do so, the team would have had to obtain an understanding of the methods or assumptions the External Counsel had used in arriving at his 50% success rate conclusion and make appropriate tests of data that AAC provided him.[28] The engagement team and Olvera, as the FCR, did not take any of those steps. Indeed, as reflected in the Audit work papers, the engagement team obtained only a general understanding of the External Counsel's qualifications and experience in pursuing additional reimbursement on Short Pay claims.

49. The evidence that the engagement team and Olvera reviewed during the 2017 Audit concerning AAC's success in pursuing Short Pay claims actually contradicted the 50% success rate assumption. Specifically, during the 2017 Audit, management represented to the engagement team and Olvera that AAC had obtained only about $2.1 million in additional

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26 *See* AS 2301.11.

27 *See* AS 1210, *Using the Work of a Specialist*.

28 *See id.* at .09, .12.

reimbursements on Short Pay AR as of year-end 2017, well below the $10.4 million in Short Pay AR (net of the AR Allowance) that AAC had reported at the end of 2016. During the Audit, the engagement team did not test management's representation about the $2.1 million in additional reimbursements, but even assuming the accuracy of the representation, it raised questions as to whether AAC had significantly overestimated expected reimbursements of Short Pay AR. Olvera, in his role as FCR, did not identify these issues.

50. In short, despite identifying a significant risk associated with collections on Short Pay claims, the engagement team failed to obtain sufficient evidence to support the reasonableness of AAC's 50% success rate estimate during the 2017 Audit, and Olvera failed to identify this deficiency when performing his focused consulting review. Therefore, BDO and Olvera violated PCAOB standards.

v. BDO and Olvera Failed to Appropriately Evaluate AAC's AR Allowance

51. The engagement team also failed to appropriately evaluate the reasonableness of AAC's AR Allowance during the 2017 Audit. That failure occurred despite the PCAOB identifying deficiencies in BDO's work in evaluating AAC's 2015 AR Allowance less than two years earlier.

52. In 2017 and earlier years, AAC calculated its AR Allowance by applying pre-determined loss rates against its AR. The loss rates increased as the age of the AR increased and made collection more doubtful. For AR aged 0-180 days, the loss rates typically were under 1%; for AR aged 181-240 days, the loss rate was 25%; for AR aged 241-300 days, the loss rate was 50%; for AR aged 301-360 days, the loss rate was 75%; and for AR aged more than 360 days, the loss rate was approximately 98%. AAC applied the reserve loss rates against all AR, regardless of the type of claim.

53. During the PCAOB's 2016 inspection of BDO, PCAOB inspectors reviewed the Firm's work on the 2015 AAC audit. In September 2016, the Firm received a PCAOB inspection comment form explaining that the Firm "failed to perform sufficient procedures to test the valuation of AR in accordance with AU Section 342, *Auditing Accounting Estimates*." In its response to the comment form, the Firm accepted the PCAOB inspectors' conclusion.

54. Thereafter, BDO's engagement teams performed additional procedures to attempt to address the deficiencies the PCAOB inspectors had identified in the Firm's evaluation of AAC's loss rates. In developing those remediation procedures, the engagement partner for BDO's 2015 and 2016 audits of AAC consulted with a partner in BDO's national office. The Firm's national office approved the remediation procedures on February 28, 2017, approximately a week before AAC's 2016 Form 10-K was filed in March 2017.

55. In the 2017 Audit, the engagement team and Olvera continued to use a version of one of the remediation procedures developed in response to the PCAOB's 2016 inspection when they evaluated the loss rates that AAC used to establish its AR Allowance for 2017. As explained below, that procedure, which consisted of analyzing a "hindsight analysis" developed by AAC, was insufficient under PCAOB standards and did not support the reasonableness of AAC's AR Allowance.

a. BDO's and Olvera's Evaluation of AAC's AR Allowance

56. As required by PCAOB standards, the 2017 engagement team planned to obtain an understanding of how AAC developed its 2017 AR Allowance.[29] The team also planned to perform procedures to test the process used by management to develop that estimate, which is one of the three approaches that PCAOB standards provide for evaluating the reasonableness of an accounting estimate.[30] However, the engagement team failed to obtain a sufficient understanding of how management developed the 2017 AR Allowance, and failed to appropriately test management's process. Olvera, in his role as FCR, did not identify those failures.

57. The engagement team identified the above-described loss rates as key assumptions management used in developing the 2017 AR Allowance. But the engagement team's and Olvera's evaluation of the reasonableness of the AR Allowance did not concentrate on those assumptions.[31] In fact, other than documenting that the loss rates used in 2017 were determined by AAC in 2014 based on a "qualitative" "lookback analyses [*sic*] of collection trends," and that BDO last "audited" management's analysis in 2014, the engagement team and Olvera, in his role as FCR, failed to obtain any understanding of AAC's process for developing the loss rates. They also failed to obtain an understanding of what method AAC used for the 2014 qualitative analysis, the type and range of collection experience used in that analysis, and any testing that BDO personnel may have performed on those loss rates in 2014. They also

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29 *See* AS 2501.10.

30 *See id.* During the 2017 Audit, the engagement team did not plan to use or, in fact, use either of the other two approaches PCAOB standards identify for evaluating the reasonableness of an estimate: developing an independent expectation of the estimate to corroborate the reasonableness of management's estimate, or reviewing subsequent events or transactions occurring prior to the date of the auditor's report.

31 As noted above, PCAOB standards provide that, in evaluating the reasonableness of an accounting estimate, the auditor "normally concentrates on key factors and assumptions" that are significant to the accounting estimate. *See* AS 2501.09.

failed to obtain an adequate understanding of any testing that BDO personnel may have performed on those loss rates after 2014.

58. Moreover, any reliance that the engagement team and Olvera placed in the 2017 Audit on management's 2014 qualitative lookback analysis was particularly inappropriate given their awareness that the composition of, and collectability risks surrounding, AAC's AR had changed since 2014.

59. For example, setting aside Short Pay AR, AAC's gross AR aged over one year grew from about $42 million to $100 million during 2017, and grew from 20% of total gross AR to 30% of total gross AR during 2017.[32] Such significant growth in highly aged AR was a red flag that AAC's AR population was becoming less collectable. Despite these circumstances, the engagement team concluded that there were no significant or unusual items indicating that a change in the loss rates was warranted, but that conclusion was unsupportable.

60. In sum, because the engagement team and Olvera, in his role as FCR, failed to obtain an understanding of how AAC developed its 2017 AR Allowance estimate and failed to appropriately use any of the three authorized approaches for evaluating the reasonableness of that estimate, BDO and Olvera violated PCAOB standards.[33] Those failures were aggravated by the engagement team's and Olvera's awareness that the same deficiency had been identified during the PCAOB's 2016 inspection.

b. The "Hindsight Analysis" Was Not a Proper Means for Evaluating the Reasonableness of the AR Allowance

61. Instead of appropriately performing any of the three approaches that PCAOB standards provide for evaluating the reasonableness of an accounting estimate,[34] the engagement team purported to assess the reasonableness of AAC's 2017 AR Allowance by relying on a modified version of the hindsight analysis that AAC had developed and BDO had analyzed as part of its remediation of deficiencies identified during the 2016 PCAOB inspection.

62. Under PCAOB standards, however, a hindsight analysis or retrospective review is not one of the methods that PCAOB standards recognize for evaluating the reasonableness of,

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32 Because Short Pay AR was not recognized by AAC from 2014 through the second quarter of 2016, and AAC did not recognize in 2016 any Short Pay AR aged over one year, this comparison excludes Short Pay AR from the analysis.

33 *See* AS 2501.10; AS 1015.01, .07.

34 *See* AS 2501.10.

and obtaining sufficient appropriate audit evidence to support, significant accounting estimates.[35] Rather, a hindsight analysis or retrospective review is a procedure that is designed to provide the auditor "*additional* information about whether there may be a possible bias on the part of management in making the current-year estimates."[36]

63. In fact, with a hindsight analysis or retrospective review, an auditor does not directly evaluate a company's current-year estimates. Instead, the auditor assesses "significant accounting estimates reflected in the financial statements *of the prior year* to determine whether management judgments and assumptions relating to the estimates indicate a possible bias on the part of management."[37]

64. As described in detail below, that was precisely the nature of the hindsight analysis on which the engagement team relied when evaluating the reasonableness of AAC's 2017 AR Allowance, and on which Olvera relied when performing his focused consulting review. Specifically, the hindsight analysis developed by AAC assessed, in retrospect, whether AAC's AR allowance as of year-end 2016 still appeared to provide adequate loss coverage. The analysis then assumed similar coverage in 2017 to draw conclusions about the sufficiency of AAC's 2017 AR Allowance. Under PCAOB standards, the engagement team and Olvera could not satisfy their obligation to evaluate the reasonableness of AAC's AR Allowance by reviewing the company-developed hindsight analysis.

c. The Hindsight Analysis Was Flawed

65. BDO's and Olvera's reliance on the particular hindsight analysis used in the 2017 Audit was also inappropriate because the analysis was fatally flawed.

66. In general, the 2017 hindsight analysis began by considering the adequacy of AAC's AR Allowance at year-end 2016 ("2016 AR Allowance"). Specifically, the analysis compared the 2016 AR Allowance to the sum of (a) the 2016 AR that AAC had actually written off as uncollectible bad debt during 2017 ("2016 AR Actual Write-Offs") and (b) "assumed bad debt write offs" on AR from year-end 2016 that still remained on AAC's books at year-end 2017. The hindsight analysis then rolled certain aspects of the calculations forward to 2017. Ultimately, AAC concluded that the AR Allowance coverage of AR was sufficiently similar between the two years, and because of that, the 2017 "hindsight analysis . . . supported

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35 *See id.* at .01, .07, .10.

36 AS 2401.64 (emphasis added).

37 *Id.* (emphasis added).

management's estimation process of establishing the allowance for doubtful accounts at December 31, 2017."

67. During the 2017 Audit, the engagement team and Olvera reviewed AAC's 2017 hindsight analysis and agreed with management's conclusion that the analysis supported the 2017 AR Allowance estimate. As they should have recognized, however, the company's analysis used a mixture of gross and net numbers that rendered it unreliable.

68. As reflected in BDO's 2017 work papers, AAC determined that it should perform the hindsight analysis on a "gross" basis. That is, although AAC reported its revenue and AR net of EIV adjustments—to reflect the estimated reimbursements from insurers at out-of-network rates—it concluded that, in the hindsight analysis, it should remove the effect of those adjustments because they varied from period to period.

69. Accordingly, in the 2017 hindsight analysis, AAC began by taking the 2016 AR Allowance that it reported in its Form 10-K and grossed that amount up to $61.9 million, to remove the effects of the EIV adjustment. It also grossed up the AR from year-end 2016 that still remained on AAC's books at year-end 2017 ("Remaining 2016 AR") and the 2016 AR Actual Write-Offs. As grossed up to remove the effects of the EIV, 2016 AR Actual Write-Offs totaled $13.1 million and the Remaining 2016 AR (which under AAC's AR Allowance loss rates had been reserved for at about 98%) totaled $141 million. A comparison of these figures shows that AAC's grossed-up $61.9 million 2016 AR Allowance was clearly insufficient to absorb the $154.1 million sum of the 2016 AR Actual Write-Offs plus the Remaining 2016 AR.[38]

70. The engagement team and Olvera reviewed all of those grossed-up figures that appeared in AAC's hindsight analysis, yet ignored their obvious implications. Instead, they accepted AAC's position that a further adjustment was required in the hindsight analysis. Specifically, AAC took one of the figures that had been grossed up to remove the effects of the EIV—the $141 million in Remaining 2016 AR—and then re-applied the most current EIV rate to it (*i.e.*, adjusting the $141 million to be *net* of EIV). Doing so reduced the figure for Remaining 2016 AR to a net amount of $51 million. Having made that inappropriate adjustment, AAC decided that the 2016 AR Allowance was sufficient.

[38] As noted above, AAC had recently changed its policy and began pursuing appeals of Short Pay claims. Of the $141 million in Remaining 2016 AR, $41 million was related to Short Pay AR. Even if this $41 million were deducted from the $141 million, the $61.9 million 2016 AR Allowance would not have come close to covering the $113 million of 2016 AR Actual Write-Offs plus non-Short Pay Remaining 2016 AR.

71. The hindsight analysis's mixture of gross and net numbers actually raised red flags about the reasonableness of AAC's AR Allowance, rather than supporting it. Having grossed up all of the relevant balances in the hindsight analysis to remove the effects of the EIV, there was no basis for AAC to net one of the balances back down to selectively reintroduce the effects of the EIV. Nonetheless, the engagement team and Olvera accepted the analysis as support for the reasonableness of AAC's 2017 AR Allowance.

72. BDO's work papers contained the following explanation for the use of two gross figures and one net figure in the hindsight analysis:

> Note that all [Remaining 2016 AR] . . . will not result in write-offs to bad debt. A portion of these will be written off as revenue adjustments which is factored into the EIV and thus is reserved for within net revenue. Company policy for writeoffs is that only those associated with paid to patient receivables and denial of service are included in bad debt (other writeoffs are to revenue and are contemplated in the EIV % calculation). As such, it is necessary to allocate the balance between portions to be recognized in revenue and those to be recognized in bad debt. Management applied the EIV % to the gross accounts > 360 in order to properly recalculate the expected writeoffs against the allowance for doubtful accounts.[39]

But that explanation—that AAC's AR Allowance was designed to cover only a portion of uncollectible receivables—was inconsistent with both AAC's practice when calculating the AR Allowance, and AAC's public disclosures about the nature of its AR Allowance.

73. Specifically, AAC's 2017 Form 10-K disclosed that its AR Allowance was the company's best estimate of "accounts receivable that could become uncollectible in the future" (*i.e.*, future write-offs). That disclosure made no mention of being limited to a particular type of write-off of AR, such as write-offs to bad debt versus write-offs via revenue adjustment. Similarly, AAC's practice in calculating its AR Allowance was consistent with this disclosure, in that it did not distinguish between purportedly different types of write-offs. The engagement team and Olvera failed to identify these inconsistencies between the hindsight analysis and AAC's practice and public disclosures concerning the AR Allowance.

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39 A paid-to-patient claim was one where an insurer would send payment to the patient, for forwarding to AAC, rather than paying AAC directly. A denial-of-service claim was one where the insurer denied reimbursement of the claim for lack of insurance coverage or other reasons.

74. Moreover, even if AAC had a basis for concluding that less than the full amount of the Remaining 2016 AR would result in bad debt write-offs, BDO's work papers provided no logical basis for why AAC should have used the EIV rate to estimate what that lesser amount would be.

75. Notably, had AAC performed the hindsight analysis on a purely net basis with respect to the AR, AR Allowance, and write-off figures, the analysis would have shown that AAC was under-reserved by roughly $42 million as of December 31, 2016, about the same amount by which AAC wrote down its 2017 AR in the 2018 Restatement.

vi. BDO and Olvera Failed to Respond to Red Flags

76. As described above, BDO and Olvera, as the FCR, violated PCAOB standards during the 2017 Audit by failing to appropriately evaluate three separate significant accounting estimates that they had identified as presenting significant risks of material misstatement.[40] In each instance, those violations were exacerbated by BDO's and Olvera's failure to respond to red flags indicating the need to obtain additional evidence or perform further evaluation. In assessing the EIV estimate, for example, they failed to address the material effects that AAC's revised approach to Short Pay claims had on that estimate. With respect to Short Pay claims and AAC's 50% success rate estimate, they relied on the anecdotal statements of external counsel and failed to consider indications that AAC was not achieving its projected success rate. Finally, for the AR Allowance, despite having been put on notice by PCAOB inspectors of the need to evaluate the reasonableness of the particular loss rates AAC used to derive its AR Allowance, the engagement team failed to obtain direct evidence supporting the reasonableness of AAC's loss rates and instead elected to rely on a company-prepared hindsight analysis that was inconsistent with AAC's calculation of, and public disclosures about, the AR Allowance. Olvera failed to identify these deficiencies when performing his focused consulting review.

77. Given those and other red flags they encountered, PCAOB standards called for the engagement team to obtain more persuasive evidence commensurate with the higher risk of material misstatement.[41] The team repeatedly failed to do so, however, and Olvera repeatedly failed to identify the deficiencies in the engagement team's Audit work. Accordingly, BDO and Olvera violated multiple PCAOB standards.[42]

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40 *See* AS 2501.10.

41 *See* AS 2301.09, .11.

42 *See, e.g.,* AS 1015, AS 1105, AS 2301, AS 2501, and AS 2810.

vii. 2018 Restatement

78. During the third quarter of 2018, AAC identified that it had collected far less on AR than expected and determined that it needed to restate its 2016 and 2017 financial statements. In the 2018 Restatement, audited by BDO with Olvera serving as the FCR, AAC corrected errors related to its estimate of AR, net of the allowance for doubtful accounts. The Restatement reduced AAC's reported AR by $41.3 million (or 47%) and $30.3 million (or 32%) as of year-end 2016 and 2017. These adjustments in AR reduced reported assets by 11% and 7% as of the same dates. The Restatement also resulted in an increase to net loss of $20.6 million for 2016, and a reduction to net loss of $7.7 million for 2017 (due primarily to a reduction in the provision for doubtful accounts).

79. After the Restatement, the New York Stock Exchange delisted AAC's stock in October 2019, when the company failed to maintain adequate market capitalization over a consecutive 30-day trading period. In June 2020, AAC filed for bankruptcy protection under Chapter 11 of the U.S. Bankruptcy Code.

F. Musick Violated PCAOB Rules and Auditing Standards During the 2017 Audit

80. Musick violated applicable PCAOB rules and standards as a result of failures in his role as the engagement quality reviewer for the 2017 Audit.

81. Those failures relate to his review of the three estimates described above: AAC's EIV; Short Pay claims and AAC's associated 50% success rate assumption; and AAC's AR Allowance.

82. As noted above, PCAOB rules require that a registered public accounting firm and its associated persons comply with the PCAOB's auditing and related professional standards.[43]

83. In an audit, the engagement quality reviewer is responsible for evaluating the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[44] Among other things, the engagement quality reviewer should evaluate the engagement team's assessment of, and audit responses to, significant risks identified by the engagement team,

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43 *See* PCAOB Rule 3100; PCAOB Rule 3200.

44 *See* AS 1220.09.

including fraud risks.[45] The engagement quality reviewer should also evaluate whether the engagement documentation that he or she reviewed when performing the review indicates that the engagement team responded appropriately to significant risks and supports the conclusions reached by the engagement team with respect to the matters reviewed.[46]

84. In an audit, the engagement quality reviewer may provide concurring approval of issuance of the audit opinion only if, after performing the EQR with due care, he or she is not aware of a significant engagement deficiency.[47] Among other things, a significant engagement deficiency in an audit exists when the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB.[48]

85. During his EQR of the 2017 Audit, Musick knew that the engagement team identified valuation of AR, Short Pay AR, and the AR Allowance as significant accounting estimates and significant risks of material misstatement. He reviewed the team's work papers relating to the reasonableness of the 50% success rate and the amount of collections on Short Pay AR during 2017 that was inconsistent with that 50% reimbursement assumption. He also reviewed the work papers on the AR Allowance hindsight analysis, was aware of the PCAOB inspection finding that BDO had failed to appropriately evaluate the reasonableness of the AR Allowance during the 2015 audit, and was aware that there had been no direct audit testing of the loss rates AAC used for the AR Allowance since 2014.

86. As described in connection with the Firm's and Olvera's failures above, the red flags and deficiencies relating to the EIV, 50% success rate, and AR Allowance were reflected on the face of the work papers relating to those significant risk areas. An EQR performed with due care, in compliance with AS 1220, should have detected, and resulted in the engagement team addressing, those deficiencies. Nevertheless, Musick improperly accepted the team's significant judgments and approved the issuance of the 2017 Audit report.

87. As a result, Musick (a) failed to adequately evaluate the engagement team's audit responses to significant risks;[49] (b) failed to properly evaluate whether the engagement team's documentation indicated that the team responded appropriately to significant risks and

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45 *See id.* at .10(b).

46 *See id.* at .11.

47 *See id*. at .12.

48 *See id*. at .12, Note.

49 *See id*. at .10(b).

supported the team's conclusions;[50] and (c) failed to perform his review with due professional care.[51] Because of his failure to exercise due professional care, he did not identify significant engagement deficiencies, such as the team failing to obtain sufficient appropriate evidence under PCAOB standards, and inappropriately provided his concurring approval of issuance of the Audit opinion, in violation of PCAOB rules and standards.[52]

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), BDO USA, P.C., Kevin Olvera, and Michael Musick are hereby censured;

B. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date of this Order, Kevin Olvera's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Olvera shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, to either sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*; or (6) serve, or supervise the work of another person serving, as a "Focused Consulting Reviewer," as that

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50 *See id*. at .11.

51 *See id*. at .12.

52 *See id*. at .12, Note; PCAOB Rule 3100; PCAOB Rule 3200.

term is used in BDO's policies and procedures, or in any role that is equivalent to a Focused Consulting Reviewer, but differently denominated.

C. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Kevin Olvera and Michael Musick are each required to complete, within one year from the date of this Order, twenty hours of continuing professional education and training pertinent to accounting for, and auditing of, issuers operating in the healthcare industry (such hours shall be in addition to, and shall not be counted in, the CPE they are required to obtain in connection with any professional license); and

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4): (i) a civil money penalty in the amount of $2,000,000 is imposed on BDO USA, P.C.; (ii) a civil money penalty in the amount of $35,000 is imposed on Kevin Olvera; and (iii) a civil money penalty in the amount of $25,000 is imposed on Michael Musick.

1. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act.

2. Each Respondent shall pay their respective civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply

for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondents' payment of the civil money penalties pursuant to this Order, in any private action brought against Respondents based on substantially the same facts as set out in the findings in this Order.

4. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. Each of the Respondents understands that, with respect to each Respondent, failure to pay the applicable civil money penalty described above may result in (a) in the case of BDO USA, P.C., a summary suspension of the Firm's PCAOB registration pursuant to PCAOB Rule 5304(a), following written notice to BDO at the address on file with the PCAOB at the time of the issuance of this Order; or (b) in the case of Olvera and Musick, respectively, a summary suspension or bar of the respondent pursuant to PCAOB Rule 5304(b), following written notice to him at the address he last provided to the PCAOB's Division of Enforcement and Investigations in writing as of the time of the issuance of this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 26, 2023

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Deloitte & Touche S.A.S.,

Respondent.

PCAOB Release No. 105-2023-025

September 26, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Deloitte & Touche S.A.S. ("DT Colombia," the "Firm," or "Respondent"), a registered public accounting firm;

(2) imposing a $900,000 civil money penalty on the Firm; and

(3) requiring DT Colombia to undertake and certify the completion of certain improvements to its system of quality control.

The Board is imposing these sanctions on the basis of its findings that DT Colombia violated PCAOB rules and standards, including quality control standards, in connection with the audit of the December 31, 2016 financial statements of Bancolombia S.A. ("Bancolombia" or the "Bank").

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Deloitte & Touche S.A.S.** is, and at all relevant times was, a limited liability corporation organized under Colombian law and headquartered in Bogotá, Colombia.[2] The Firm is licensed in Colombia by the Junta Central de Contadores, part of the Colombian Ministry of Commerce, Industry and Tourism, and a member of the Deloitte Touche Tohmatsu Limited global network. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Issuer and Other Relevant Individual

2. **Bancolombia S.A.** is a financial institution based in Medellín, Colombia. According to its public filings, Bancolombia provides a wide range of financial products and services to a diversified individual, corporate, and government customer base throughout Colombia, Latin America, and the Caribbean region. At all relevant times, Bancolombia was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

3. The "**Lead Partner**" was a DT Colombia partner who retired from the Firm in 2021. The Lead Partner served as the engagement partner on the Firm's integrated audit of Bancolombia for the fiscal year ended December 31, 2016 ("2016 Audit"). On May 1, 2017, the Lead Partner authorized the issuance of the Firm's unqualified opinions on Bancolombia's 2016 consolidated financial statements and internal control over financial reporting (the "Audit Reports").

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

[2] On January 31, 2023, the Firm filed a Form 4, *Succeeding to the Registration Status of Predecessor*, with the Board, disclosing that the Firm's form of organization had changed to a simplified joint stock corporation, and that Deloitte & Touche S.A.S. had succeeded to the registration of Deloitte & Touche Ltda.

C. Summary

4. This matter concerns DT Colombia's failure to comply with PCAOB rules and standards, including quality control standards.

5. DT Colombia's system of quality control failed to provide the Firm with reasonable assurance that its personnel complied with applicable professional standards and the Firm's standards of quality. In connection with the 2016 Audit, the Lead Partner and the engagement team failed to complete and appropriately document all necessary procedures prior to issuance of the Audit Reports. Instead, the Lead Partner and the engagement team continued to perform certain audit procedures and obtain additional audit evidence after the issuance of the Audit Reports, and, with certain exceptions, failed to appropriately document who performed the post-issuance work and the date such work was completed, as well as who reviewed the work and the date of such review, in violation of AS 1215, *Audit Documentation*.

6. These violations evidenced the failure of the Firm's policies and procedures to provide reasonable assurance that the audit work would be performed and documented in accordance with PCAOB standards. DT Colombia's monitoring procedures were also not sufficient to identify the failure of the Lead Partner and the engagement team to timely perform and appropriately document their audit work.

7. Further, DT Colombia's system of quality control did not provide the Firm with reasonable assurance that its personnel would maintain independence (in fact or appearance) in all circumstances. Specifically, the Firm's 2016 Audit engagement letter incorporated language that, contrary to the independence criteria of the U.S. Securities and Exchange Commission (the "Commission" or "SEC"), indemnified the Firm against certain types of damages. In addition, the Firm failed to timely remove individuals with known impermissible financial relationships from the 2016 Audit engagement team.

D. DT Colombia Violated PCAOB Rules and Standards

8. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[3] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[4] As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional

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[3] *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

[4] *See* QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

standards, regulatory requirements, and the firm's standards of quality."[5] Those policies and procedures should cover "planning, performing, supervising, reviewing, [and] documenting . . . the results of each engagement."[6]

9. PCAOB quality control standards also require that firms establish policies and procedures "to provide the firm with reasonable assurance that personnel maintain independence (in fact and in appearance) in all required circumstances . . . ."[7] PCAOB rules require that "[a] registered public accounting firm and its associated persons must be independent of the firm's audit client throughout the audit and professional engagement period."[8] This requirement includes an obligation to satisfy "the independence criteria set out in the rules and regulations of the Commission under the federal securities laws."[9] Under relevant independence criteria, entering into an indemnity agreement with a client impairs an auditor's independence.[10]

10. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[11] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[12] Under

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5 *See id.* at .17.

6 *See id.* at .18.

7 *See id.* at .09.

8 Rule 3520, *Auditor Independence*.

9 *Id*. at Note 1.

10 *See* Rule 2-01(b) of SEC Regulation S-X; *see also* Section A, Question 1 of the Commission's Frequently Asked Questions on Auditor Independence Section (issued Dec. 13, 2004) ("When an accountant and his or her client, directly or through an affiliate, enter into an agreement of indemnity which seeks to provide the accountant immunity from liability for his or her own negligent acts, whether of omission or commission, the accountant is not independent. Further, including in engagement letters a clause that a registrant would release, indemnify or hold harmless from any liability and costs resulting from knowing misrepresentations by management would also impair the firm's independence.").

11 *See* QC § 20.08.

12 *See id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[13]

11. As set out below, DT Colombia failed to comply with PCAOB rules and standards.

i. Failures Related to Compliance with Professional Standards

12. DT Colombia's system of quality control failed to provide the Firm with reasonable assurance that its personnel complied with applicable professional standards and the Firm's standards of quality. Specifically, DT Colombia's policies did not provide reasonable assurance that Firm personnel would comply with PCAOB standards related to the performance and documentation of audits.

13. These failures were evidenced by the fact that, after issuance of the Audit Reports, the Lead Partner and the engagement team revised certain audit documentation, and performed audit procedures or obtained supporting audit evidence. This post-issuance work prior to the documentation completion date[14] included performing certain audit procedures and obtaining additional evidence from the client related to revenue, interest expenses, derivatives, fair value testing, and control testing.

14. The Lead Partner and the engagement team tracked changes to the work papers after issuance in a log, referred to as the "Bitácora," that was maintained outside of the 2016 Audit file. Although the number of entries in the Bitácora exceeded 1,000, the version of the Bitácora included in the archived work papers listed just 10 entries that the Lead Partner had classified as "omitted procedures" performed after issuance. Other than for these "omitted procedures," the Lead Partner and the engagement team failed to appropriately document in the 2016 Audit file who performed the post-issuance work and the date such work was completed, as well as who reviewed the work and the date of such review, as required by AS 1215.

15. As a result of this conduct, the 2016 Audit file did not accurately reflect the timing "of the procedures performed, evidence obtained, and conclusions reached," nor allow an experienced auditor to determine "the date such work was completed" or reviewed.[15] The modifications and additional work prior to the documentation completion date involved a large

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13 *See* QC § 20.20.d and QC § 30.02.d.

14 *See* AS 1215.15 (providing a period of 45 days from the report release date for the auditor to assemble for retention a complete and final set of audit documentation).

15 *See id*. at.06.

number of work papers and engagement personnel, and evidenced that the Firm's system of quality control did not provide it with reasonable assurance that its personnel would comply with PCAOB standards.

ii. Failures in Monitoring Compliance with Professional Standards

16. DT Colombia's monitoring procedures did not provide the Firm with reasonable assurance that the Firm's policies and procedures concerning engagement performance were suitably designed and were being effectively applied.[16]

17. DT Colombia relied on internal inspections to monitor ongoing compliance with its policies and procedures regarding engagement performance, and the 2016 Audit was selected for internal inspection. The Firm's monitoring procedures, however, failed to comply with PCAOB quality controls standards, and, therefore, did not identify the conduct described above with respect to the 2016 Audit.

18. For example, DT Colombia's then National Professional Practice Director ("NPPD"), a senior member of the Firm with significant quality control responsibilities, inappropriately informed the Lead Partner that the 2016 Audit had been selected for internal inspection immediately after the Audit Reports had been issued. The Lead Partner then told members of the engagement team about the internal inspection prior to their assembling a complete and final set of audit documentation for the 2016 Audit, which led to some engagement team members making certain changes to the work papers prior to the internal inspection. The actions of the NPPD, a member of the Firm's quality control apparatus, frustrated the performance of an appropriate internal inspection.

19. As a result, DT Colombia's monitoring procedures did not provide reasonable assurance that the Firm's policies and procedures concerning engagement performance were suitably designed and being effectively applied, in violation of PCAOB quality control standards.[17]

iii. Failures in the Firm's Independence Policies and Procedures

20. DT Colombia's system of quality control also failed to provide the Firm with reasonable assurance that it and its personnel maintained independence (in fact and appearance), as evidenced by the 2016 Audit engagement.

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16 *See* QC § 30.02.

17 *See* QC § 20.17-.18, .20; QC § 30.02.

21. First, for example, the Firm signed a June 30, 2016 audit engagement letter incorporating an agreement with Bancolombia that, at variance with relevant independence criteria, indemnified the Firm against certain types of damages.[18] After the internal inspection identified that problematic language during its inspection of the 2016 Audit, the Firm immediately sent a letter to Bancolombia retroactively amending the 2016 engagement agreement to exclude any "indemnity granted in favor of Deloitte & Touche Ltda."

22. Second, although DT Colombia performed procedures during the 2016 Audit to assess whether assigned personnel were independent of Bancolombia, the Firm failed to timely remove personnel from the 2016 Audit engagement while they had impermissible financial relationships with the Bank.

23. For example, a senior manager on the 2016 Audit alerted the Lead Partner and the Firm in June 2016 that he had a mortgage loan on a second home through Bancolombia, which was an impermissible financial relationship under SEC Rule 2-01(c)(1)(ii)(A).[19] Despite knowing of this independence issue, the Firm failed to timely remove the senior manager, who continued working on the engagement for over six months and recorded 216 hours to the 2016 Audit. The Firm eventually removed the senior manager from the engagement team in January 2017.

24. In another example, an individual from the Firm's risk advisory practice, who was a member of the 2016 Audit engagement team, reported that she had an uninsured brokerage account with Bancolombia on January 4, 2017,[20] yet the Firm did not remove her from the 2016 Audit until sometime in February 2017, by which point she had recorded over 440 hours to the engagement.

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[18] *See supra* footnote 10.

[19] Rule 2-01(c)(1)(ii)(A) of SEC Regulation S-X provides that an accountant is not independent when a member of the engagement team or his or her immediate family has any loan to or from an audit client, subject to certain exceptions. While Rule 2-01(c)(1)(ii)(A) contains an exception for mortgage loans from a financial institution made under its normal lending procedures, terms, and requirements, the exception only applies to a mortgage loan collateralized by a primary residence and not a secondary residence.

[20] Rule 2-01(c)(1)(ii)(C) of SEC Regulation S-X provides that an accountant is not independent when a member of the engagement team has a brokerage account that includes assets other than cash or securities, or the value of the account exceeds SIPC insurance coverage or its non-U.S. equivalent.

25. As evidenced by this conduct, DT Colombia's system of quality control failed to provide it with reasonable assurance that it and its personnel maintained independence (in fact and appearance) in all required circumstances.[21]

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty of $900,000 is imposed on Deloitte & Touche S.A.S.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Deloitte & Touche S.A.S. as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

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[21] *See* QC § 20.09.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy (except Respondent may seek or accept reimbursement or indemnification of any civil money penalty amounts from self-insurance provided through a captive insurer owned by Respondent and/or other firms within the network of which Respondent is a member that provides insurance solely to Respondent and other firms within that network); (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Sections 105(c)(4)(F), (G) of the Act and PCAOB Rules 5300(a)(6), (9), the Board orders that:

1. Review by Deloitte & Touche S.A.S.: Within 90 days of the entry of this Order, Deloitte & Touche S.A.S. shall establish, revise, or supplement, as necessary, quality control policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that its personnel and other associated persons (a) comply with PCAOB standards concerning audit documentation, audit evidence, and evaluating audit results; and (b) maintain independence in all required circumstances.

2. Training: Within 120 days of the entry of this Order, the Firm shall ensure that all Firm audit professionals involved in the performance of PCAOB audits who are considered audit seniors, audit team leaders, managers, directors, or partners have received 20 hours of training concerning U.S. GAAP, PCAOB rules and standards, and SEC reporting requirements, rules, and regulations since January 1, 2023.

3. Certification: Within 150 days of the entry of this Order, the Firm shall provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1-2 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

D. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 26, 2023

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Smythe LLP,

Respondent.

PCAOB Release No. 105-2023-026

October 24, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Smythe LLP ("Smythe," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $175,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that Smythe violated PCAOB rules and standards in connection with four audits of issuer clients. Smythe also violated the Board's quality control standards.

I.

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

II.

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

subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Smythe LLP** is a limited liability partnership located in British Columbia, Canada, and is registered to provide accounting services by the Chartered Professional Accountants of British Columbia. It is a member of Allinial Global, an association of independent firms specializing in accounting and advisory services. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Issuers

2. **Scully Royalty, Ltd.** ("Scully") is a corporation incorporated under the laws of the Cayman Islands, with its principal office at all relevant times in Hong Kong. Scully's public filings disclose that it is a merchant bank that provides financial services and has a royalty interest in the Scully iron ore mine in Newfoundland and Labrador, Canada. Smythe issued audit reports that Scully included in Forms 20-F filed with the United States Securities and Exchange Commission ("Commission") for Scully's consolidated financial statements for fiscal year ended ("FYE") December 31, 2020 and FYE December 31, 2021. At all relevant times, Scully was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

3. **Tower One Wireless Corp.** ("Tower One") is a corporation incorporated under the laws of British Columbia, Canada, with its principal place of business at all relevant times in Vancouver, Canada. Tower One's public filings disclose that it is a build-to-suit tower owner, operator, and developer of multitenant communications structures. Smythe issued audit reports that Tower One included in Forms 20-F filed with the Commission for Tower One's consolidated financial statements for FYE December 31, 2020 and December 31, 2021. At all relevant times, Tower One was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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

C. Other Relevant Entities

4. **PKF Audisur SRL** ("PKF Audisur") is a limited liability company headquartered in Buenos Aires, Argentina. At all relevant times, PKF Audisur was a public accounting firm, as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii), and an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). PKF Audisur is part of PKF International, a global network of accountancy firms. PKF Audisur is not now, and never has been, registered with the Board.

5. **PricewaterhouseCoopers Malta Ltd.** ("PwC Malta") is a limited liability company headquartered in Qormi, Malta. At all relevant times, PwC Malta was a public accounting firm, as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii), and an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). PwC Malta is part of PwC, a global network of accountancy firms. PwC Malta is not now, and never has been, registered with the Board.

D. Summary

6. This matter concerns Smythe's violations of PCAOB rules and standards in connection with four audits of issuer clients. In particular, Smythe used the work of two public accounting firms not registered with the PCAOB—PKF Audisur and PwC Malta (each, an "Unregistered Firm")—in a substantial role capacity in four issuer audits,[2] and repeatedly violated PCAOB rules and professional standards in connection with those audits. The Firm also violated the Board's quality control standards.

7. In particular, Smythe used the work of PKF Audisur on the audits of the FYE 2020 and 2021 consolidated financial statements of Tower One (the "Tower One Audits") and the work of PwC Malta on the audits of the FYE 2020 and 2021 consolidated financial statements of Scully (the "Scully Audits") (collectively, the "Audits").

8. In connection with each of the Audits, Smythe issued an audit report as principal auditor. During the Audits, PKF Audisur audited Tower One subsidiaries constituting between 88% and 97% of Tower One's assets and between 80% and 90% of its revenues, and PwC Malta audited Scully subsidiaries constituting between 21% and 23% of Scully's assets and between 17% and 24% of its revenues. Both PKF Audisur and PwC Malta thus audited significant assets and revenues of the issuers' subsidiaries, which were important to the issuers' financial

[2] *See* PCAOB Rule 1001(p)(ii), *Play a Substantial Role in the Preparation or Furnishing of an Audit Report*.

statements as a whole, and each of the Unregistered Firms performed services that Smythe used or relied on in issuing its audit reports.

9. When Smythe's audit reports were issued, the Unregistered Firms' portion of the total audit hours ranged from 40% to 73%, and the Unregistered Firms' portion of the total audit fees ranged from 27% to 32%, each above the 20% level constituting substantial role participation by the Unregistered Firms.

10. Smythe knew from inquiries it made concerning the professional reputation of both firms that PKF Audisur and PwC Malta were not registered with the PCAOB, and also knew that the Unregistered Firms were required to register with the Board before the firms played a substantial role in any issuer audits. Smythe's quality control policies and procedures did not address, however, the use of the work of other auditors, or the participation of other accounting firms in a substantial role capacity. During each of the Audits, Smythe failed to evaluate the professional reputation of the Unregistered Firms with due professional care insofar as the firms were not PCAOB-registered, yet they audited significant assets and revenues of the issuers' subsidiaries that were important to the issuers' financial statements as a whole.

11. Smythe also did not adequately plan the Audits and failed, in establishing the overall audit strategy for the Audits, to adequately consider the violations of PCAOB rules and standards that would result if the Unregistered Firms played a substantial role in the Audits, as well as the nature, timing, and extent of the resources necessary to perform the Audits given the involvement of the Unregistered Firms.

12. Smythe also failed to appropriately coordinate its activities with the Unregistered Firms. In particular, Smythe asked the Unregistered Firms to perform their work in accordance with International Standards on Auditing ("ISA"), not PCAOB standards, concluding, without adequate analysis, that the Unregistered Firms' audit work relied on by Smythe was compliant with PCAOB standards.

13. Despite concluding that the Unregistered Firms would be playing a substantial role in the Audits, Smythe also concluded, incorrectly and without adequate basis, that performing additional audit procedures would somehow serve to "overcome" the Unregistered Firms' substantial role participation. Among other things, the Firm failed to consider that even after Smythe's performance of additional audit procedures, an Unregistered Firm exceeded 20% of the total audit hours and total audit fees in each of the Audits.

14. In addition, Smythe failed during the Tower One Audits to perform an adequate analysis to determine whether it could serve as principal auditor and issue its audit reports

without reference to the work performed by or reports of PKF Audisur, and whether it could use the work of PKF Audisur, given that PKF Audisur had performed the majority of audit procedures with respect to between 88% and 97% of Tower One's assets and between 80% and 90% of its revenues.

15. Smythe thus failed, as described in more detail below, to comply with PCAOB rules and standards during the Audits.

16. Moreover, the repeated violations during the Audits described above demonstrate Smythe's failure to establish and implement adequate quality control policies and procedures, including monitoring procedures, concerning the use of the work of other accounting firms, in violation of PCAOB quality control standards.

E. Smythe Violated PCAOB Rules and Standards in Connection with the Audits

17. Smythe served as the principal auditor during each of the Audits. In each independent auditor's report issued by Smythe in connection with the Audits, Smythe stated that it had conducted its audits in accordance with PCAOB standards. The audit reports did not make reference to using the work of another auditor.[3]

18. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[4] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[5] In addition, AS 1015, *Due Professional Care in the Performance of Work*, requires "[d]ue

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[3] *See* AS 1205.04-.05, *Part of the Audit Performed by Other Independent Auditors*.

[4] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[5] *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion* ("The auditor is in a position to express an unqualified opinion on the financial statements when the auditor conducted an audit in accordance with the standards of the Public Company Accounting Oversight Board ('PCAOB') and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.").

professional care . . . to be exercised in the planning and performance of the audit and the preparation of the report."[6]

19. AS 1205 establishes requirements that apply when an auditor of an issuer's financial statements uses the work and reports of other independent auditors who have audited the financial statements of one or more subsidiaries, divisions, branches, components, or investments included in that issuer's financial statements.[7]

20. In circumstances when a significant part of the audit is performed by another auditor, a firm, in considering whether it can serve as principal auditor, must decide whether its own participation in the audit is sufficient to enable it to serve as the principal auditor and to report as such on the financial statements.[8]

21. In deciding this question, the auditor should consider, among other things, the materiality of the portion of the financial statements the firm audited in comparison with the portion audited by other auditors, the extent of the auditor's knowledge of the overall financial statements, and the importance of the components the firm audited in relation to the enterprise as a whole.[9]

22. Whether or not the principal auditor decides to make reference to the audit of the other auditor, it should make inquiries concerning the professional reputation and independence of the other auditor.[10] In addition, the principal auditor should adopt appropriate measures to assure the coordination of its activities with those of the other auditor in order to achieve a proper review of the matters affecting the consolidating or combining of accounts in the financial statements.[11]

23. A public accounting firm that plays a substantial role in the preparation or furnishing of an audit report with respect to any issuer, broker, or dealer must be registered

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6 AS 1015.01.

7 AS 1205.01.

8 *See* AS 1205.02.

9 *See id*.

10 *See* AS 1205.10.

11 *See id.*

with the Board.[12] A public accounting firm plays a substantial role in the preparation or furnishing of an audit report and is thus required to register when it: (1) performs material services that a public accounting firm uses or relies on in issuing all or part of its audit report; or (2) performs the majority of the audit procedures with respect to a subsidiary or component of any issuer, broker, or dealer, the assets or revenues of which constitute 20% or more of the consolidated assets or revenues of such issuer, broker, or dealer, necessary for the principal auditor to issue an audit report.[13]

24. The term "material services" means "services, for which the engagement hours or fees constitute 20% or more of the total engagement hours or fees, respectively, provided by the principal auditor in connection with the issuance of all or part of its audit report."[14]

F. Smythe's Use of the Unregistered Firms' Work in the Audits

25. During the Tower One Audits, Smythe understood that for the relevant fiscal periods, PKF Audisur would be auditing Tower One's three subsidiaries, located in Argentina and Mexico. Smythe knew that the three subsidiaries constituted between 88% and 97% of Tower One's assets and between 80% and 90% of its revenues and, as such, that the subsidiaries' audits were important to Tower One's financial statements as a whole. During audit planning for each of the Tower One Audits, Smythe inquired as to PKF Audisur's professional reputation and independence, and understood from its inquiries that PKF Audisur was not registered with the PCAOB.

26. During the Scully Audits, Smythe understood that Scully had historically selected PwC Malta to complete statutory audits of three Scully subsidiaries located predominantly in Malta and Germany. Smythe knew that the three Scully subsidiaries constituted between 21% and 23% of Scully's assets and between 17% and 24% of its revenues, and as such, that the subsidiaries' audits were important to Scully's financial statements as a whole. During audit planning for each of the Scully Audits, Smythe inquired as to PwC Malta's professional reputation and independence, and understood from its inquiries that PwC Malta was not registered with the PCAOB.

27. Smythe concluded and documented its expectation that an Unregistered Firm would be playing a substantial role in each of the Audits and its understanding that a

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[12] PCAOB Rule 2100, *Registration Requirements for Public Accounting Firms*; *see also* Section 102(a) of the Act.

[13] *See* PCAOB Rule 1001(p)(ii).

[14] *See* Note 1 to Rule 1001(p)(ii).

component auditor—such as PKF Audisur or PwC Malta—that plays a substantial role in the preparation or furnishing of an audit report by Smythe was required to be registered with the PCAOB.

28. Smythe reasoned, however, without adequate basis, that Smythe's performance of additional audit procedures would somehow serve to "overcome" the Unregistered Firms' substantial role participation.

29. Smythe did not consider during the Audits that its performance of additional audit procedures did not: reduce the percentages of issuer assets and revenues that the Unregistered Firms audited; reduce the importance of the component audits performed by the Unregistered Firms in relation to the issuers' enterprises as a whole; subtract from the total audit hours performed by the Unregistered Firms or the total audit fees incurred by the Unregistered Firms; or ultimately reduce the Unregistered Firms' participation percentages to levels below substantial role participation.

30. In each of the Audits, an Unregistered Firm played a substantial role—a level of participation that Smythe knew required PCAOB registration.[15] PKF Audisur performed the majority of the audit procedures with respect to the assets and revenues held by Tower One's three subsidiaries, which constituted between 88% and 97% of Tower One's assets and between 80% and 90% of its revenues—substantially above the "20% or more" substantial role participation threshold.[16] In addition, PwC Malta performed the majority of the audit procedures with respect to the assets and revenues held by Scully's three subsidiaries. The assets audited by PwC Malta during the Scully Audits constituted between 21% and 23% of Scully's total assets—also over the substantial role participation threshold.[17] PwC Malta also exceeded the 20% or more threshold with respect to revenues during the FYE Scully 2020 audit, at 24%.[18]

31. The Unregistered Firms' engagement hours and fees also amounted to "material services" that Smythe relied upon in issuing its reports, and further constituted substantial role participation in the Audits.[19] Indeed, at the time of the issuance of Smythe's audit reports for

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15 *See* PCAOB Rule 2100; PCAOB Rule 1001(p)(ii)(1), (p)(ii)(2).

16 *See* PCAOB Rule 1001(p)(ii)(1).

17 *See id*.

18 Although PwC Malta audited 17% of Scully's revenue during the FYE 2021 audit, the firm audited more than 20% of Scully's assets during the FYE 2021 audit, reflecting substantial role participation.

19 *See* PCAOB Rule 1001(p)(ii)(2).

the Audits, the percentage participation by the Unregistered Firms exceeded the 20% substantial role threshold in both total audit hours and total audit fees. As shown in the table below, the Unregistered Firms' portion of the total audit hours on the Audits ranged from 40% to 73%, and the Unregistered Firms' portion of the total audit fees ranged from 27% to 32%.

Issuer	FYE	Unregistered Firm Total Audit Hours	Unregistered Firm Total Audit Fees
Tower One	Dec. 31, 2020	69%	27%
Tower One	Dec. 31, 2021	73%	28%
Scully	Dec. 31, 2020	40%	29%
Scully	Dec. 31, 2021	53%	32%

32. In its Form APs filed with the Board in connection with the Audits, Smythe confirmed the Unregistered Firms' substantial role participation. On May 14, 2021, Smythe reported on Form AP that PKF Audisur performed 68% of the total audit hours for the FYE 2020 Tower One Audit, and revised that percentage on March 7, 2022, on an amended Form AP/A, to 69%. On May 31, 2022, Smythe reported on Form AP that PKF Audisur performed 73% of the total audit hours for the FYE 2021 Tower One Audit. On June 4, 2021, Smythe reported on Form AP that PwC Malta performed 38% of the total audit hours for the FYE 2020 Scully Audit. On March 7, 2022, Smythe revised that amount on an amended Form AP/A, to 40%. On June 3, 2022, Smythe reported on Form AP that PwC Malta performed 53% of the total audit hours for the FYE 2021 Scully Audit.

i. Smythe Failed to Adequately Assess the Unregistered Firms' Professional Reputation

33. During the Audits, Smythe made inquiries concerning the professional reputation of the Unregistered Firms. Smythe's inquiries, however, lacked due professional care. An adequate inquiry and analysis performed with due professional care concerning the Unregistered Firms' professional reputation should have revealed that Smythe should not have used their audit work, given the significance of the assets and revenues that Smythe was requesting the Unregistered Firms to audit, the hours and fees the Unregistered Firms reasonably could be expected to incur, and Smythe's expectation that the Unregistered Firms would not be not registered with the PCAOB yet would play a substantial role in the Audits.[20]

[20] *See* AS 1015.01; AS 1205.10.

ii. Smythe Failed to Appropriately Plan the Audits

34. PCAOB standards provide that, as part of audit planning, "the auditor should establish an overall audit strategy."[21] The auditor should take into account, among other points, "[t]he nature, timing, and extent of resources necessary to perform the engagement."[22] "The auditor should modify the overall audit strategy and the audit plan as necessary if circumstances change significantly during the course of the audit."[23] PCAOB standards also require that "[d]ue professional care . . . be exercised in the planning and performance of the audit and the preparation of the report."[24]

35. Smythe conducted all audit planning and designed all audit programs and audit procedures during the Audits.

36. In establishing the overall audit strategy for the Audits, Smythe did not adequately plan the Audits and failed to adequately take into account: (1) the fact that the Unregistered Firms' participation in the Audits would constitute a violation of PCAOB rules if they played a substantial role, as Smythe expected; and (2) the nature, timing, and extent of the resources necessary to perform the Audits, insofar as those resources included the involvement of the Unregistered Firms.[25] As a result of these failures, Smythe did not engage in adequate planning to ensure that the Unregistered Firms would not violate PCAOB registration requirements.

37. Moreover, as the Audits were being performed, Smythe failed to modify the Firm's audit strategies and audit plans to ensure compliance with the relevant regulatory requirements. Instead, the Firm throughout the Audits continued to believe, incorrectly, that the Unregistered Firms could play a substantial role in the Audits but not violate PCAOB rules and standards.

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21 AS 2101.08, *Audit Planning*.

22 AS 2101.09.

23 AS 2101.15.

24 AS 1015.01.

25 *See* AS 2101.05 ("Planning is not a discrete phase of an audit but, rather, a continual and iterative process that . . . continues until the completion of the current audit.").

38. Accordingly, in violation of PCAOB Rules 3100 and 3200, Smythe violated AS 2101. Smythe also violated AS 1015 by failing to exercise due professional care in planning the Audits.

iii. Smythe Failed to Appropriately Coordinate its Activities with the Unregistered Firms

39. Smythe failed during the Audits to adopt appropriate measures to assure the coordination of its activities with the Unregistered Firms in order to achieve a proper review of the matters affecting the consolidating or combining of accounts in Tower One and Scully's financial statements.[26]

40. At the outset of each of the Tower One Audits, Smythe sent PKF Audisur a group audit instructions letter. For each of the Tower One Audits, the letter detailed the procedures Smythe, as principal auditor, was directing PKF Audisur to perform in connection with the audits. The letter addressed, among other things, Smythe's expectations of the engagement timeline, Smythe's assessed materiality at the group level and materiality assigned to the relevant Tower One subsidiaries, significant risks of the audit assessed by Smythe during the planning process for the audit, and specific instructions regarding the nature, timing, and extent of the audit work Smythe expected to see performed by PKF Audisur. In connection with each of the Scully Audits, Smythe sent a similar instructions letter to PwC Malta.

41. The instructions given by Smythe to the Unregistered Firms during each of the Audits instructed the Unregistered Firms to perform the component audits in accordance with ISA.[27] Smythe did not provide the Unregistered Firms with any comparison or analysis of relevant ISA or PCAOB standards.

42. During each of the Audits, in response to the instructions letter, PKF Audisur and PwC Malta sent Smythe an executed acknowledgement letter and agreed, among other things, to perform the requested procedures pursuant to ISA, with the explicit understanding that the work performed by the Unregistered Firms would be relied upon by Smythe in issuing the audit reports for the Audits. Smythe did not provide the Unregistered Firms with any guidance regarding PCAOB standards.

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[26] *See* AS 1205.10.

[27] The instructions in each of the Audits contemplated Smythe's use of PKF Audisur and PwC Malta pursuant to AS 1205.

43. Smythe did not adequately evaluate whether ISA differed from PCAOB standards and did not perform any procedures to address the Unregistered Firms' work having been performed under ISA rather than PCAOB standards.

44. Smythe thus failed, during the Audits, to perform adequate procedures to determine whether the work the Unregistered Firms performed complied with the PCAOB standards referenced in its audit reports.[28]

iv. Smythe's Consideration of Whether to Serve as Tower One's Principal Auditor Lacked Sufficient Basis

45. Although Smythe documented its consideration of the materiality of the portion of the financial statements the Firm audited in comparison with the portion audited by PKF Audisur and the importance of the components PKF Audisur audited in relation to Tower One's enterprises as a whole, Smythe's consideration lacked a sufficient basis under these circumstances to conclude that its own participation was sufficient to enable it to serve as the principal auditor for the Tower One Audits and to report as such on the relevant financial statements.[29] In particular, Smythe failed to perform an adequate analysis to determine whether it could, given the performance by PKF Audisur of the majority of audit procedures with respect to between 88% and 97% of Tower One's assets and between 80% and 90% of its revenues, use the work of PKF Audisur during the Tower One Audits and issue its audit reports without reference to the work performed by or reports of PKF Audisur.[30] Smythe thus violated AS 1205. Smythe also violated AS 1015 by failing to exercise due professional care in its consideration of whether to serve as principal auditor during the Tower One Audits.

v. Smythe's Opinions Were Not Formed on the Basis of Audits Performed Pursuant to PCAOB Standards

46. In addition, because Smythe issued audit reports containing unqualified opinions on Tower One's and Scully's financial statements when the Firm had in fact failed during those audits to exercise due professional care and to adhere to PCAOB standards relating to the use of the work of other auditors and audit planning, as described above, Smythe violated AS 3101 during the Audits.[31]

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28 *See* AS 3101.02.

29 *See* AS 1205.02.

30 *See* AS 1205.02-.05.

31 *See* AS 3101.02.

G. Smythe Violated PCAOB Quality Control Standards

47. PCAOB rules require that a registered firm comply with PCAOB quality control standards.[32] Those standards require a firm to "have a system of quality control for its accounting and auditing practice."[33] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[34]

48. PCAOB quality control standards also recognize that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures relating to each of the other elements of quality control are suitably designed and are being effectively applied."[35] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, the "[r]elevance and adequacy of the firm's policies and procedures."[36]

49. Smythe failed to establish and implement adequate policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that the work performed by engagement personnel met applicable professional standards and regulatory requirements related to using the work of other accounting firms.

50. During the Audits, Smythe's quality control policies and procedures did not address the use of other auditors or substantial role participation by other accounting firms, and the Firm failed to implement such policies and procedures and failed to monitor the relevance and adequacy of its existing policies and procedures with respect to using the work of other accounting firms. As a result, Smythe repeatedly used the Unregistered Firms to play a substantial role in the Audits.

51. Accordingly, Smythe failed to comply with QC § 20 and QC § 30.

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32 PCAOB Rule 3400T, *Interim Quality Control Standards*.

33 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

34 QC § 20.17.

35 QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

36 *See id*.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty of $175,000 on Smythe.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Smythe as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local,

or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by Smythe. Within three months of the date of this Order, Smythe shall review and evaluate its quality control policies and procedures to assess whether those policies and procedures provide the Firm with reasonable assurance that its personnel and other associated persons comply with applicable professional standards and regulatory requirements when the Firm uses audit work performed or supervised by other accounting firms.

2. Reporting. Within three months of the date of this Order, Smythe shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the areas specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by Smythe or, if Smythe concludes no such modifications or additions should be adopted, provide a detailed and satisfactory explanation of why the Firm believes changes are not warranted. In addition, Smythe shall submit any additional information and evidence concerning the Report, the information in the Report, and Smythe's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within six months of the date of this Order, Smythe's managing partner shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that Smythe has implemented all of the modifications and additions to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of Smythe's

adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. Smythe shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. Smythe understands that a failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 24, 2023

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of PricewaterhouseCoopers Auditing Company SA,

Respondent.

PCAOB Release No. 105-2023-027

November 14, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring PricewaterhouseCoopers Auditing Company SA ("Respondent," "PwC Greece," or the "Firm");

(2) imposing a civil money penalty in the amount of $3,000,000 on Respondent; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB rules and standards in connection with its audit of the December 31, 2016 financial statements of Aegean Marine Petroleum Network Inc. ("Aegean" or the "Company").

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings contained herein, except as to the Board's jurisdiction over Respondent and the subject matter of this proceeding, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **PricewaterhouseCoopers Auditing Company SA** is a corporation organized under the laws of Greece. PwC Greece is a member of the PricewaterhouseCoopers International Limited network ("PwC Global"). The Firm registered with the Board on June 10, 2004, pursuant to Section 102 of the Act and PCAOB rules. PwC Greece is, and at all relevant times was, a "registered public accounting firm" as that term is defined by Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i). PwC Greece was first appointed as Aegean's independent auditor in June 2016, and thereafter served as the principal auditor for the integrated audit of Aegean's 2016 financial statements and internal control over financial reporting (the "Audit").

B. Issuer

2. **Aegean Marine Petroleum Network Inc.** was, at all relevant times, a Marshall Islands corporation, headquartered in Greece, and traded on the New York Stock Exchange from 2006 to 2018. It was, at all relevant times, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). In its Form 20-F filing for the year ended December 31, 2016, Aegean described itself as an "international marine fuel logistics company that markets and physically supplies refined marine fuel and lubricants to vessels in port, at sea and on rivers."

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

C. Summary

3. This matter concerns PwC Greece's violations of PCAOB rules and standards in connection with the Audit and specifically with its audit procedures concerning transactions between Aegean and four counterparties that management represented were located in Fujairah, United Arab Emirates (each a "Counterparty," together the "Four Counterparties"). Aegean's records indicated that it both purchased fuel from and sold fuel to the Four Counterparties, often on or about the same date and in similar quantities. However, Aegean recorded that it sold fuel to the Four Counterparties at a much higher price than the price it paid to the Four Counterparties for its purchases. The sales to the Four Counterparties accounted for $543 million of Aegean's 2016 revenue (13% of revenue), and the accounts receivable ("A/R") from those transactions at year-end 2016 totaled $172 million (11% of Aegean's total assets).

4. During its acceptance procedures for the 2016 Audit, PwC Greece had considered publicly available information indicating that a long-time member of Aegean's executive leadership team who had a significant degree of control over the company ("Aegean Executive") had been criminally convicted in 2014 for fuel smuggling, and accused of a variety of other criminal activity. That information indicated that the Aegean Executive's fuel smuggling conviction involved "virtual invoicing," which the Audit engagement partner[2] understood to mean the creation of false documents relating to fuel purchases/sales in the years 1993-1995. As a result, the Firm's engagement team for the Audit assessed during the Audit that there was significant risk of material misstatement due to fraud, related to concerns about the ethics of management.

5. During the Audit, the engagement team encountered evidence that raised concerns about the transactions and outstanding balances associated with the Four Counterparties, including concerns about the collectibility of revenue from the Four Counterparties. Those concerns, among other issues, contributed to the engagement partner delaying the completion of the Audit, which was originally scheduled for late April 2017, so that the engagement team could gather additional audit evidence.

6. In response to the delay, Aegean requested a meeting with members of PwC Greece's senior leadership so that the Aegean Executive could register his complaints about the delay. Prior to the meeting, the engagement partner briefed a member of PwC Greece leadership on the bases for the delay, including that Aegean had not provided audit evidence in several areas and that, as of the end of April 2017, there had been no cash collections or

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[2] *See Nicos George Komodromos, CPA*, PCAOB Rel. No. 105-2023-028 (Nov. 14, 2023).

payments on any of the sales or purchases between Aegean and the Four Counterparties recorded in 2016. During the meeting, which occurred on May 3, 2017, the Aegean Executive discussed the Four Counterparties' transactions with the PwC Greece leaders and, more broadly, complained to them that PwC Greece was doing too much audit work.[3]

7. Over the next two weeks, the engagement team uncovered significant inconsistent audit evidence concerning the Four Counterparties, which the engagement team should have viewed as red flags that raised substantial doubt about management's assertions in Aegean's financial statements relating to the Four Counterparties' transactions and balances.

8. Most significantly, at the engagement team's instruction, staff from a PwC Global member firm in Dubai, United Arab Emirates ("PwC Dubai") attempted to visit the office addresses for the Four Counterparties that Aegean had provided to the engagement team, but found no evidence that the Four Counterparties were located there and reported that fact to the engagement team.[4] However, the engagement team failed to respond with due professional care and appropriate professional skepticism. Instead, the engagement team disregarded that, and other contradictory audit evidence concerning the Four Counterparties, without appropriately resolving the inconsistencies. As a result, the Firm violated PCAOB standards when, on May 16, 2017, the Firm issued an audit report containing an unqualified opinion on Aegean's financial statements, because it had not obtained sufficient appropriate audit evidence to support that opinion.

9. PwC Greece also violated PCAOB standards because the engagement team failed to document in its work papers various procedures performed during the Audit relating to the Four Counterparties, including PwC Dubai's visits to the Four Counterparties' asserted addresses. The engagement team further failed to identify the issues with the Four Counterparties' transactions in its engagement completion document for the Audit, a document in which PCAOB standards required the Firm to identify all significant findings or issues.

10. After the 2016 Audit, both the PwC Greece engagement team and Aegean's Audit Committee continued to raise questions about the collectibility of the A/R from the Four

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[3] During the May 3, 2017 meeting, the PwC Greece leaders informed the Aegean Executive that the audit would be complete only when the engagement team had received the necessary requested material and had finished its audit testing.

[4] At the time PwC Dubai reported the results of its visits to the engagement team, only three of the visits had been attempted. The engagement team then instructed PwC Dubai to cancel the fourth visit.

Counterparties. In connection with the never-completed audit of Aegean's 2017 financial statements, the engagement team discovered that information it had received from Aegean during the 2016 Audit appeared to have been falsified. PwC Greece shared that information with Aegean's Audit Committee and Aegean later announced in 2018 that, based on an internal investigation, it believed that the Four Counterparties were shell companies, with no material assets or operations, owned or controlled by former employees or affiliates of the Company. Aegean's Audit Committee and Board of Directors further concluded that the transactions with the Four Counterparties recorded from 2015 to 2017 lacked economic substance, and that the resulting A/R were uncollectible.

D. Background

11. In connection with the preparation or issuance of an audit report, PCAOB rules require that registered public accounting firms comply with the Board's auditing standards.[5] Under these standards, an auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[6] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient appropriate audit evidence to afford a reasonable basis to support the opinion expressed in the auditor's report.[7] The exercise of professional skepticism requires a "questioning mind and a critical assessment of audit evidence."[8]

12. PCAOB standards provide that the auditor should properly plan the audit.[9] "Planning the audit includes establishing the overall audit strategy for the engagement and developing an audit plan, which includes, in particular, planned risk assessment procedures and planned responses to the risks of material misstatement."[10] When developing the audit strategy and audit plan, the auditor should evaluate, among other things, whether risks

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5 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the Audit.

6 *See* AS 3101.07, *Reports on Audited Financial Statements*.

7 *See* AS 1015, *Due Professional Care in the Performance of Work*; AS 1105, *Audit Evidence*.

8 AS 1015.07.

9 *See* AS 2101.04, *Audit Planning*.

10 *Id.* at .05.

identified in the client acceptance process are important to the company's financial statements and internal control over financial reporting and, if so, how they will affect the auditor's procedures.[11] The auditor must also design and implement audit responses that specifically address the identified and assessed risks of material misstatement, including assessed risks of material misstatement due to fraud ("fraud risks").[12]

13. Planning is not a discrete phase of an audit but, rather, a continual and iterative process that continues until the completion of the audit.[13] The auditor should modify the overall audit strategy and the audit plan as necessary if circumstances change significantly during the course of the audit.[14]

14. Ultimately, the auditor must plan and perform the audit to obtain sufficient appropriate evidence to support the audit opinion.[15] Among other things, "[t]he auditor should obtain corroboration for management's explanations regarding significant unusual or unexpected transactions, events, amounts, or relationships. If management's responses to the auditor's inquiries appear to be implausible, inconsistent with other audit evidence, imprecise, or not at a sufficient level of detail to be useful, the auditor should perform procedures to address the matter."[16]

15. To be appropriate, evidence must be both relevant and reliable.[17] "If the auditor has not obtained sufficient appropriate audit evidence about a relevant assertion or has substantial doubt about a relevant assertion, the auditor should perform procedures to obtain further audit evidence to address the matter."[18] In forming an opinion, the auditor should take into account all relevant audit evidence, regardless of whether it appears to corroborate or to contradict the assertions in the financial statements.[19] "If audit evidence obtained from one source is inconsistent with that obtained from another, or if the auditor has doubts about the

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11 *See id*. at .07.

12 *See* AS 2301.08, .13, *The Auditor's Responses to the Risks of Material Misstatement*.

13 *See* AS 2101.05.

14 *See id*. at .15.

15 *See* AS 1105.04; AS 2810.33, *Evaluating Audit Results*.

16 AS 2810.08.

17 *See* AS 1105.04-.08.

18 AS 2810.35.

19 *See id*. at .03.

reliability of information to be used as audit evidence, the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit."[20]

16. As discussed in Sections III.E-F below, PwC Greece failed to comply with these and other PCAOB rules and standards during the Audit.

i. The Firm Identified a Fraud Risk for the Aegean Audit

17. The 2016 Audit was PwC Greece's first audit of Aegean. As a result, before beginning the Audit, the Firm first performed procedures regarding the acceptance of the client relationship.[21]

18. During the client acceptance procedures, the Firm considered the criminal allegations that had been made against the Aegean Executive over an extended period of years. On June 16, 2016, two members of PwC Greece's leadership and the three Firm partners who would be assigned to the Audit all met to discuss whether to accept Aegean as an audit client. During the meeting, the participants discussed the Aegean Executive's role at Aegean and his criminal history, including, specifically, a conviction for fuel smuggling accomplished through "virtual invoicing," which the Firm's engagement partner on the Audit understood meant the creation of false documents relating to purchases/sales of fuel.

19. During that June 16 acceptance meeting, the Firm also considered inquiries that it had made to Aegean's predecessor auditor, which had audited Aegean since 2006. The engagement team's documentation of those inquiries indicated that the predecessor auditor communicated to PwC Greece that: (1) there had been negative media and criminal matters relating to the Aegean Executive, but the PwC Greece engagement team did not understand the predecessor auditor to have identified any other matters for PwC Greece's consideration as bearing on the integrity of management; and (2) the predecessor auditor had communicated to management during the prior audit that there were significant deficiencies in Aegean's internal control over financial reporting, arising from information technology general controls.

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[20] AS 1105.29.

[21] PCAOB quality control standards provide that firms should establish client acceptance and continuance policies and procedures that provide a firm with reasonable assurance that the likelihood of association with a client whose management lacks integrity is minimized. *See* QC § 20.14, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*. Such policies and procedures should also provide reasonable assurance that the firm appropriately considers the risks associated with providing services in the particular circumstances. *See* QC § 20.15.

20. The participants in the June 16 acceptance meeting concluded that PwC Greece could accept the audit, but they also determined that the audit client should be classified as "High Risk" for anti-money laundering purposes.

21. At the time PwC Greece accepted the Audit, the Firm understood that the Aegean Executive was a significant Aegean shareholder, occupied "a role adjacent to that of the Company's CEO/CODM," and was "heavily involved in a vast spectrum of the daily operations of the Company and makes decisions related with the Company's operations." After the Firm accepted the 2016 Audit, but prior to year-end 2016, Aegean entered into an agreement to purchase the Aegean Executive's shares in the Company. PwC Greece understood that, despite the share buy-out, the Aegean Executive still remained actively engaged in key aspects of Aegean's business.

22. In light of the Aegean Executive's criminal history and role at the Company, PwC Greece documented in the Audit work papers that it had identified a risk concerning the integrity and ethics of management, which it linked to the fraud risk of management override of controls.[22]

ii. Significant Deficiencies in Aegean's Accounting System Increased the Risks Around the Four Counterparties' Transactions and Outstanding Balances

23. At the time of the Audit, the PwC Greece engagement team was aware that there were significant internal control deficiencies in the accounting system for Aegean's principal operating subsidiary, Aegean Marine Petroleum S.A. ("AMP"), where Aegean recorded most of its revenues. About 70% of Aegean's year-end consolidated accounts receivable were attributable to AMP's transactions.

24. The engagement team understood, among other things, that: (1) there was only one Aegean employee with knowledge of the AMP accounting system's design, and that employee could edit files and reports in the system; (2) the accounting system had no audit log functionality; (3) Aegean's accounting staff all shared a single login to the accounting system, which provided them with unlimited system access (resulting in a lack of segregation of duties); and (4) there was no means to extract journal entries from the accounting system. These significant deficiencies increased the risk of material misstatement for the transactions and outstanding balances recorded in that system, which included all of Aegean's transactions and balances with the Four Counterparties.

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[22] PCAOB standards provide that, in establishing an overall audit strategy, the auditor should take into account the results from risks evaluated as a part of client acceptance. *See* AS 2101.07-.08.

25. In response to these deficiencies, Aegean, at the urging of the engagement team, adopted and tested a manual matching control for revenue, and the engagement team then performed substantive tests of details on more than 10% of revenue transactions. However, the added matching control did not adequately compensate for the known deficiencies in the AMP accounting system. Nor did the matching control and the extent of substantive testing sufficiently address the increased risk of material misstatement through override of controls for transactions recorded in that system.

iii. The Four Counterparties' Transactions Were Material and Atypical

26. During the Audit, the engagement team understood that the revenues from the Four Counterparties were both significant in size and generated unusually high margins. The Four Counterparties' transactions were Aegean's largest transactions and accounted for $543 million (13%) of Aegean's 2016 revenue. The sales margins on the revenue transactions with the Four Counterparties—*i.e.*, the difference between the revenue earned on an individual sale and the cost of sale for that transaction—as calculated by the PwC Greece engagement team—were sometimes more than four times Aegean's average sales margin for its 2016 sales.

27. Because of their size and high margins, the Four Counterparties' transactions had a material impact on Aegean's net income. For 2016, the Four Counterparties' transactions generated approximately 38% of Aegean's gross profit, and 240% of its pre-tax income (*i.e.*, the transactions moved Aegean from a gross loss to a gross profit).

28. The engagement team also identified that there were substantial unpaid A/R from the Four Counterparties' transactions. Specifically, the team understood that Aegean had $172 million in A/R recorded from the Four Counterparties at year-end 2016. Those receivables amounted to 11% of Aegean's total assets as of year-end 2016. The engagement team also understood that, as of the end of April 2017, no cash had been received from the Four Counterparties for any revenues recorded in 2016.

29. Although Aegean had not collected cash for any of its 2016 sales to the Four Counterparties through the end of April 2017, the Firm understood that Aegean had nevertheless accounted for a significant portion of the A/R as having been satisfied in 2016. Specifically, the engagement team identified that Aegean had offset its accounts payable ("A/P") from its fuel purchases from the Four Counterparties against the A/R arising from its fuel sales to the Four Counterparties, which reduced Aegean's liabilities to the Four Counterparties to zero and reduced the outstanding A/R from the Four Counterparties by an equal amount.

30. The engagement team also identified that the transactions with the Four Counterparties, which the engagement team understood had been occurring since at least 2015, were unusual because they often involved Aegean simultaneously contracting with the same counterparty to both sell and purchase fuel in roughly the same quantities but at much different prices. The engagement team's analyses of the transactions revealed that Aegean sometimes sold fuel to the Four Counterparties at more than twice the price that Aegean had purchased fuel from the same Counterparty just days earlier. The engagement team further identified that the records Aegean initially provided to the team appeared to indicate that Aegean was selling and purchasing the same type of fuel from the Four Counterparties in these matched transactions, with no explanation for the much more favorable pricing given to Aegean.

31. When the engagement team asked for an explanation of the transactions with the Four Counterparties, the team was told that Aegean was engaged in "blending" transactions at its Fujairah facility whereby: (1) Aegean purchased fuel from the Four Counterparties at a low price because the fuel failed to meet the applicable fuel quality specification ("off-spec" fuel); (2) Aegean reprocessed that low-quality fuel at its Fujairah facility by "blending" it to bring it within the specification ("on-spec"); and (3) Aegean sold on-spec fuel back to the Four Counterparties, which commanded a higher price.[23]

32. The transactions with the Four Counterparties were atypical for Aegean. Aegean's Form 20-F indicated that Aegean's typical fuel sales involved loading fuel onto marine vessels. However, both the purchase and sale transactions with the Four Counterparties all involved onshore, inter-tank transfers. More specifically, the transactions with the Four Counterparties all involved Aegean delivering fuel to, or purchasing fuel from, third-party ground storage tanks located nearby Aegean's own tanks in Fujairah.

33. Additionally, the inter-tank transfers with the Four Counterparties did not generate the same types of transaction documents as Aegean's deliveries to and from marine vessels. Aegean's other fuel transactions were generally supported by delivery notes signed by purchasing parties. For the Four Counterparties' transactions, however, the engagement team only obtained from Aegean photocopies of Certificates of Quantity of a third-party surveyor (the "Surveyor"), which appeared to certify the volume of fuel transferred between tanks for

[23] Although Aegean's 2016 Form 20-F described that it had such blending capability at another facility in the Canary Islands, the Form 20-F did not disclose any such capability or activity at the Fujairah facility.

each transaction, but, unlike Aegean's typical delivery notes, did not include the signature of the purchasing party.

iv. PwC Greece Encountered Difficulties in Getting Information About the Four Counterparties, Including from Aegean

34. The engagement team discussed the Four Counterparties' transactions and outstanding balances with a member of PwC Greece's senior leadership, and the Firm determined that those transactions and outstanding balances warranted significant audit testing. However, the engagement team encountered substantial difficulty in obtaining information from Aegean to complete that audit testing.

35. For example, the engagement team encountered substantial difficulties obtaining street addresses for the Four Counterparties from Aegean to be used for confirmation requests about the A/R balances. Initially, Aegean provided the engagement team with only PO Box addresses for each of the Four Counterparties and, for one Counterparty, a "hotmail.com" email address. Although the team initially sent confirmation requests to those addresses and later received responses, the team was unable to locate any publicly available information to corroborate that the PO Box addresses were correct or that the Four Counterparties even existed.[24]

36. The engagement team therefore insisted that Aegean provide the Firm with street addresses for the Four Counterparties so that it could send them new confirmation requests. The engagement team made repeated requests to Aegean for those street addresses from mid-March to late April, emphasizing that the requests were a high priority. However, Aegean did not provide the street addresses until early May, after the engagement partner had delayed the audit report and informed Aegean that it would not issue an unqualified audit report without additional audit evidence to support the collectibility of the Four Counterparties' outstanding A/R balances or, alternatively, an adjustment relating to the value of those balances.

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[24] PCAOB standards provide that the auditor "should direct the confirmation request to a third party who the auditor believes is knowledgeable about the information to be confirmed." AS 2310.26, *The Confirmation Process*. "During the performance of confirmation procedures, the auditor should maintain control over the confirmation requests and responses. Maintaining control means establishing direct communication between the intended recipient and the auditor to minimize the possibility that the results will be biased because of interception and alteration of the confirmation requests or responses." *Id.* at .28 (footnote omitted).

37. The engagement team also requested ledger cards from Aegean's accounting system—*i.e.*, system-generated records showing account details for each of the Four Counterparties that would help the engagement team understand how Aegean had calculated the accounts receivable balance for each of the Four Counterparties. However, Aegean explained that it was unable to provide ledger cards because of shortcomings in the AMP system. Instead, Aegean offered to help the engagement team manually re-create the debit and credit history that Aegean purportedly used to track and calculate the payable and receivable balances.

38. The engagement team also requested the Surveyor's Certificates of Quantity and Certificates of Quality for the Four Counterparties' transactions. The former purported to verify the quantity of fuel delivered in each transaction and identified both the receiving and sending tank. The latter purported to provide a chemical analysis of the fuel delivered in each transaction. The engagement team obtained from Aegean photocopies of those certificates, but did not obtain additional audit evidence addressing their reliability.

39. The engagement team also requested a copy of the contract between Aegean and the Surveyor. However, Aegean informed PwC Greece that no such contract existed.

v. In Late April, the Firm Delayed Its Audit Report Because It Lacked Sufficient Appropriate Audit Evidence

40. The Firm originally planned to issue its audit opinion for the 2016 Aegean Audit at the end of April 2017. However, as that deadline approached, the engagement team recognized that it did not have sufficient appropriate audit evidence to support an unqualified audit report because, among other things: (1) the engagement team did not have sufficient appropriate evidence concerning the collectibility of the A/R of the Four Counterparties, and (2) Aegean had not yet provided the engagement team with evidence that it had completed implementation and testing of the new manual internal control for revenue in response to the significant deficiencies in the AMP accounting system.

41. As of the end of April, the engagement team still had not received street addresses for the Four Counterparties so that the team could send out new A/R confirmation requests. There also had not been any cash collections for any of the 2016 revenue transactions involving the Four Counterparties, four full months after year-end. As a result, the engagement team had substantial doubts about the collectibility of the $172 million A/R balance for the Four Counterparties that remained after Aegean had netted off and eliminated all the A/P balances incurred through purchases from the Four Counterparties.

42. The engagement team informed Aegean in late April that the Firm would not issue an audit report at the end of April because the Firm did not have sufficient appropriate audit evidence concerning certain audit areas, including the collectibility of the Four Counterparties' A/R. The Firm also notified Aegean that, in order to avoid an audit adjustment to the year-end 2016 A/R balances from the Four Counterparties, Aegean would need to collect those balances prior to the Firm issuing the audit report or offer other reliable evidence of those balances' collectibility.

vi. Firm Management Was Aware of the Engagement Team's Difficulties in the Audit Related to the Four Counterparties and Met with the Aegean Executive About the Audit

43. In early 2017, the engagement team notified a member of the Firm's leadership team ("Firm Leader A") about the Four Counterparties' transactions. The engagement team identified for Firm Leader A, among other things: (1) the fact that Aegean was both buying and selling fuel from the same parties; (2) that Aegean purported to be selling on-spec fuel and buying off-spec fuel in the Four Counterparties' transactions; and (3) that Aegean had not collected any cash payments on its 2016 sales to the Four Counterparties. The engagement team informed Firm Leader A in April 2017 that they were still waiting for Aegean to provide significant information, and that they did not yet have adequate evidence on the Four Counterparties' A/R to support an unqualified audit opinion.

44. Shortly after the audit report was delayed, an Aegean representative contacted another member of the Firm's leadership team ("Firm Leader B") to inform him that the Aegean Executive was frustrated with the delay of the audit report, and that the Aegean Executive wanted to meet with Firm Leader B to complain. In an email about setting up the meeting with the Aegean Executive, the Aegean representative suggested to Firm Leader B that the absence of cash settlements for the Four Counterparties' transactions had something to do with international sanctions.[25] In a follow-up telephone conversation, the Aegean representative indicated that the PwC Greece engagement partner was asking too many questions.

45. Firm Leader A and Firm Leader B met with the Aegean Executive, along with a member of Aegean's senior management. During that meeting Firm Leader A and Firm Leader B urged Aegean to provide the engagement team with the information that the engagement team had previously requested. They also encouraged Aegean to seek payment of the Four

[25] Firm Leader B reached out to the engagement partner and confirmed that the engagement team had conducted sanctions-related audit procedures relating to the Four Counterparties and was informed by the engagement partner that those procedures had not found any of the Four Counterparties listed in any international sanctions resources.

Counterparties' A/R balances, since that would be the best evidence that the A/R was collectible and did not need to be written down or written off. Firm Leader A and Firm Leader B informed Aegean that the Audit would be complete only when the engagement team had received the requested material and had completed its audit procedures.

E. The Firm Violated PCAOB Standards by Issuing an Unqualified Audit Opinion Without Gathering Sufficient Appropriate Audit Evidence and Without Adequately Responding to Contradictory Audit Evidence

i. The Engagement Team Failed to Appropriately Design the A/R Confirmation Requests

46. The engagement team failed to appropriately design its A/R confirmation requests, because the team did not tailor them to account for the fact that Aegean had netted A/P from its purchases from the Four Counterparties against recorded A/R for its sales to those same counterparties.[26] Aegean's netting of the A/P from the A/R in 2016 eliminated a $408 million debt from the unpaid purchases Aegean made from the Four Counterparties in 2016. That netting likewise resulted in Aegean recording a reduced A/R balance for the Four Counterparties, totaling only $172 million, despite $543 million in unpaid revenue transactions in 2016.

47. The confirmation requests the engagement team made to the Four Counterparties failed to identify that the A/R balance in the confirmation request was net of A/P. As a result, the confirmation responses did not provide reliable audit evidence of whether the Four Counterparties were confirming the net or gross A/R amounts. The engagement team also failed to perform any other procedures to verify that the Four Counterparties had agreed to offset A/P against A/R, or that such offset by Aegean was otherwise legally enforceable. As a result, the team did not obtain sufficient appropriate audit evidence to conclude that no A/P balance existed for Aegean's purchases from the Four Counterparties.

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[26] *See* AS 2310.16 ("Confirmation requests should be tailored to the specific audit objectives. Thus, when designing the confirmation requests, the auditor should consider the assertion(s) being addressed and the factors that are likely to affect the reliability of the confirmations."); *id.* at .25 ("The auditor's understanding of the client's arrangements and transactions with third parties is key to determining the information to be confirmed. The auditor should obtain an understanding of the substance of such arrangements and transactions to determine the appropriate information to include on the confirmation request. The auditor should consider requesting confirmation of the terms of unusual agreements or transactions . . . in addition to the amounts.").

ii. Visits to the Four Counterparties' Addresses Resulted in Significant Contradictory Audit Evidence that Raised a Red Flag of Potential Fraud Concerning the Revenue and A/R from the Four Counterparties

48. In early May, after Aegean provided the engagement team with street addresses for the Four Counterparties, the team promptly sent confirmation requests to those addresses but had no other information available to corroborate those addresses. As a result, at the same time that it sent the new confirmation requests, the engagement team engaged PwC Dubai to perform site visits at the Aegean-provided street addresses for the Four Counterparties.

49. In its instructions to PwC Dubai, the engagement team explained that it needed help verifying the existence of the Four Counterparties. The team instructed PwC Dubai to visit the Four Counterparties to confirm that the street addresses Aegean provided for them were valid, and to take photographs of each building and the enterprise door or sign with the name of the entity. The engagement team further instructed that, if entrance was not allowed to a building, PwC Dubai should "perform inquiries over the existence of the offices/entities" with the building's reception or doorman. The team stated in its instructions to PwC Dubai in underlined, bold, red, and all capital letter type: "**PLEASE TREAT THIS REQUEST AS BEING OF HIGH URGENCY AS THE CLIENT NEEDS TO FILE THE ANNUAL REPORT BY MAY 8, 2017.**"

50. On May 7, 2017, PwC Dubai attempted to visit the addresses provided for the Four Counterparties. Those efforts resulted in audit evidence contradicting the existence of the Four Counterparties. Upon completing its visits to the first three addresses, PwC Dubai found that one address did not exist, and the other two were residential apartments. PwC Dubai informed the engagement team of its findings, including that the two apartments it located had unmarked doors with no indications that any business existed there, and that workers at those buildings confirmed that the buildings were residential and that they were unaware of any offices in the building.

51. PwC Dubai also emailed the engagement team a summary of its findings from the first three site visits, along with supporting photos. Members of the engagement team, including the engagement partner, reviewed that information from PwC Dubai, including the photos.

52. The results of PwC Dubai's visits should have increased the engagement team's doubt not only about the collectibility of the A/R but also about the existence of the Four Counterparties, and whether the significant unusual revenue and A/R recorded from those Four Counterparties may have been the result of fraud.

53. However, in violation of PCAOB standards, the engagement team did not take adequate steps to resolve the contradictory audit evidence uncovered by PwC Dubai.[27] Instead, the team instructed PwC Dubai to cancel its site-visit to the remaining Counterparty address. The engagement team then disregarded the results of the PwC Dubai procedures based on uncorroborated representations received from a member of Aegean's senior management that street addresses are not commonly used in Fujairah, and that business locations in Fujairah are often informal.

iii. Telephone Inquiries Concerning the A/R Were Inadequate and Did Not Resolve Doubts Raised by the Site Visits

54. Although the engagement team received written responses to the original confirmation requests that were sent to the PO Box addresses, prior to the Audit's conclusion the team did not receive written responses to the confirmation requests that it sent to the street addresses. And, as described above, the engagement team was unable to independently verify either the PO Box or the street addresses that Aegean provided for the Four Counterparties. Those circumstances, along with the other difficulties that the team encountered in obtaining documents and information relating to the Four Counterparties and the significant and unusual nature of the Four Counterparties' transactions, warranted the exercise of increased professional skepticism.[28]

55. In the final days of the audit, the engagement team determined to make telephone inquiries to the Four Counterparties concerning the A/R confirmation requests. Between May 11 and May 15, the team called Aegean-provided telephone numbers for the Four Counterparties to verbally verify the A/R balances, which the telephone respondents confirmed.

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27 *See* AS 1105.29.

28 *See* AS 2310.27 (providing that an auditor may encounter circumstances in which it should exercise increased professional skepticism about the confirmation respondent's competence, knowledge, motivation, ability, or willingness to respond, or about the respondent's objectivity and freedom from bias with respect to the audited entity, and that, "[i]n these circumstances, the auditor should consider whether there is sufficient basis for concluding that the confirmation request is being sent to a respondent from whom the auditor can expect the response will provide meaningful and appropriate evidence."); *see also* AS 2401.13 *Consideration of Fraud in a Financial Statement Audit* (professional skepticism requires an ongoing questioning of whether the information and evidence obtained suggests that a material misstatement due to fraud has occurred); AS 2810.C1.c(1) & (4) (denial of access to records and unusual delays from management in providing information may affect assessment of fraud risk).

56. Despite the need for heightened professional skepticism, the engagement team failed to exercise due professional care and obtain information that would provide a sufficient basis for concluding that the individuals they called could provide meaningful and appropriate evidence about the Four Counterparties' transactions. For example, the engagement team did not solicit any information from the telephone respondents that would enable the team to resolve the doubts raised by PwC's unfruitful searches for public information on the Four Counterparties and PwC Dubai's problematic site visits to their purported street addresses. Nor did the engagement team solicit information that would cure the defective design of the written confirmation requests. Instead, the team sought and received the verbal agreement from the telephoned individuals that they had received the confirmation requests and agreed with the information in the original responses, including the outstanding A/R balance amounts.[29] The engagement team did not obtain any information that would allow the team to independently verify either the existence of the Four Counterparties or that the individuals with whom they spoke were the intended recipients at the Four Counterparties. Nor did the engagement team clarify that it had sought to confirm the A/R balance net of any A/P balances.

iv. Aegean-Provided Evidence of Cash Collections Included Additional Contradictory Audit Evidence that PwC Greece Did Not Resolve

57. As discussed above, at the time it delayed the audit report, PwC Greece informed Aegean that, to avoid an audit adjustment relating to the value of the Four Counterparties' year-end 2016 A/R balances, Aegean needed to make cash collections on those outstanding balances prior to the issuance of the audit report. Thus, PwC Greece had previously determined that evidence of cash collections would be critical to any conclusion that the Four Counterparties A/R balances were correctly stated.

58. On May 15 or 16, Aegean provided the engagement team with a document that Aegean claimed was an extract of May 7 to May 14 transaction information from one of its bank accounts, showing cash collections from two of the Counterparties. The extract was not a periodic bank statement generated by a bank in the ordinary course; the engagement team instead understood that it was an extract from an electronic bank account record. The engagement team members did not observe the bank information directly, because they understood the relevant bank information could be accessed only in Fujairah.

59. Despite the foregoing circumstances concerning the extract and the critical importance of the cash collections evidence to the Audit, the engagement team took no steps

[29] The telephone respondents indicated that they had received the mailed confirmations and would return them. However, the engagement team did not receive any additional written confirmation responses during the Audit.

to assess the extract's reliability as audit evidence.[30] Instead, the team relied on the extract as evidence of the collectibility of the Four Counterparties' A/R balances and the Firm issued the audit report within a day of receiving the extract. However, as discussed below, the extract: (1) provided little to no evidence of collectibility for three of the Counterparties' A/R; (2) left substantial questions about the collectibility of more than half of the A/R balance for the fourth Counterparty; and (3) indicated that Aegean might have unrecorded liabilities to the Four Counterparties.[31]

60. The extract did not evidence any payments from two of the Counterparties. For another Counterparty, the extract indicated a single payment amounting to less than half of the year-end 2016 A/R balance that Aegean had recorded for that Counterparty in its year-end 2016 A/R balance.

61. For the remaining Counterparty, the extract appeared to show that, between May 7 and May 13, Aegean and the Counterparty made offsetting payments to one another. As a result, the payments reflected only a net cash flow to Aegean amounting to less than 6% of the year-end 2016 A/R balance that Aegean had calculated for that Counterparty.

62. The offsetting payments that Aegean had made to one of the Counterparties in May 2017 were, themselves, contradictory audit evidence that should have raised doubts for the engagement team about all of the Four Counterparties' A/R and A/P balances. As described above, prior to receiving the extract, PwC Greece understood that Aegean had no outstanding A/P balances with the Four Counterparties, because Aegean had offset all those A/P balances against the Four Counterparties' larger A/R balances. In 2016 alone, Aegean had purportedly incurred $408 million in A/P, all of which it had eliminated through offsets to A/R. Based on that offset, Aegean had no recorded A/P for the Four Counterparties as of year-end 2016, and Aegean reported a significantly reduced A/R balance than it would have absent the offset.

63. The engagement team specifically understood that the May 2017 payments to one of the Four Counterparties were payments on purchases from that Counterparty. The cash payments were therefore an indication that Aegean's offsets of the A/P against A/R may have been invalid, and that Aegean may have had substantial unrecorded liabilities to the Four Counterparties and substantially higher A/R balances for the Four Counterparties as of year-end

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[30] *See* AS 1105.06 ("To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based.").

[31] As PwC Greece would later learn when it began work on the audit of Aegean's 2017 financial statements, the extract also appears to have been a forgery.

2016. Nevertheless, in violation of AS 1105.29, the engagement team did not perform audit procedures necessary to resolve the matter.

v. PwC Greece Improperly Issued an Audit Report Containing an Unqualified Audit Opinion

64. PCAOB standards provide that, if the auditor has not obtained sufficient appropriate audit evidence about a relevant assertion or has substantial doubt about a relevant assertion, the auditor should perform procedures to obtain further audit evidence to address the matter.[32] If the auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude whether the financial statements as a whole are free of material misstatement, the auditor should express a qualified opinion or a disclaimer of opinion.[33] An unqualified audit opinion may be expressed only when the auditor has formed such an opinion on the basis of an audit performed in accordance with the standards of the PCAOB.[34]

65. PwC Greece violated these standards when, on May 16, 2017, it released an audit report containing an unqualified audit opinion on Aegean's financial statements. Despite the heightened risks associated with the significant and unusual Four Counterparties' transactions and outstanding balances, the engagement team did not plan and perform procedures with due professional care to obtain sufficient appropriate evidence concerning those transactions and outstanding balances. Most critically, PwC Greece violated PCAOB standards by failing to resolve significant contradictory audit evidence concerning the Four Counterparties and the revenue, A/R, and A/P that Aegean attributed to the Four Counterparties.[35] As a result, PwC Greece did not obtain sufficient appropriate audit evidence to support an unqualified audit opinion, and it violated AS 1105, AS 2810, and AS 3101 when it issued its audit report.

F. The Firm Violated PCAOB Standards When the Engagement Team Failed to Document the Significant Audit Issues and Inconsistent Audit Evidence Concerning the Four Counterparties

66. PwC Greece also violated PCAOB standards because the engagement team: (1) did not document in its work papers the contradictory audit evidence resulting from the

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32 *See* AS 2810.35.

33 *See id.*

34 *See* AS 3101.07.

35 *See* AS 1105.29.

PwC Dubai attempted site-visits to the Four Counterparties; (2) did not document other critical procedures that the engagement team performed concerning the Four Counterparties; and (3) did not include any discussion of the Four Counterparties in the engagement completion document, despite the fact that the transactions with the Four Counterparties raised significant issues for the Audit.

67. PCAOB standards provide that the auditor must document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[36] Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached.[37]

68. "The auditor must document significant findings or issues, actions taken to address them (including additional evidence obtained), and the basis for the conclusions reached in connection with each engagement."[38] "The auditor must identify all significant findings or issues in an *engagement completion document*. . . . This document, along with any documents cross-referenced, should collectively be as specific as necessary in the circumstances for a reviewer to gain a thorough understanding of the significant findings or issues."[39]

69. "In addition to the documentation necessary to support the auditor's final conclusions, audit documentation must include information the auditor has identified relating

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[36] *See* AS 1215.06, *Audit Documentation*.

[37] *See id*.

[38] *Id.* at .12. Significant findings or issues are substantive matters that are important to the procedures performed, evidence obtained, or conclusions reached, and include, but are not limited to: (i) results of auditing procedures that indicate a need for significant modification of planned auditing procedures; (ii) circumstances that cause significant difficulty in applying auditing procedures; (iii) significant changes in the auditor's risk assessments, including risks that were not identified previously, and the modifications to audit procedures or additional audit procedures performed in response to those changes; and (iv) risks of material misstatement that are determined to be significant risks and the results of the auditing procedures performed in response to those risks. *See id.*

[39] *Id.* at .13 (italics in original).

to significant findings or issues that is inconsistent with or contradicts the auditor's final conclusions."[40]

70. Most significantly, PwC Greece violated AS 1215.08 because the engagement team failed to mention or reference in its audit documentation the procedures that PwC Dubai performed to attempt to visit the Aegean-provided addresses for the Four Counterparties, the results of those procedures, or why the engagement team later dismissed those results. Indeed, the audit documentation contains no mention at all of the concerns about the Four Counterparties' existence.

71. Additionally, in violation of AS 1215.06, the engagement team omitted any reference in the audit documentation to its examination of why Aegean was making both purchases and sales of fuel from the Four Counterparties, often at roughly the same time and in similar quantities, but at significantly different prices. The engagement team did not document its initial concerns about those transactions and the unusually high margins Aegean achieved on them. Nor did it document that Aegean explained those transactions as "blending" transactions, or that the team then attempted to verify management's blending explanation by examining Certificates of Quality for both the purchases and sales.

72. Finally, although the Four Counterparties' transactions were a significant issue for the audit, the engagement team failed to document them as such in the engagement completion document, in violation of AS 1215.12-13. In fact, the engagement completion document for the Audit makes no reference to the Four Counterparties' transactions at all.

73. The failure to adequately document the significant auditing issues, the related audit procedures and results, and the inconsistent audit evidence uncovered concerning the Four Counterparties deprived the engagement quality reviewer for the Audit of important information for his required evaluation of the significant judgments and related conclusions made by the engagement team in the Audit.[41]

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[40] *Id.* at .08.

[41] PCAOB standards provide that the engagement quality reviewer should review the engagement completion document as part of the required evaluation of the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report. *See* AS 1220.09, .10(e), *Engagement Quality Review*.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $3,000,000 is imposed on PricewaterhouseCoopers Auditing Company SA.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies PricewaterhouseCoopers Auditing Company SA as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or

indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy (except Respondent may seek or accept reimbursement or indemnification of any civil money penalty amounts from self-insurance provided through a captive insurer owned by Respondent and/or other firms within the network of which Respondent is a member that provides insurance solely to Respondent and other firms within that network); (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(F)-(G) of the Act and PCAOB Rule 5300(a)(6) & (9), the Board orders that:

1. **Training.** Within 120 days after entry of this Order, PricewaterhouseCoopers Auditing Company SA shall ensure that it provides additional training to each of its associated persons who participates in the planning or performing of any audit services (as defined in PCAOB Rule 1001(a)(vii)) that are required to be performed under PCAOB standards, for a total of 20 additional hours for each associated person, covering the following topics:

    a. Requirements under PCAOB auditing standards relating to contradictory or inconsistent audit evidence, including requirements under AS 1105.29, *Audit Evidence*, AS 2805.04, *Management Representations*, and AS 2810.03, .08, *Evaluating Audit Results*.

b. Requirements under PCAOB auditing standards relating to the assessment of risks of material misstatement due to fraud, including requirements under AS 2110.52, .68, *Identifying and Assessing Risks of Material Misstatement*.

c. Requirements under PCAOB auditing standards relating to the consideration of fraud, including requirements under AS 2401, *Consideration of Fraud in a Financial Statement Audit*. Such training should include: (i) consideration of whether to confirm with customers certain relevant contract terms and the absence of side agreements (*see* AS 2401.54); (ii) evaluation of significant unusual transactions (*see* AS 2401.66-.67A); and (iii) identification of fraud risk factors (*see* AS 2401.85).

d. Requirements under PCAOB auditing standards relating to the confirmation process, including requirements under AS 2310.08, .15, .24-.29, .33, *The Confirmation Process*.

e. Requirements under PCAOB auditing standards for audit documentation, including requirements under AS 1215.06, .08, .12-.13, *Audit Documentation*.

2. **Third-Party Review.** For a period of two years from the date of this order, PricewaterhouseCoopers Auditing Company SA shall arrange for one or more third parties to perform the following reviews for each issuer audit in which the Firm prepares or issues an audit report or plays a substantial role in the preparation or issuance of an audit report ("PCAOB engagement"):

   a. **Risk Assessment and Planned Responses to Significant Risks.** A third party shall review and evaluate the engagement team's identification and assessment of the significant risks, including fraud risks, for the PCAOB engagement, and the planned responses to those risks. In connection with the review described in this paragraph, the engagement partner and the senior-most engagement manager (or equivalent) for the PCAOB engagement must discuss the steps that they took to satisfy the requirements of AS 2110.52-.53, *Identifying and Assessing Risks of Material Misstatement*, including the

substance and results of the brainstorming discussion required by AS 2110.52. The review described in this paragraph must occur sufficiently in advance of the completion of fieldwork for the audit to allow any feedback from the review to be taken into account during the performance of the audit procedures for the PCAOB engagement.

b. **Pre-Issuance Review.** A third party shall conduct a pre-issuance quality control monitoring review for the PCAOB engagement. The purpose of such pre-issuance review shall be to support the Firm in identifying deficiencies, if any, in the application of PCAOB rules or standards, and adequately addressing those deficiencies prior to the issuance of the audit report. The review described in this paragraph must be in addition to the Engagement Quality Review required by AS 1220, *Engagement Quality Review*.

The third parties performing the reviews must be experienced in and knowledgeable about the application of PCAOB standards, including experience in quality and risk management and/or forensic services, and may not be a current or former Firm partner or employee (or equivalent). The third party must also have a level of knowledge and competence as would be required to serve as the engagement quality reviewer for the PCAOB engagement.

3. Respondent shall certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs IV.C.1 and IV.C.2, within 30 days of completing those undertakings.

4. For good cause shown, the PCAOB staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

5. Respondent understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 14, 2023

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Nicos George Komodromos, CPA

Respondent.

PCAOB Release No. 105-2023-028

November 14, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Nicos George Komodromos, CPA ("Respondent" or "Komodromos");

(2) barring Komodromos from being an associated person of a registered public accounting firm;[1] and

(3) imposing a civil money penalty in the amount of $80,000 on Respondent.

The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB rules and standards in connection with PricewaterhouseCoopers Auditing Company SA's audit of the December 31, 2016 financial statements of Aegean Marine Petroleum Network Inc. ("Aegean" or the "Company").

I.

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

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings contained herein, except as to the Board's jurisdiction over Respondent and the subject matter of this proceeding, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Nicos George Komodromos** is a former partner of PricewaterhouseCoopers Auditing Company SA.[4] At all relevant times, he was a certified public accountant licensed in Greece and New York (New York license No. 071674). Komodromos was, at all relevant times, an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). He was the engagement partner for the integrated audit of Aegean's 2016 financial statements and internal control over financial reporting (the "Audit").

B. Issuer

2. **Aegean Marine Petroleum Network Inc.** was, at all relevant times, a Marshall Islands corporation, headquartered in Greece, and traded on the New York Stock Exchange from 2006 to 2018. It was, at all relevant times, an "issuer" as that term is defined by

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

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] *See PricewaterhouseCoopers Auditing Company SA*, PCAOB Rel. No. 105-2023-027 (Nov. 14, 2023).

Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). In its Form 20-F filing for the year ended December 31, 2016, Aegean described itself as an "international marine fuel logistics company that markets and physically supplies refined marine fuel and lubricants to vessels in port, at sea and on rivers."

C. Other Relevant Entity

3. **PricewaterhouseCoopers Auditing Company SA** ("PwC Greece") is a corporation organized under the laws of Greece. PwC Greece is a member of the PricewaterhouseCoopers International Limited network ("PwC Global"). The Firm registered with the Board on June 10, 2004, pursuant to Section 102 of the Act and PCAOB rules. PwC Greece is, and at all relevant times was, a "registered public accounting firm" as that term is defined by Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i). PwC Greece was first appointed as Aegean's independent auditor in June 2016, and thereafter served as the principal auditor for the Audit.

D. Summary

4. This matter concerns Komodromos's violations of PCAOB rules and standards in connection with the Audit and specifically with the audit procedures he performed and directed concerning transactions between Aegean and four counterparties that management represented were located in Fujairah, United Arab Emirates (each a "Counterparty," together the "Four Counterparties"). Aegean's records indicated that it both purchased fuel from and sold fuel to the Four Counterparties, often on or about the same date and in similar quantities. However, Aegean recorded that it sold fuel to the Four Counterparties at a much higher price than the price it paid to the Four Counterparties for its purchases. The sales to the Four Counterparties accounted for $543 million of Aegean's 2016 revenue (13% of revenue), and the accounts receivable ("A/R") from those transactions at year-end 2016 totaled $172 million (11% of Aegean's total assets).

5. During the acceptance procedures for the 2016 Audit, Komodromos considered publicly available information indicating that a long-time member of Aegean's executive leadership team who had a significant degree of control over the company ("Aegean Executive") had been criminally convicted in 2014 for fuel smuggling and accused of a variety of other criminal activity. That information indicated that the Aegean Executive's fuel smuggling conviction involved "virtual invoicing," which Komodromos understood to mean the creation of false documents relating to fuel purchases/sales in the years 1993-1995. As a result, Komodromos assessed during the Audit that there was significant risk of material misstatement due to fraud, related to concerns about the ethics of management.

6. During the Audit, Komodromos encountered evidence that raised concerns about the transactions and outstanding balances associated with the Four Counterparties, including concerns about the collectibility of revenue from the Four Counterparties. Those concerns, among other issues, contributed to Komodromos delaying the completion of the Audit, which was originally scheduled for late April 2017, so that he and the engagement team could gather additional audit evidence.

7. In response to the delay, Aegean requested a meeting with members of PwC Greece's senior leadership so that the Aegean Executive could register his complaints about the delay. Prior to the meeting, Komodromos briefed a member of PwC Greece leadership on the bases for the delay, including that Aegean had not provided audit evidence in several areas and that, as of the end of April 2017, there had been no cash collections or payments on any of the sales or purchases between Aegean and the Four Counterparties recorded in 2016. Komodromos understood that, during the meeting, which occurred on May 3, 2017, the Aegean Executive discussed the Four Counterparties' transactions with the PwC Greece leaders and, more broadly, complained to them that PwC Greece was doing too much audit work.[5]

8. Over the next two weeks, Komodromos and the engagement team working under his direction uncovered significant inconsistent audit evidence concerning the Four Counterparties, which he should have viewed as red flags that raised substantial doubt about management's assertions in Aegean's financial statements relating to the Four Counterparties' transactions and balances.

9. Most significantly, at Komodromos's instruction, staff from a PwC Global member firm in Dubai, United Arab Emirates ("PwC Dubai") attempted to visit the office addresses for the Four Counterparties that Aegean had provided to the engagement team, but found no evidence that the Four Counterparties were located there and reported that fact to the Firm.[6] However, Komodromos failed to respond with due professional care and appropriate professional skepticism. Instead, Komodromos disregarded that, and other contradictory audit evidence concerning the Four Counterparties, without appropriately resolving the inconsistencies. As a result, Komodromos violated PCAOB standards when, on May 16, 2017, he authorized the issuance of the Firm's audit report containing an unqualified opinion on

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[5] Komodromos also understood that, during the May 3, 2017 meeting, the PwC Greece leaders reaffirmed that the audit would be complete only when the engagement team had received the necessary requested material and had finished its audit testing.

[6] At the time PwC Dubai reported the results of its visits to PwC Greece, only three of the visits had been attempted. Komodromos then instructed the engagement team to cancel PwC Dubai's fourth visit.

Aegean's financial statements, because he had not obtained sufficient appropriate audit evidence to support that opinion.

10. Komodromos also violated PCAOB standards by failing to ensure the Audit work papers documented various procedures performed during the Audit relating to the Four Counterparties, including PwC Dubai's visits to the Four Counterparties' asserted addresses. Komodromos and the engagement team further failed to identify the issues with the Four Counterparties' transactions in the engagement completion document for the Audit, a document in which PCAOB standards required the Firm to identify all significant findings or issues.

11. After the 2016 Audit, both the PwC Greece engagement team and Aegean's Audit Committee continued to raise questions about the collectibility of the A/R from the Four Counterparties. In connection with the never-completed audit of Aegean's 2017 financial statements, the engagement team discovered that information it had received from Aegean during the 2016 Audit appeared to have been falsified. Komodromos shared that information with Aegean's Audit Committee and Aegean later announced in 2018 that, based on an internal investigation, it believed that the Four Counterparties were shell companies, with no material assets or operations, owned or controlled by former employees or affiliates of the Company. Aegean's Audit Committee and Board of Directors further concluded that the transactions with the Four Counterparties recorded from 2015 to 2017 lacked economic substance, and that the resulting A/R were uncollectible.

E. Background

12. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards.[7] Under these standards, an auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[8] Among other things, those standards require that an auditor exercise due professional care, exercise professional skepticism, and obtain sufficient appropriate audit evidence to afford a reasonable basis to

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[7] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the Audit.

[8] *See* AS 3101.07, *Reports on Audited Financial Statements*.

support the opinion expressed in the auditor's report.[9] The exercise of professional skepticism requires a "questioning mind and a critical assessment of audit evidence."[10]

13. PCAOB standards provide that the auditor should properly plan the audit.[11] "Planning the audit includes establishing the overall audit strategy for the engagement and developing an audit plan, which includes, in particular, planned risk assessment procedures and planned responses to the risks of material misstatement."[12] When developing the audit strategy and audit plan, the auditor should evaluate, among other things, whether risks identified in the client acceptance process are important to the company's financial statements and internal control over financial reporting and, if so, how they will affect the auditor's procedures.[13] The auditor must also design and implement audit responses that specifically address the identified and assessed risks of material misstatement, including assessed risks of material misstatement due to fraud ("fraud risks").[14]

14. Planning is not a discrete phase of an audit but, rather, a continual and iterative process that continues until the completion of the audit.[15] The auditor should modify the overall audit strategy and the audit plan as necessary if circumstances change significantly during the course of the audit.[16]

15. Ultimately, the auditor must plan and perform the audit to obtain sufficient appropriate evidence to support the audit opinion.[17] Among other things, "[t]he auditor should obtain corroboration for management's explanations regarding significant unusual or unexpected transactions, events, amounts, or relationships. If management's responses to the auditor's inquiries appear to be implausible, inconsistent with other audit evidence, imprecise,

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9 *See* AS 1015, *Due Professional Care in the Performance of Work*; AS 1105, *Audit Evidence*.

10 AS 1015.07.

11 *See* AS 2101.04, *Audit Planning*.

12 *Id.* at .05.

13 *See id*. at .07.

14 *See* AS 2301.08, .13, *The Auditor's Responses to the Risks of Material Misstatement*.

15 *See* AS 2101.05.

16 *See id*. at .15.

17 *See* AS 1105.04; AS 2810.33, *Evaluating Audit Results*.

or not at a sufficient level of detail to be useful, the auditor should perform procedures to address the matter."[18]

16. To be appropriate, evidence must be both relevant and reliable.[19] "If the auditor has not obtained sufficient appropriate audit evidence about a relevant assertion or has substantial doubt about a relevant assertion, the auditor should perform procedures to obtain further audit evidence to address the matter."[20] In forming an opinion, the auditor should take into account all relevant audit evidence, regardless of whether it appears to corroborate or to contradict the assertions in the financial statements.[21] "If audit evidence obtained from one source is inconsistent with that obtained from another, or if the auditor has doubts about the reliability of information to be used as audit evidence, the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit."[22]

17. The engagement partner is responsible for the engagement and its performance.[23] Accordingly, the engagement partner is responsible for, among other things, proper supervision of the work of engagement team members and for compliance with PCAOB standards.[24] Appropriate supervision of an audit includes reviewing the work of engagement team members to evaluate whether: (1) the work was performed and documented; (2) the objectives of the procedures were achieved; and (3) the results of the work support the conclusions reached.[25]

18. As discussed in Sections III.F-G below, Komodromos failed to comply with these and other PCAOB rules and standards during the Audit.

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18 AS 2810.08.

19 *See* AS 1105.04-.08.

20 AS 2810.35.

21 *See id*. at .03.

22 AS 1105.29.

23 *See* AS 1201.03, *Supervision of the Audit Engagement*.

24 *See id.* The engagement partner may seek assistance from appropriate engagement team members in fulfilling his or her responsibilities pursuant to this standard. *See id.* at .04.

25 *See id.* at .05(c).

i. Komodromos Identified a Fraud Risk for the Aegean Audit

19. The 2016 Audit was PwC Greece's first audit of Aegean. As a result, before beginning the Audit, the Firm first performed procedures regarding the acceptance of the client relationship.[26]

20. During the client acceptance procedures, Komodromos considered the criminal allegations that had been made against the Aegean Executive over an extended period of years. On June 16, 2016, Komodromos, two members of PwC Greece's leadership, and two other Firm partners who would be assigned to the Audit, all met to discuss whether to accept Aegean as an audit client. During the meeting, the participants discussed the Aegean Executive's role at Aegean and his criminal history, including, specifically, a conviction for fuel smuggling accomplished through "virtual invoicing," which Komodromos understood meant the creation of false documents relating to purchases/sales of fuel.

21. During that June 16 acceptance meeting, the Firm also considered inquiries that it had made to Aegean's predecessor auditor, which had audited Aegean since 2006. The engagement team's documentation of those inquiries indicated that the predecessor auditor communicated to PwC Greece that: (1) there had been negative media and criminal matters relating to the Aegean Executive, but the PwC Greece engagement team did not understand the predecessor auditor to have identified any other matters for PwC Greece's consideration as bearing on the integrity of management; and (2) the predecessor auditor had communicated to management during the prior audit that there were significant deficiencies in Aegean's internal control over financial reporting, arising from information technology general controls.

22. The participants in the June 16 acceptance meeting, including Komodromos, concluded that PwC Greece could accept the audit, but they also determined that the audit client should be classified as "High Risk" for anti-money laundering purposes.

23. At the time PwC Greece accepted the Audit, Komodromos understood that the Aegean Executive was a significant Aegean shareholder, occupied "a role adjacent to that of the Company's CEO/CODM," and was "heavily involved in a vast spectrum of the daily operations of the Company and makes decisions related with the Company's operations." After the Firm

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[26] PCAOB quality control standards provide that firms should establish client acceptance and continuance policies and procedures that provide a firm with reasonable assurance that the likelihood of association with a client whose management lacks integrity is minimized. *See* QC § 20.14, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*. Such policies and procedures should also provide reasonable assurance that the firm appropriately considers the risks associated with providing services in the particular circumstances. *See* QC § 20.15.

accepted the 2016 Audit, but prior to year-end 2016, Aegean entered into an agreement to purchase the Aegean Executive's shares in the Company. Komodromos understood that, despite the share buy-out, the Aegean Executive still remained actively engaged in key aspects of Aegean's business.

24. In light of the Aegean Executive's criminal history and role at the Company, Komodromos and the engagement team documented in the Audit work papers that they had identified a risk concerning the integrity and ethics of management, which they linked to the fraud risk of management override of controls.[27]

ii. Significant Deficiencies in Aegean's Accounting System Increased the Risks Around the Four Counterparties' Transactions and Outstanding Balances

25. At the time of the Audit, Komodromos was aware that there were significant internal control deficiencies in the accounting system for Aegean's principal operating subsidiary, Aegean Marine Petroleum S.A. ("AMP"), where Aegean recorded most of its revenues. About 70% of Aegean's year-end consolidated accounts receivable were attributable to AMP's transactions.

26. Komodromos understood, among other things, that: (1) there was only one Aegean employee with knowledge of the AMP accounting system's design, and that employee could edit files and reports in the system; (2) the accounting system had no audit log functionality; (3) Aegean's accounting staff all shared a single login to the accounting system, which provided them with unlimited system access (resulting in a lack of segregation of duties); and (4) there was no means to extract journal entries from the accounting system. These significant deficiencies increased the risk of material misstatement for the transactions and outstanding balances recorded in that system, which included all of Aegean's transactions and balances with the Four Counterparties.

27. In response to the above deficiencies, Aegean, at the urging of Komodromos and the engagement team, adopted and tested a manual matching control for revenue, and the engagement team then performed substantive tests of details on more than 10% of revenue transactions. However, the added matching control did not adequately compensate for the known deficiencies in the AMP accounting system. Nor did the matching control and the extent of substantive testing sufficiently address the increased risk of material misstatement through override of controls for transactions recorded in that system.

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[27] PCAOB standards provide that, in establishing an overall audit strategy, the auditor should take into account the results from risks evaluated as a part of client acceptance. *See* AS 2101.07-.08.

iii. The Four Counterparties' Transactions Were Material and Atypical

28. During the Audit, Komodromos understood that the revenues from the Four Counterparties were both significant in size and generated unusually high margins. The Four Counterparties' transactions were Aegean's largest transactions and accounted for $543 million (13%) of Aegean's 2016 revenue. The sales margins on the revenue transactions with the Four Counterparties—*i.e.*, the difference between the revenue earned on an individual sale and the cost of sale for that transaction—as calculated by the engagement team—were sometimes more than four times Aegean's average sales margin for its 2016 sales.

29. Because of their size and high margins, the Four Counterparties' transactions had a material impact on Aegean's net income. For 2016, the Four Counterparties' transactions generated approximately 38% of Aegean's gross profit, and 240% of its pre-tax income (*i.e.*, the transactions moved Aegean from a gross loss to a gross profit).

30. Komodromos also understood that there were substantial unpaid A/R from the Four Counterparties' transactions. Specifically, Komodromos understood that Aegean had $172 million in A/R recorded from the Four Counterparties at year-end 2016. Those receivables amounted to 11% of Aegean's total assets as of year-end 2016. Komodromos also understood that, as of the end of April 2017, no cash had been received from the Four Counterparties for any revenues recorded in 2016.

31. Although Aegean had not collected cash for any of its 2016 sales to the Four Counterparties through the end of April 2017, Komodromos understood that Aegean had nevertheless accounted for a significant portion of the A/R as having been satisfied in 2016. Specifically, the engagement team identified that Aegean had offset its accounts payable ("A/P") from its fuel purchases from the Four Counterparties against the A/R arising from its fuel sales to the Four Counterparties, which reduced Aegean's liabilities to the Four Counterparties to zero and reduced the outstanding A/R from the Four Counterparties by an equal amount.

32. The engagement team also identified that the transactions with the Four Counterparties, which Komodromos understood had been occurring since at least 2015, were unusual because they often involved Aegean simultaneously contracting with the same counterparty to both sell and purchase fuel in roughly the same quantities but at much different prices. The engagement team's analyses of the transactions revealed that Aegean sometimes sold fuel to the Four Counterparties at more than twice the price that Aegean had purchased fuel from the same Counterparty just days earlier. The engagement team further identified that the records Aegean initially provided to the team appeared to indicate that Aegean was selling and purchasing the same type of fuel from the Four Counterparties in these

matched transactions, with no explanation for the much more favorable pricing given to Aegean.

33. When Komodromos and the engagement team asked for an explanation of the transactions with the Four Counterparties, they were told that Aegean was engaged in "blending" transactions at its Fujairah facility, whereby: (1) Aegean purchased fuel from the Four Counterparties at a low price because the fuel failed to meet the applicable fuel quality specification ("off-spec" fuel); (2) Aegean reprocessed that low-quality fuel at its Fujairah facility by "blending" it to bring it within the specification ("on-spec"); and (3) Aegean sold on-spec fuel back to the Four Counterparties, which commanded a higher price.[28]

34. The transactions with the Four Counterparties were atypical for Aegean. Aegean's Form 20-F indicated that Aegean's typical fuel sales involved loading fuel onto marine vessels. However, both the purchase and sale transactions with the Four Counterparties all involved onshore, inter-tank transfers. More specifically, the transactions with the Four Counterparties all involved Aegean delivering fuel to, or purchasing fuel from, third-party ground storage tanks located nearby Aegean's own tanks in Fujairah.

35. Additionally, the inter-tank transfers with the Four Counterparties did not generate the same types of transaction documents as Aegean's deliveries to and from marine vessels. Aegean's other fuel transactions were generally supported by delivery notes signed by purchasing parties. For the Four Counterparties' transactions, however, the engagement team only obtained from Aegean photocopies of Certificates of Quantity of a third-party surveyor (the "Surveyor"), which appeared to certify the volume of fuel transferred between tanks for each transaction, but, unlike Aegean's typical delivery notes, did not include the signature of the purchasing party.

iv. Komodromos Encountered Difficulties in Getting Information About the Four Counterparties, Including from Aegean

36. Komodromos discussed the Four Counterparties' transactions and outstanding balances with a member of PwC Greece's senior leadership, and Komodromos and the Firm determined that those transactions and outstanding balances warranted significant audit testing. However, the engagement team encountered substantial difficulty in obtaining information from Aegean to complete that audit testing.

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[28] Although Aegean's 2016 Form 20-F described that it had such blending capability at another facility in the Canary Islands, the Form 20-F did not disclose any such capability or activity at the Fujairah facility.

37. For example, the engagement team encountered substantial difficulties obtaining street addresses for the Four Counterparties from Aegean to be used for confirmation requests about the A/R balances. Initially, Aegean provided the engagement team with only PO Box addresses for each of the Four Counterparties and, for one Counterparty, a "hotmail.com" email address. Although the team initially sent confirmation requests to those addresses and later received responses, the team was unable to locate any publicly available information to corroborate that the PO Box addresses were correct or that the Four Counterparties even existed.[29]

38. Komodromos therefore insisted that Aegean provide the Firm with street addresses for the Four Counterparties so that the engagement team could send them new confirmation requests. Komodromos and the engagement team made repeated requests to Aegean for those street addresses from mid-March to late April, emphasizing that the requests were a high priority. However, Aegean did not provide the street addresses until early May, after Komodromos had delayed the audit report and informed Aegean that the Firm would not issue an unqualified audit report without additional audit evidence to support the collectibility of the Four Counterparties' outstanding A/R balances or, alternatively, an adjustment relating to the value of those balances.

39. The engagement team also requested ledger cards from Aegean's accounting system—*i.e.*, system-generated records showing account details for each of the Four Counterparties that would help the engagement team understand how Aegean had calculated the accounts receivable balance for each of the Four Counterparties. However, Aegean explained that it was unable to provide ledger cards because of shortcomings in the AMP system. Instead, Aegean offered to help the engagement team manually re-create the debit and credit history that Aegean purportedly used to track and calculate the payable and receivable balances.

40. The engagement team also requested the Surveyor's Certificates of Quantity and Certificates of Quality for the Four Counterparties' transactions. The former purported to verify the quantity of fuel delivered in each transaction and identified both the receiving and sending tank. The latter purported to provide a chemical analysis of the fuel delivered in each

[29] PCAOB standards provide that the auditor "should direct the confirmation request to a third party who the auditor believes is knowledgeable about the information to be confirmed." AS 2310.26, *The Confirmation Process*. "During the performance of confirmation procedures, the auditor should maintain control over the confirmation requests and responses. Maintaining control means establishing direct communication between the intended recipient and the auditor to minimize the possibility that the results will be biased because of interception and alteration of the confirmation requests or responses." *Id.* at .28 (footnote omitted).

transaction. The engagement team obtained from Aegean photocopies of those certificates, but did not obtain additional audit evidence addressing their reliability.

41. The engagement team also requested a copy of the contract between Aegean and the Surveyor. However, Aegean informed PwC Greece that no such contract existed.

v. In Late April, Komodromos Delayed the Firm's Audit Report Because He Lacked Sufficient Appropriate Audit Evidence

42. Komodromos originally planned for the Firm to issue its audit opinion for the 2016 Aegean Audit at the end of April 2017. However, as that deadline approached, Komodromos recognized that he did not have sufficient appropriate audit evidence to support an unqualified audit report because, among other things: (1) the engagement team did not have sufficient appropriate evidence concerning the collectibility of the A/R of the Four Counterparties, and (2) Aegean had not yet provided the engagement team with evidence that it had completed implementation and testing of the new manual internal control for revenue in response to the significant deficiencies in the AMP accounting system.

43. As of the end of April, the engagement team still had not received street addresses for the Four Counterparties so that the team could send out new A/R confirmation requests. There also had not been any cash collections for any of the 2016 revenue transactions involving the Four Counterparties, four full months after year-end. As a result, Komodromos had substantial doubts about the collectibility of the $172 million A/R balance for the Four Counterparties that remained after Aegean had netted off and eliminated all the A/P balances incurred through purchases from the Four Counterparties.

44. Komodromos informed Aegean in late April that the Firm would not issue an audit report at the end of April because the Firm did not have sufficient appropriate audit evidence concerning certain audit areas, including the collectibility of the Four Counterparties' A/R. Komodromos also notified Aegean that, in order to avoid an audit adjustment to the year-end 2016 A/R balances from the Four Counterparties, Aegean would need to collect those balances prior to the Firm issuing the audit report or offer other reliable evidence of those balances' collectibility.

vi. Aegean Complained to Firm Management About the Audit

45. In early 2017, Komodromos notified a member of the Firm's leadership team ("Firm Leader A") about the Four Counterparties' transactions. Komodromos, along with other members of the engagement team, identified for Firm Leader A, among other things: (1) the fact that Aegean was both buying and selling fuel from the same parties; (2) that Aegean purported to be selling on-spec fuel and buying off-spec fuel in the Four Counterparties'

transactions; and (3) that Aegean had not collected any cash payments on its 2016 sales to the Four Counterparties. Komodromos further informed Firm Leader A in April 2017 that they were still waiting for Aegean to provide significant information, and that they did not yet have adequate evidence on the Four Counterparties' A/R to support an unqualified audit opinion.

46. Shortly after Komodromos delayed the audit report, an Aegean representative contacted another member of the Firm's leadership team ("Firm Leader B") to inform him that the Aegean Executive was frustrated with the delay of the audit report, and that the Aegean Executive wanted to meet with Firm Leader B to complain.

47. Firm Leader A and Firm Leader B then met with the Aegean Executive, along with a member of Aegean's senior management. Komodromos understood that Aegean had complained to Firm Leader A and Firm Leader B about the extent of the procedures being performed and evidence being sought in the Audit, including with respect to the Four Counterparties.

F. Komodromos Violated PCAOB Standards by Issuing an Unqualified Audit Opinion Without Gathering Sufficient Appropriate Audit Evidence and Without Adequately Responding to Contradictory Audit Evidence

i. Komodromos Failed to Ensure the A/R Confirmation Requests Were Appropriately Designed

48. Although Komodromos believed that the A/R confirmation responses from the Four Counterparties would be a critical piece of audit evidence, he failed to ensure that the confirmation requests to the Four Counterparties were appropriately designed. The confirmation requests were not tailored to account for the fact that Aegean had netted A/P from its purchases from the Four Counterparties against recorded A/R for its sales to those same counterparties.[30] Aegean's netting of the A/P from the A/R in 2016 eliminated a $408 million debt from the unpaid purchases Aegean made from the Four Counterparties in 2016. That netting likewise resulted in Aegean recording a reduced A/R balance for the Four

[30] *See* AS 2310.16 ("Confirmation requests should be tailored to the specific audit objectives. Thus, when designing the confirmation requests, the auditor should consider the assertion(s) being addressed and the factors that are likely to affect the reliability of the confirmations."); *id.* at .25 ("The auditor's understanding of the client's arrangements and transactions with third parties is key to determining the information to be confirmed. The auditor should obtain an understanding of the substance of such arrangements and transactions to determine the appropriate information to include on the confirmation request. The auditor should consider requesting confirmation of the terms of unusual agreements or transactions . . . in addition to the amounts.").

Counterparties, totaling only $172 million, despite $543 million in unpaid revenue transactions in 2016.

49. The confirmation requests the engagement team made to the Four Counterparties failed to identify that the A/R balance in the confirmation request was net of A/P. As a result, the confirmation responses did not provide reliable audit evidence of whether the Four Counterparties were confirming the net or gross A/R amounts. Komodromos and the engagement team also failed to perform any other procedures to verify that the Four Counterparties had agreed to offset A/P against A/R, or that such offset by Aegean was otherwise legally enforceable. As a result, Komodromos did not obtain sufficient appropriate audit evidence to conclude that no A/P balance existed for Aegean's purchases from the Four Counterparties.

ii. Visits to the Four Counterparties' Addresses Resulted in Significant Contradictory Audit Evidence that Raised a Red Flag of Potential Fraud Concerning the Revenue and A/R from the Four Counterparties

50. In early May, after Aegean provided the engagement team with street addresses for the Four Counterparties, Komodromos had the team promptly send confirmation requests to those addresses. However, Komodromos and the engagement team still had no other information available to corroborate those addresses. As a result, at the same time that they sent the new confirmation requests, Komodromos engaged PwC Dubai to perform site visits at the Aegean-provided street addresses for the Four Counterparties.

51. In its instructions to PwC Dubai, the engagement team explained that it needed help verifying the existence of the Four Counterparties. The team instructed PwC Dubai to visit the Four Counterparties to confirm that the street addresses Aegean provided for them were valid, and to take photographs of each building and the enterprise door or sign with the name of the entity. The engagement team further instructed that, if entrance was not allowed to a building, PwC Dubai should "perform inquiries over the existence of the offices/entities" with the building's reception or doorman. The team stated in its instructions to PwC Dubai in underlined, bold, red, and all capital letter type: "**PLEASE TREAT THIS REQUEST AS BEING OF HIGH URGENCY AS THE CLIENT NEEDS TO FILE THE ANNUAL REPORT BY MAY 8, 2017.**"

52. On May 7, 2017, PwC Dubai attempted to visit the addresses provided for the Four Counterparties. Those efforts resulted in audit evidence contradicting the existence of the Four Counterparties. Upon completing its visits to the first three addresses, PwC Dubai found that one address did not exist, and the other two were residential apartments. PwC Dubai informed the engagement team of its findings, including that the two apartments it located had unmarked doors with no indications that any business existed there, and that workers at those

buildings confirmed that the buildings were residential and that they were unaware of any offices in the building.

53. PwC Dubai also emailed the engagement team a summary of its findings from the first three site visits, along with supporting photos. Komodromos and the engagement team reviewed that information from PwC Dubai, including the photos.

54. The results of PwC Dubai's visits should have increased Komodromos's doubt not only about the collectibility of the A/R but also about the existence of the Four Counterparties, and whether the significant unusual revenue and A/R recorded from those Four Counterparties may have been the result of fraud.

55. However, in violation of PCAOB standards, Komodromos did not take adequate steps to resolve the contradictory audit evidence uncovered by PwC Dubai.[31] Instead, Komodromos instructed the engagement team to cancel PwC Dubai's planned site visit to the remaining Counterparty address. Komodromos then disregarded the results of the PwC Dubai procedures based on uncorroborated representations received from a member of Aegean's senior management that street addresses are not commonly used in Fujairah, and that business locations in Fujairah are often informal.

iii. Telephone Inquiries Concerning the A/R Were Inadequate and Did Not Resolve Doubts Raised by the Site Visits

56. Although the engagement team received written responses to the original confirmation requests that were sent to the PO Box addresses, prior to the Audit's conclusion the team did not receive written responses to the confirmation requests that it sent to the street addresses. And, as described above, the engagement team was unable to independently verify either the PO Box or the street addresses that Aegean provided for the Four Counterparties. Those circumstances, along with the other difficulties that the team encountered in obtaining documents and information relating to the Four Counterparties and

[31] *See* AS 1105.29.

the significant and unusual nature of the Four Counterparties' transactions, warranted the exercise of increased professional skepticism.[32]

57. In the final days of the audit, Komodromos determined to have the engagement team make telephone inquiries to the Four Counterparties concerning the A/R confirmation requests. Between May 11 and May 15, the team called Aegean-provided telephone numbers for the Four Counterparties to verbally verify the A/R balances, which the telephone respondents confirmed.

58. Despite the need for heightened professional skepticism, Komodromos failed to exercise due professional care and have the engagement team obtain information that would provide a sufficient basis for concluding that the individuals they called could provide meaningful and appropriate evidence about the Four Counterparties' transactions. For example, Komodromos did not instruct the engagement team to solicit any information from the telephone respondents that would enable the team to resolve the doubts raised by PwC's unfruitful searches for public information on the Four Counterparties and PwC Dubai's problematic site visits to their purported street addresses. Nor did he have the engagement team solicit information that would cure the defective design of the written confirmation requests. Instead, the team sought and received the verbal agreement from the telephoned individuals that they had received the confirmation requests and agreed with the information in the original responses, including the outstanding A/R balance amounts.[33] The engagement team did not obtain any information that would allow the team to independently verify either the existence of the Four Counterparties or that the individuals with whom they spoke were the

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[32] *See* AS 2310.27 (providing that an auditor may encounter circumstances in which it should exercise increased professional skepticism about the confirmation respondent's competence, knowledge, motivation, ability, or willingness to respond, or about the respondent's objectivity and freedom from bias with respect to the audited entity, and that, "[i]n these circumstances, the auditor should consider whether there is sufficient basis for concluding that the confirmation request is being sent to a respondent from whom the auditor can expect the response will provide meaningful and appropriate evidence."); *see also* AS 2401.13 *Consideration of Fraud in a Financial Statement Audit* (professional skepticism requires an ongoing questioning of whether the information and evidence obtained suggests that a material misstatement due to fraud has occurred); AS 2810.C1.c(1) & (4) (denial of access to records and unusual delays from management in providing information may affect assessment of fraud risk).

[33] The telephone respondents indicated that they had received the mailed confirmations and would return them. However, the engagement team did not receive any additional written confirmation responses during the Audit.

intended recipients at the Four Counterparties. Nor did the engagement team clarify that it had sought to confirm the A/R balance net of any A/P balances.

iv. Aegean-Provided Evidence of Cash Collections Included Additional Contradictory Audit Evidence that Komodromos Did Not Resolve

59. At the time Komodromos delayed the audit report, he informed Aegean that, to avoid an audit adjustment relating to the value of the Four Counterparties' year-end 2016 A/R balances, Aegean needed to make cash collections on those outstanding balances prior to the issuance of the audit report. Thus, Komodromos had previously determined that evidence of cash collections would be critical to any conclusion that the Four Counterparties A/R balances were correctly stated.

60. On May 15 or 16, Aegean provided Komodromos with a document that Aegean claimed was an extract of May 7 to May 14 transaction information from one of its bank accounts, showing cash collections from two of the Counterparties. The extract was not a periodic bank statement generated by a bank in the ordinary course; Komodromos instead understood that it was an extract from an electronic bank account record. The engagement team did not observe the bank information directly, because they understood the relevant bank information could be accessed only in Fujairah.

61. Despite the foregoing circumstances concerning the extract and the critical importance of the cash collections evidence to the Audit, Komodromos did not have the engagement team take steps to assess the extract's reliability as audit evidence.[34] Instead, Komodromos relied on the extract as evidence of the collectibility of the Four Counterparties' A/R balances and he authorized issuance of the Firm's audit report within a day of receiving the extract. However, as discussed below, the extract: (1) provided little to no evidence of collectibility for three of the Counterparties' A/R; (2) left substantial questions about the collectibility of more than half of the A/R balance for the fourth Counterparty; and (3) indicated that Aegean might have unrecorded liabilities to the Four Counterparties.[35]

62. The extract did not evidence any payments from two of the Counterparties. For another Counterparty, the extract indicated a single payment amounting to less than half of the

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[34] *See* AS 1105.06 ("To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based.").

[35] As Komodromos would later learn when he began work on the audit of Aegean's 2017 financial statements, the extract also appears to have been a forgery.

year-end 2016 A/R balance that Aegean had recorded for that Counterparty in its year-end 2016 A/R balance.

63. For the remaining Counterparty, the extract appeared to show that, between May 7 and May 13, Aegean and the Counterparty made offsetting payments to one another. As a result, the payments reflected only a net cash flow to Aegean amounting to less than 6% of the year-end 2016 A/R balance that Aegean had calculated for that Counterparty.

64. The offsetting payments that Aegean had made to one of the Counterparties in May 2017 were, themselves, contradictory audit evidence that should have raised doubts for Komodromos about all of the Four Counterparties' A/R and A/P balances. As described above, prior to receiving the extract, Komodromos understood that Aegean had no outstanding A/P balances with the Four Counterparties, because Aegean had offset all those A/P balances against the Four Counterparties' larger A/R balances. In 2016 alone, Aegean had purportedly incurred $408 million in A/P, all of which it had eliminated through offsets to A/R. Based on that offset, Aegean had no recorded A/P for the Four Counterparties as of year-end 2016, and Aegean reported a significantly reduced A/R balance than it would have absent the offset.

65. Komodromos specifically understood that the May 2017 payments to one of the Four Counterparties were payments on purchases from that Counterparty. The cash payments were therefore an indication that Aegean's offsets of the A/P against A/R may have been invalid, and that Aegean may have had substantial unrecorded liabilities to the Four Counterparties and substantially higher A/R balances for the Four Counterparties as of year-end 2016. Nevertheless, in violation of AS 1105.29, Komodromos did not perform or have the engagement team perform audit procedures necessary to resolve the matter.

v. Komodromos Improperly Authorized the Firm's Issuance of an Audit Report Containing an Unqualified Audit Opinion

66. PCAOB standards provide that, if the auditor has not obtained sufficient appropriate audit evidence about a relevant assertion or has substantial doubt about a relevant assertion, the auditor should perform procedures to obtain further audit evidence to address the matter.[36] If the auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude whether the financial statements as a whole are free of material misstatement, the auditor should express a qualified opinion or a disclaimer of opinion.[37] An

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36 *See* AS 2810.35.

37 *See id.*

unqualified audit opinion may be expressed only when the auditor has formed such an opinion on the basis of an audit performed in accordance with the standards of the PCAOB.[38]

67. Komodromos violated these standards when, on May 16, 2017, he authorized the Firm's release of an audit report containing an unqualified audit opinion on Aegean's financial statements. Despite the heightened risks associated with the significant and unusual Four Counterparties' transactions and outstanding balances, Komodromos did not plan and perform procedures with due professional care to obtain sufficient appropriate evidence concerning those transactions and outstanding balances. Most critically, Komodromos violated PCAOB standards by failing to resolve significant contradictory audit evidence concerning the Four Counterparties and the revenue, A/R, and A/P that Aegean attributed to the Four Counterparties.[39] As a result, Komodromos did not obtain sufficient appropriate audit evidence to support an unqualified audit opinion, and he violated AS 1105, AS 2810, and AS 3101 when he authorized the issuance of the Firm's audit report.

G. Komodromos Violated PCAOB Standards by Failing to Document the Significant Audit Issues and Inconsistent Audit Evidence Concerning the Four Counterparties

68. Komodromos also violated PCAOB standards because he did not include in the audit documentation, or did not have the engagement team include in the audit documentation: (1) the contradictory audit evidence resulting from the PwC Dubai attempted site-visits to the Four Counterparties; (2) certain other critical procedures that the engagement team performed concerning the Four Counterparties; and (3) any discussion of the Four Counterparties in the engagement completion document, despite the fact that the transactions with the Four Counterparties raised significant issues for the Audit.

69. PCAOB standards provide that the auditor must document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.[40] Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the

38 *See* AS 3101.07.

39 *See* AS 1105.29.

40 *See* AS 1215.06, *Audit Documentation*.

nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached.[41]

70. "The auditor must document significant findings or issues, actions taken to address them (including additional evidence obtained), and the basis for the conclusions reached in connection with each engagement."[42] "The auditor must identify all significant findings or issues in an *engagement completion document*. . . . This document, along with any documents cross-referenced, should collectively be as specific as necessary in the circumstances for a reviewer to gain a thorough understanding of the significant findings or issues."[43]

71. "In addition to the documentation necessary to support the auditor's final conclusions, audit documentation must include information the auditor has identified relating to significant findings or issues that is inconsistent with or contradicts the auditor's final conclusions."[44]

72. Most significantly, Komodromos violated AS 1215.08 because there is no mention or reference in the engagement team's audit documentation of the procedures that PwC Dubai performed to attempt to visit the Aegean-provided addresses for the Four Counterparties, the results of those procedures, or why the engagement team later dismissed those results. Indeed, the audit documentation contains no mention at all of the concerns about the Four Counterparties' existence.

73. Additionally, in violation of AS 1215.06, the audit documentation omitted any reference to Komodromos and the engagement team's examination of why Aegean was making both purchases and sales of fuel from the Four Counterparties, often at roughly the same time and in similar quantities, but at significantly different prices. Komodromos and the engagement

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41 *See id*.

42 *Id.* at .12. Significant findings or issues are substantive matters that are important to the procedures performed, evidence obtained, or conclusions reached, and include, but are not limited to: (i) results of auditing procedures that indicate a need for significant modification of planned auditing procedures; (ii) circumstances that cause significant difficulty in applying auditing procedures; (iii) significant changes in the auditor's risk assessments, including risks that were not identified previously, and the modifications to audit procedures or additional audit procedures performed in response to those changes; and (iv) risks of material misstatement that are determined to be significant risks and the results of the auditing procedures performed in response to those risks. *See id.*

43 *Id.* at .13 (italics in original).

44 *Id.* at .08.

team did not document their initial concerns about those transactions and the unusually high margins Aegean achieved on them. Nor did they document that Aegean explained those transactions as "blending" transactions, or that the team then attempted to verify management's blending explanation by examining Certificates of Quality for both the purchases and sales.

74. Finally, although the Four Counterparties' transactions were a significant issue for the audit, Komodromos and the engagement team failed to document them as such in the engagement completion document, in violation of AS 1215.12-13. In fact, the engagement completion document for the Audit makes no reference to the Four Counterparties' transactions at all.

75. The failure to adequately document the significant auditing issues, the related audit procedures and results, and the inconsistent audit evidence uncovered concerning the Four Counterparties deprived the engagement quality reviewer for the Audit of important information for his required evaluation of the significant judgments and related conclusions made by the engagement team in the Audit.[45]

IV.

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

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Nicos George Komodromos is barred from being an "associated person of a registered

[45] PCAOB standards provide that the engagement quality reviewer should review the engagement completion document as part of the required evaluation of the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report. *See* AS 1220.09, .10(e), *Engagement Quality Review*.

public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[46]

C. Pursuant to PCAOB Rule 5302(b), Nicos George Komodromos may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $80,000 is imposed on Nicos George Komodromos.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay the civil money penalty as follows: Respondent shall pay $40,000 within ten days of the issuance of this Order, an additional $20,000 within 6 months of the issuance of this Order, and the remaining $20,000 within 12 months of the issuance of this Order. Respondent shall make each payment by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Komodromos as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary,

[46] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Komodromos. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. Respondent understands that his failure to pay the civil money penalty imposed upon him may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b).

4. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 14, 2023

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Somerset CPAs, P.C., Douglas C. Fahrnow, CPA, Rebecca F. Quintana, CPA, and Edward M. McGuire, CPA,

Respondents.

PCAOB Release No. 105-2023-029

November 14, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Somerset CPAs, P.C. ("Somerset" or the "Firm"), a registered public accounting firm, Douglas C. Fahrnow, CPA ("Fahrnow"), Rebecca F. Quintana, CPA ("Quintana"), and Edward M. McGuire, CPA ("McGuire") (collectively, "Respondents");

(2) barring Fahrnow from being associated with a registered public accounting firm and imposing a $60,000 civil money penalty on him;[1]

(3) barring Quintana from being associated with a registered public accounting firm and imposing a $40,000 civil money penalty on her;[2]

(4) barring McGuire from being associated with a registered public accounting firm and imposing a $30,000 civil money penalty on him;[3] and

(5) imposing a $100,000 civil money penalty on the Firm.

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

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

[3] McGuire may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

The Board is imposing these sanctions on the basis of its findings that: (a) Fahrnow violated PCAOB rules and standards in connection with two audits of an issuer and the engagement quality reviews for the audits of two issuers, (b) Quintana violated PCAOB rules and standards in connection with the audits of two issuers, (c) McGuire violated PCAOB rules and standards in connection with the engagement quality reviews for two audits of an issuer, and (d) Somerset violated PCAOB rules and quality control standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds that:[5]

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

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (a) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (b) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

A. Respondents

1. **Douglas C. Fahrnow** is a certified public accountant licensed by the state of Indiana (license no. CP19800524), among others. Fahrnow is, and at all relevant times was, an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). At all relevant times, Fahrnow was the engagement partner in charge of the Firm's audits of Noble Roman's Inc. ("Noble Roman"), and the engagement quality review ("EQR") partner for the Firm's audits of Galaxy Next Generation, Inc. ("Galaxy") and Ameritrust Corp. ("Ameritrust").

2. **Rebecca F. Quintana** is a certified public accountant licensed by the state of Indiana (license no. CP10300206), among others. Quintana is, and at all relevant times was, an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). At all relevant times, Quintana was the engagement partner in charge of the Firm's audits of Galaxy and Ameritrust.

3. **Edward M. McGuire** is a certified public accountant licensed by the state of Indiana (license no. CP10000071). McGuire is, and at all relevant times was, an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). At all relevant times, McGuire was the EQR partner for the Firm's audits of Noble Roman.

4. **Somerset CPAs, P.C.** is a professional corporation organized under the laws of the state of Indiana and headquartered in Indianapolis, Indiana. At all relevant times, Somerset was licensed by the State of Indiana (license no. FP50400103), among others. Somerset was, at all relevant times, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.[6]

B. Issuers

5. **Noble Roman's Inc.** is an Indiana corporation headquartered in Indianapolis, Indiana. Noble Roman's public filings indicate that it is engaged in operating, franchising, and licensing restaurant operations. At all relevant times, Noble Roman was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

6. **Galaxy Next Generation, Inc.** is a Nevada corporation headquartered in Toccoa, Georgia. Galaxy's public filings disclose that it is a manufacturer and distributor of interactive

[6] Somerset filed a Form 1-WD, *Request for Leave to Withdraw from Registration*, with the PCAOB in April 2023.

learning technology hardware and software. At all relevant times, Galaxy was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

7. **Ameritrust Corporation** is a Wyoming corporation headquartered in Cheyenne, Wyoming. Ameritrust's public filings indicate that it is in the business of acquiring, holding, and developing commercial real estate. At all relevant times, Ameritrust was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

8. This matter concerns Fahrnow's violation of PCAOB rules and standards in connection with the Firm's audits of Noble Roman for the years ended December 31, 2019, and December 31, 2020 (the "Noble Roman Audits"). Specifically, Fahrnow, while serving as engagement partner on the Noble Roman Audits, violated PCAOB rules and standards by failing to perform sufficient procedures to evaluate whether the amounts recorded by Noble Roman as revenue based on terminated contracts were in conformity with GAAP and failing to perform sufficient procedures to test accounts receivable.

9. In addition, this matter concerns Quintana's violation of PCAOB rules and standards in connection with her role as engagement partner for Somerset's audit of Galaxy for the year ended June 30, 2020 (the "Galaxy Audit"), and the Firm's audit of Ameritrust for the year ended September 30, 2020 (the "Ameritrust Audit"). Quintana violated PCAOB rules and standards by failing to perform sufficient procedures during the Galaxy and Ameritrust Audits to test the issuers' goodwill impairment, which was identified as a significant risk in both audits.

10. Further, this matter concerns violations of AS 1220, *Engagement Quality Review*, by McGuire, while serving as the EQR partner for the Noble Roman Audits, and Fahrnow, while serving as the EQR partner for the Galaxy and Ameritrust Audits. Both McGuire and Fahrnow violated PCAOB rules and standards by failing to exercise due care and professional skepticism while performing their EQRs, and, as a result, lacked an appropriate basis to provide their concurring approval of issuance of the Firm's audit reports. In addition, McGuire failed to maintain his objectivity during the Noble Roman Audits by preparing substantive audit work papers on behalf of the engagement teams.

11. Finally, this matter also concerns the Firm's violations of PCAOB rules and quality control standards, as evidenced by multiple violations during the Firm's audits of Noble Roman, Galaxy, and Ameritrust. These audit deficiencies across multiple audits involving multiple Firm personnel demonstrate that the Firm failed to maintain a system of quality control sufficient to give the Firm reasonable assurance that engagement teams performed issuer audits and

reviews in accordance with applicable professional standards, regulatory requirements, and PCAOB auditing standards.

D. Respondents Violated PCAOB Rules and Standards in Connection with the Audits

12. In connection with the preparation or issuance of an audit report, PCAOB rules require that the associated persons of a registered public accounting firm comply with the Board's auditing and related professional practice standards.[7]

13. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit.[8] Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[9] To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based.[10]

14. When an auditor uses information produced by a company as audit evidence, the auditor should evaluate whether the information was sufficient and appropriate for purposes of the audit by performing procedures to, among other things, test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information.[11]

15. An auditor should design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[12] The higher the risk of material misstatement, the more

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7 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audit being discussed.

8 AS 1015.01, *Due Professional Care in the Performance of Work*.

9 AS 1105.04, *Audit Evidence*.

10 *Id*. at .06.

11 *Id*. at .10.

12 AS 2301.08, *The Auditor's Responses to the Risks of Material Misstatement*.

evidence the auditor should obtain,[13] and the more persuasive that evidence should be.[14] PCAOB standards further require an auditor to evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[15]

16. In addition, AS 1220 provides that an EQR and concurring approval of issuance are required for all audits and interim reviews conducted pursuant to PCAOB standards.[16] The EQR partner must be independent of the company, perform the EQR with integrity, and maintain objectivity in performing the review.[17] To maintain objectivity, the EQR partner should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team.[18]

17. The EQR partner may provide concurring approval of issuance of an audit report only if, after performing a review with due professional care, he or she is not aware of a significant engagement deficiency.[19] To perform an EQR with due professional care, the EQR partner must exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[20]

18. An EQR partner should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the

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13 AS 1105.05.

14 AS 2301.09 ("In designing the audit procedures to be performed, the auditor should: a. Obtain more persuasive audit evidence the higher the auditor's assessment of risk . . . ."); *id*. at .37 ("As the assessed risk of material misstatement increases, the evidence from substantive procedures that the auditor should obtain also increases.").

15 AS 2810.30, *Evaluating Audit Results*.

16 AS 1220.01.

17 *Id*. at .06.

18 *Id*. at .07.

19 *Id*. at .12. A significant engagement deficiency in an audit exists when: "(1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client." *Id*., Note.

20 *See* AS 1015.07.

engagement and in preparing the engagement report.[21] In performing an EQR for an audit, the EQR partner should evaluate, among other things, the engagement team's assessment of, and audit responses to, significant risks identified by the engagement team.[22] The EQR partner should also evaluate whether the documentation that he or she reviewed indicates that the engagement team responded appropriately to significant risks and supports the conclusions reached by the engagement team with respect to the matters reviewed.[23]

i. The Noble Roman Audits

19. Somerset issued audit reports dated May 12, 2020, and March 22, 2021, containing unqualified audit opinions on Noble Roman's financial statements for the years ended December 31, 2019, and December 31, 2020, respectively. Fahrnow, as the engagement partner, authorized the Firm's issuance of the audit reports, which were included in Noble Roman's Form 10-Ks filed with the Commission on May 12, 2020, and March 22, 2021, respectively. McGuire, as the EQR partner, authorized the concurring approval of issuance of both audit reports.

20. Noble Roman reported total assets of approximately $19.1 million and $18.4 million, revenue of approximately $11.7 million and $11.5 million, and a net loss of approximately $0.4 million and $5.4 million, as of and for the years ended December 31, 2019, and December 31, 2020, respectively. Fahrnow and the engagement team identified revenue as an area of significant risk for the Noble Roman Audits.

21. During 2019 and 2020, the company disclosed it was engaged in, among other things, franchising restaurant operations. Pursuant to its franchise agreements, Noble Roman could collect damages from franchisees whose franchises were terminated for breaching their franchise agreements. Accordingly, Noble Roman recognized revenue from these terminated franchisees amounting to approximately 10% and 6% of total revenue in 2019 and 2020, respectively. ASC 606, *Revenue from Contracts with Customers*, establishes the standard for when an entity may recognize revenue derived from contracts with customers.[24] Under ASC 606, a company may recognize the contractual damages as revenue only when, among other things, it is probable that the company will collect substantially all of the damages to which it

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21 AS 1220.09.

22 *Id*. at .10b.

23 *Id*. at .11.

24 *See* ASC 606.

would be entitled in exchange for the goods or services that would be transferred to the franchisee.[25]

22. During the Noble Roman Audits, Fahrnow failed to evaluate whether Noble Roman appropriately recognized revenue from terminated franchisees in conformity with GAAP. Specifically, he failed to evaluate the probability that Noble Roman would collect substantially all of the damages to which the company believed it was entitled. Fahrnow and the engagement team documented in the work papers that Noble Roman had a 46% and 20% historical collection rate for revenue from terminated franchisees for the 2019 audit and 2020 audit, respectively. Despite these low historical collection rates, Fahrnow failed to evaluate whether these collection rates supported the engagement team's conclusion that Noble Roman's revenues from terminated franchisees were recognized in accordance with GAAP during the Noble Roman Audits.[26]

23. Net accounts receivable comprised approximately 26% and 5% of Noble Roman's total assets as of December 31, 2019, and December 31, 2020, respectively. Fahrnow and the engagement team identified accounts receivable as an area of significant risk for the Noble Roman Audits, yet failed to perform sufficient procedures to test the existence of accounts receivable.

24. During both audits, Fahrnow and the engagement team determined that the use of confirmations would be ineffective "due to low response rate during the prior years' audits" and as such, did not confirm accounts receivable. Instead, their procedures were limited to inquiry of Noble Roman and inspecting documents prepared by Noble Roman regarding the amounts recorded for certain accounts receivable without obtaining sufficient appropriate evidence to corroborate the information received from Noble Roman.[27] For example, Fahrnow and the engagement team inquired of management regarding: (a) management's understanding of the reasons for the franchisee termination and (b) how management determined the amount of revenue and corresponding receivable to record. For the new additions to accounts receivable, Fahrnow and the engagement team inspected management's calculation and reviewed, on a sample basis, historical weekly sales reports Noble Roman received from the franchisees and the executed franchise agreements, assuming the

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25 *See id*. at -10-25-1.

26 *See* AS 2810.30.

27 *See* AS 1105.17, Note ("Inquiry of company personnel, by itself, does not provide sufficient audit evidence to reduce audit risk to an appropriately low level for a relevant assertion or to support a conclusion about the effectiveness of a control.").

franchisees would not breach the franchise agreements. These procedures, however, did not provide sufficient appropriate audit evidence to address the significant risk associated with the existence assertion of Noble Roman's accounts receivable.[28]

25. As a result of this conduct, Fahrnow failed to evaluate whether the amounts Noble Roman recorded as revenue from terminated franchisees were in conformity with GAAP and failed to perform sufficient appropriate procedures to test accounts receivable, in violation of PCAOB standards.[29]

a. McGuire's EQR of the Noble Roman Audits

26. In connection with the Noble Roman Audits, McGuire failed to properly evaluate the conclusions reached by the engagement team with respect to areas of significant risk during his EQRs and failed to maintain his objectivity by preparing several audit work papers on behalf of the engagement team.

27. During the Noble Roman Audits, the engagement team identified Noble Roman's revenue and accounts receivable as areas of significant risk. Consequently, McGuire was required by PCAOB standards to evaluate the engagement team's assessment of, and audit responses to, those significant risks.[30] He was also required to evaluate whether the documentation he reviewed indicated that the engagement team had responded appropriately to those significant risks.[31]

28. McGuire, however, failed to perform his review with due professional care and professional skepticism, as he failed to identify that Fahrnow and the engagement team had not performed sufficient procedures to evaluate whether the amounts recorded by Noble Roman as revenue based on terminated franchisee contracts were in conformity with GAAP or to test the company's accounts receivable during the Noble Roman Audits.

29. PCAOB standards also provide that an EQR partner should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team.[32] For the Noble Roman Audits, McGuire prepared a number of audit work papers on

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28 *See id*. at .04, .06; AS 2301.08.

29 AS 1105.04, .06, .10; AS 2301.08.

30 AS 1220.10b.

31 *Id*. at .11.

32 *Id*. at .07.

behalf of the engagement team, including the analysis of Noble Roman's allowance for doubtful accounts and several audit planning work papers. As a result, McGuire failed to maintain his objectivity.

30. As a result of this conduct, McGuire provided his concurring approval of issuance for the Noble Roman Audit reports without performing his review with the requisite due professional care and professional skepticism in violation of AS 1220.[33]

ii. The Galaxy Audit

31. Somerset served as the external auditor for the Galaxy Audit, and the Firm's audit report, dated September 28, 2020, was included in Galaxy's Form 10-K filed with the Commission on the same date. Somerset's audit report included an unqualified opinion on Galaxy's financial statements, along with a going concern explanatory paragraph. Quintana, as engagement partner, authorized the issuance of the Firm's audit report. Fahrnow, as EQR partner, authorized the concurring approval of issuance of the Firm's audit report.

32. As of June 30, 2020, Galaxy reported that its goodwill balance was $834,220, which represented approximately 19% of Galaxy's total assets for the fiscal year ended June 30, 2020. Quintana identified goodwill as a significant risk for the Galaxy Audit. Galaxy also reported a negative working capital of $7 million, a net loss of $14 million, and a negative operating cash flow of $7 million for the fiscal year ended June 30, 2020. Between early July 2019 and September 2020, when the 2020 Form 10-K was filed, Galaxy's stock price declined from approximately $2.90 to approximately $0.03.

33. PCAOB standards require the auditor to evaluate the reasonableness of accounting estimates made by management in the context of the financial statements taken as a whole.[34] The auditor's objective when evaluating accounting estimates is to obtain sufficient appropriate evidential matter to provide reasonable assurance that all accounting estimates that could be material to the financial statements have been developed, those estimates are reasonable in the circumstances, and the accounting estimates are presented in conformity with applicable accounting principles and are properly disclosed.[35]

34. To determine whether goodwill is properly valued, it should be tested for impairment at a reporting unit level at least annually, and whenever there is an indication that

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33 *Id*. at .12; AS 1015.01.

34 AS 2501.04, *Auditing Accounting Estimates*.

35 *Id*. at .07.

it may be impaired.[36] Impairment is the condition that exists when the carrying amount of goodwill on a company's books exceeds its fair value. If the testing results in an impairment, the carrying amount of the goodwill must be reduced by the amount of the impairment.

35. In evaluating the reasonableness of an accounting estimate, PCAOB standards require the auditor to obtain an understanding of how management developed the estimate.[37] Based on that understanding, the auditor should use one or a combination of the following approaches: (a) review and test the process used by management to develop the estimate; (b) develop an independent expectation of the estimate to corroborate the reasonableness of management's estimate; and (c) review subsequent events or transactions occurring prior to the date of the auditor's report.[38] Quintana and the engagement team intended to test goodwill impairment by reviewing and testing management's process. However, they failed to obtain sufficient appropriate evidence to address the significant risk.

36. With respect to reviewing and testing management's process, Quintana and the engagement team understood that, during fiscal year 2020, management identified triggering events indicating that Galaxy's goodwill may be impaired. Quintana and the engagement team also noted that management separately assessed the impairment for the carrying amounts of goodwill resulting from two acquisitions made by Galaxy, including one in 2020. According to the work papers, as a result of these assessments, management determined that only the goodwill resulting from the 2020 acquisition was impaired and recorded a full impairment for that goodwill amount.

37. Quintana reviewed management's process for developing its goodwill impairment and determined that: (a) there was only one "technology" reporting unit for Galaxy, and (b) no "adverse conditions [were] present" for the reporting unit in the Firm's assessment of qualitative factors. While Quintana's determinations were contradicted by management's separate assessments of the carrying amounts of the goodwill resulting from the two acquisitions and the presence of triggering events identified by management, Quintana still concluded that the goodwill impairment was properly recorded by management without resolving the contradictions.

38. As a result, Quintana and the engagement team failed to adequately review and test the process used by management to develop the goodwill impairment amount by failing to

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36 *See* ASC 350, *Intangibles – Goodwill and Other*.

37 *See* AS 2501.10.

38 *See id*.

adequately evaluate management's determination of reporting units and assess the triggering events identified by management or other qualitative factors related to Galaxy's goodwill. These triggering events and qualitative factors included the sustained decrease in share price, the reasons behind the going concern explanatory paragraph, and Galaxy's net loss, negative working capital, and negative cash flows from operating activities in fiscal year 2020 and their impact on the fair value of the company and goodwill.

39. In addition, as part of reviewing and testing management's process, Quintana and the engagement team attempted to obtain corroborating evidence by reviewing Galaxy's market capitalization. They derived a market capitalization using stock price information from a third party website and concluded that the market capitalization was the fair value of the company. Yet they failed to perform any procedures to evaluate whether Galaxy's stock was trading in orderly transactions in an active market during the period covered by the Galaxy Audit and, therefore, whether the stock price could be used to support that the market capitalization was representative of the fair value of the company as a whole. Further Quintana and the engagement team failed to assess the appropriate reporting unit in assessing goodwill impairment, and compared the market capitalization with the carrying value of goodwill instead of comparing the fair value of the reporting unit with the carrying amount of the reporting unit, which is the method required by GAAP.[39]

40. As a result of this conduct, Quintana failed to obtain sufficient appropriate evidence to evaluate the goodwill estimate and failed to design and perform audit procedures to evaluate the valuation assertion of Galaxy's goodwill under ASC 350, in violation of PCAOB standards.[40]

a. Fahrnow's EQR of the Galaxy Audit

41. In connection with the Galaxy Audit, Fahrnow failed to properly evaluate the conclusions reached by the engagement team with respect to areas of significant risk during his EQR. Specifically, Fahrnow failed to properly evaluate whether Quintana and the engagement team had obtained sufficient appropriate audit evidence to evaluate Galaxy's goodwill estimate and had adequately designed and performed audit procedures to evaluate Galaxy's valuation of goodwill under ASC 350.

42. During the Galaxy Audit, the engagement team identified Galaxy's goodwill as an area of significant risk. Consequently, Fahrnow was required by PCAOB standards to evaluate

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39 *See* ASC 350-20-35-4.

40 AS 1105.04; AS 2301.08; AS 2501.10; AS 2810.30.

the engagement team's assessment of, and audit responses to, that significant risk.[41] He was also required to evaluate whether the documentation he reviewed indicated that the engagement team had responded appropriately to that significant risk.[42]

43. Fahrnow, however, failed to perform his review with due professional care and professional skepticism, as he failed to identify that Quintana and the engagement team had not obtained sufficient appropriate audit evidence to evaluate the goodwill estimate or designed and performed audit procedures to evaluate the valuation assertion of Galaxy's goodwill.

44. As a result, Fahrnow provided his concurring approval of issuance for the Galaxy Audit report without performing his review with the requisite due professional care and professional skepticism in violation of AS 1220.[43]

iii. The Ameritrust Audit

45. Somerset served as the external auditor for the Ameritrust Audit, and the Firm's audit report, dated February 12, 2021, was included in Ameritrust's Form 10-K filed with the Commission on the same date. Somerset's audit report included an unqualified opinion on Ameritrust's financial statements, along with a going concern explanatory paragraph. Quintana, as engagement partner, authorized the issuance of the Firm's audit report. Fahrnow, as EQR partner, authorized the concurring approval of issuance of this audit report.

46. As of September 30, 2020, Ameritrust reported that its goodwill balance was $786,136, which represented approximately 19% of Ameritrust's total assets for the fiscal year ended September 30, 2020. Ameritrust also reported a net loss of $750,217, and a negative operating cash flow of $701,171 for the fiscal year ended September 30, 2020. Ameritrust's stock price declined approximately 64% between September 2020 and when the Form 10-K was filed in February 2021. Quintana identified "impairment of goodwill" as a significant risk for the Ameritrust Audit.

47. Quintana was required to evaluate the reasonableness of management's goodwill accounting estimate.[44] Further, she was required to obtain an understanding of how management developed that estimate and use one or a combination of the following

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41 AS 1220.10b.

42 *Id*. at .11.

43 *Id*. at .12; AS 1015.01.

44 *See* AS 2501.04.

approaches to evaluate Ameritrust's goodwill estimate: (a) review and test the process used by management to develop the estimate; (b) develop an independent expectation of the estimate to corroborate the reasonableness of management's estimate; and (c) review subsequent events or transactions occurring prior to the date of the auditor's report.[45] Quintana and the engagement team intended to test goodwill impairment by reviewing and testing management's process, yet they failed to obtain sufficient appropriate evidence to address the significant risk.

48. With respect to reviewing and testing management's process, Quintana and the engagement team noted in the Firm's audit documentation that management had identified certain triggering events when considering whether to assess goodwill for impairment while still concluding that there was no impairment of goodwill. Quintana, however, determined that there were no "adverse conditions" present as of year-end for Ameritrust that would necessitate a goodwill impairment analysis.

49. Quintana's determination was contradicted by the presence of the triggering events identified by management, and she concluded that management's conclusion was proper without resolving this contradiction. Thus, Quintana and the engagement team failed to evaluate the triggering events identified by management or other qualitative factors related to Ameritrust's goodwill. For example, they failed to consider the macroeconomic conditions during the Covid-19 pandemic, the sustained decrease in Ameritrust's share price, the issues giving rise to the Firm's going concern explanatory paragraph, and Ameritrust's net losses and negative cash flows from operations and their impact on the fair value of the company.

50. In addition, as part of reviewing and testing management's process, Quintana and the engagement team attempted to obtain corroborating evidence by reviewing Ameritrust's market capitalization. However, they failed to evaluate whether the market capitalization used was representative of the fair value of the Ameritrust reporting unit as a whole under ASC 350. During the period under audit, they failed to consider that Ameritrust stock was traded with very low volume, raising concerns that its stock price might not be deemed as the price that would be received to sell the reporting unit as a whole in an orderly transaction between market participants at the measurement date.[46]

51. As a result of this conduct, Quintana failed to obtain sufficient appropriate evidence to evaluate the goodwill estimate and failed to appropriately design and perform

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45 *See id*. at .10.

46 *See* ASC 350-20-35-22.

audit procedures to evaluate the valuation assertion of Ameritrust's goodwill under ASC 350, in violation of PCAOB standards.[47]

a. Fahrnow's EQR of the Ameritrust Audit

52. As the EQR partner for the Ameritrust Audit, Fahrnow failed to properly evaluate the conclusions reached by the engagement team with respect to goodwill. The Ameritrust engagement team identified goodwill as an area of significant risk, and Fahrnow was required by PCAOB standards to evaluate the engagement team's assessment of, and audit responses to, that significant risk.[48] He was also required to evaluate whether the documentation he reviewed indicated that the engagement team had responded appropriately to that significant risk.[49]

53. Fahrnow, however, failed to perform his review with due professional care and professional skepticism, as he failed to identify that Quintana and the engagement team had not, as part of evaluating management's estimate, adequately assessed the qualitative factors of impairment and evaluated whether the company's stock price and the market capitalization used was representative of the company's fair value.

54. As a result, Fahrnow provided his concurring approval of issuance for the Ameritrust Audit report without performing his review with the requisite due professional care and professional skepticism in violation of AS 1220.[50]

E. Somerset Violated PCAOB Rules and Quality Control Standards

55. PCAOB rules and standards require that a registered firm establish and maintain a system of quality control for its accounting and auditing practice.[51] A firm should establish policies and procedures to provide it with reasonable assurance that the work performed by

47 AS 1105.04; AS 2301.08; AS 2501.10; AS 2810.30.

48 AS 1220.10b.

49 *Id*. at .11.

50 *Id*. at .12; AS 1015.01.

51 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*; QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[52]

56. Throughout the relevant period, Somerset failed to establish and maintain policies and procedures that provided the Firm with reasonable assurance that its personnel complied with applicable professional standards and regulatory requirements.

57. Although Somerset had quality control policies and procedures regarding engagement performance, its policies and procedures did not ensure that the work performed by engagement personnel met applicable professional standards. Instead, on multiple issuer audits conducted by multiple engagement personnel over the course of two years, Somerset and its professionals failed to exercise due care or obtain sufficient appropriate evidence.

58. Further, although Somerset had quality control policies and procedures related to the performance of engagement quality reviews, its policies and procedures did not ensure that the work performed by EQR partners met applicable professional standards and the Firm's standards of quality with regard to its engagement quality reviews. Specifically, the Firm's policies and procedures did not ensure that its personnel performing such reviews would perform their reviews with the requisite due professional care and professional skepticism on multiple issuer audits. The Firm also failed to adequately implement policies and procedures providing reasonable assurance that EQR partners would maintain their objectivity.[53] Instead, on the Noble Roman Audits, an EQR partner assumed the role of an engagement team member by directly performing certain audit procedures and preparing work papers.

59. Accordingly, Somerset violated PCAOB rules and quality control standards.[54]

IV.

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

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52 QC § 20.17.

53 AS 1220.04.

54 QC § 20.17.

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Somerset CPAs, P.C., Douglas C. Fahrnow, CPA, Rebecca F. Quintana, CPA, and Edward M. McGuire, CPA are hereby censured;

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Douglas C. Fahrnow, CPA is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[55]

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

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Rebecca F. Quintana, CPA is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[56]

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

F. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Edward M. McGuire, CPA is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[57]

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[55] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Fahrnow. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

[56] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act, discussed *supra*, at n. 55, will apply with respect to Quintana.

[57] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act, discussed *supra*, at n. 55, will apply with respect to McGuire.

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

H. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

1. Somerset CPAs, P.C., $100,000;

2. Douglas C. Fahrnow, CPA, $60,000;

3. Rebecca F. Quintana, CPA, $40,000; and

4. Edward M. McGuire, CPA, $30,000.

i. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act.

ii. Respondents shall pay these civil money penalties within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm or the person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

iii. Respondents Douglas C. Fahrnow, CPA, Rebecca F. Quintana, CPA, and Edward M. McGuire, CPA understand that failure to pay the civil money penalty described above may alone be grounds to

deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

iv. Respondent Somerset CPAs, P.C. understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent Somerset CPAs, P.C. at the address on file with the PCAOB at the time of the issuance of this Order.

v. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to interest.

vi. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondents' payment of the civil money penalty pursuant to this Order, in any private action brought against Respondents based on substantially the same facts as set out in the findings in this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 14, 2023

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG AZSA LLC,

Respondent.

PCAOB Release No. 105-2023-030

November 14, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG AZSA LLC ("KPMG Japan," "Firm," or "Respondent");

(2) imposing a civil money penalty of $500,000 on KPMG Japan; and

(3) requiring KPMG Japan to review and certify its quality control policies and procedures concerning journal entry testing.

The Board is imposing these sanctions on the basis of its findings that KPMG Japan violated PCAOB rules and quality control standards by failing to implement, maintain, and monitor quality control policies and procedures to ensure that its personnel complied with professional standards concerning journal entry testing.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order, as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG AZSA LLC** is a limited liability corporation organized under the laws of Japan and headquartered in Tokyo, Japan. The Firm is licensed by the Japan Financial Services Agency (License No. 2085). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns KPMG Japan's failure to comply with PCAOB quality control standards. From 2019 through 2021, the Firm's quality control policies and procedures governing engagement performance were insufficient to provide it with reasonable assurance that the journal entry testing conducted by its engagement personnel in connection with audits subject to PCAOB rules and standards met applicable professional standards and regulatory requirements.

3. Additionally, KPMG Japan's system of quality control failed to include adequate monitoring procedures that enabled the Firm to obtain reasonable assurance that its system of quality control concerning journal entry testing was effective.

C. KPMG Japan Violated PCAOB Quality Control Standards

i. KPMG Japan's Quality Control Policies and Procedures Failed to Provide the Firm with Reasonable Assurance that Work Performed by Engagement Personnel Met Professional Standards and Regulatory Requirements

4. PCAOB rules require registered public accounting firms to comply with the Board's quality control standards.[2] PCAOB quality control standards, in turn, require each

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

[2] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

registered firm to effectively design, implement, and maintain a system of quality control in the firm's accounting and auditing practice.[3] A firm's system of quality control should, among other things, include policies and procedures for engagement performance. A firm should establish policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[4] Quality control policies and procedures for engagement performance should encompass all phases of the design and execution of an engagement.[5] To the extent appropriate and as required by applicable professional standards, these policies and procedures should also cover, among other things, planning, performing, and documenting the results of each engagement.[6]

5. PCAOB auditing standards specify that, "[m]aterial misstatements of financial statements due to fraud often involve the manipulation of the financial reporting process by (a) recording inappropriate or unauthorized journal entries throughout the year or at period end, or (b) making adjustments to amounts reported in the financial statements that are not reflected in formal journal entries[.]"[7] Accordingly, auditors are instructed to "[i]dentify and select journal entries and other adjustments for testing."[8] Among other things, "even though controls [over the preparation and posting of journal entries and adjustments] might be implemented and operating effectively, the auditor's substantive procedures for testing journal entries and other adjustments should include the identification and substantive testing of specific items."[9] "[T]he auditor's procedures should include selecting from the general ledger journal entries to be tested and examining support for those items."[10]

6. PCAOB auditing standards also specify that "management is in a unique position to perpetuate fraud because of its ability to directly or indirectly manipulate accounting records and prepare fraudulent financial statements by overriding established controls. . . ."[11]

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3 Quality Control Standard 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20"), .01-.02.

4 QC § 20.17.

5 QC § 20.18.

6 *Id.*

7 AS 2401.58, *Consideration of Fraud in a Financial Statement Audit*.

8 *Id.*

9 AS 2401.61.

10 *Id.*

11 AS 2401.57.

Accordingly, auditors should perform procedures to specifically address the risk of management override of controls.[12]

7. During certain issuer audit work conducted by the Firm between 2019 and 2021,[13] Firm personnel identified management override of controls as a fraud risk and performed procedures to test certain subsets of journal entries they identified as high-risk ("High-Risk Journal Entries") as part of their response to this risk. The procedures performed included identifying manual journal entries of a certain magnitude that were submitted by employees at a given level of seniority and related to the recording of sales or reduction of expenses or losses, or involved reclassification of amounts within the profit and loss statement.

8. However, the Firm's journal entry testing work papers for the audits in question often reflected only cursory analysis of the High-Risk Journal Entries, typically referencing general observations and/or discussions with management. In many instances, the Firm's testing relied on an understanding of the High-Risk Journal Entries gleaned from other audit procedures, and generally failed to incorporate the substantive testing of supporting evidence required by PCAOB standards.[14]

9. The version of KPMG Japan's audit methodology and accompanying guidance in effect from 2019 through 2021 included a general instruction that audit teams should document procedures performed over journal entries selected for testing, but the guidance provided by the Firm was not specific enough to provide reasonable assurance that engagement teams would adequately test the High-Risk Journal Entries, which contributed to the deficiencies in journal entry testing.

10. Accordingly, KPMG Japan violated QC § 20.

ii. KPMG Japan's Monitoring Procedures Failed to Provide the Firm with Reasonable Assurance That its System of Quality Control Concerning Journal Entry Testing Was Operating Effectively

11. A firm should establish policies and procedures to provide it with reasonable assurance that its quality control policies and procedures are suitably designed and are being

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12 *Id.*

13 The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

14 *See* AS 2401.61.

effectively applied.[15] Monitoring involves an ongoing consideration and evaluation of the (a) relevance and adequacy of the firm's policies and procedures; (b) appropriateness of the firm's guidance materials and any practice aids; (c) effectiveness of professional development activities; and (d) compliance with the firm's policies and procedures.[16]

12. Monitoring procedures, taken as a whole, should enable the firm to obtain reasonable assurance that its system of quality control is effective.[17] "Procedures that provide the firm with a means of identifying and communicating circumstances that may necessitate changes to, or the need to improve compliance with, the firm's policies and procedures contribute to the monitoring element."[18] Among other things, a firm's monitoring procedures may include inspection procedures, preissuance or postissuance review of selected engagements, determination of any corrective actions to be taken and improvements to be made in the quality control system, communication to appropriate firm personnel of any weaknesses identified, and follow up to ensure that any necessary modifications are made to the quality control policies and procedures on a timely basis.[19]

13. As part of KPMG Japan's quality control monitoring, the Firm conducted periodic internal quality reviews designed to identify potential deficiencies in audit work, which could either be escalated as formal findings or communicated informally by reviewers to engagement team members. Only formal findings were documented and maintained in the inspection report for a quality review.

14. KPMG Japan conducted an internal quality review of an issuer audit performed in 2020, during which the reviewers evaluated testing of High-Risk Journal Entries. The internal quality review team identified certain deficiencies in the testing, and discussed those deficiencies with the engagement team, but concluded that the deficiencies did not warrant a formal finding. The failure of the Firm's internal review program to issue a formal finding concerning the deficient journal entry testing or otherwise escalate the issue within the Firm contributed to deficient testing of High-Risk Journal Entries in 2021.

15. Accordingly, KPMG Japan violated QC § 30.

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15 *See* QC § 20.20; Quality Control Standard 30, *Monitoring a CPA Firm's Accounting and Auditing Practice* ("QC § 30"), .02.

16 *Id.*

17 QC § 30.03.

18 *Id.*

19 *Id.*; *see also* QC §§ 30.04-.08.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. In ordering sanctions, the Board took into consideration certain remedial steps KPMG Japan has undertaken, including revisions to certain quality control policies and procedures. The Firm's revised procedures more explicitly instruct teams to examine underlying support for journal entries selected for testing, and provide a direct link to relevant PCAOB auditing standards governing such testing.

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $500,000 is imposed upon KPMG Japan.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. KPMG Japan shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by PCAOB staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that KPMG Japan shall pay pursuant to this Order, KPMG Japan shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of KPMG Japan's payment of the civil money penalty pursuant to this Order, in any private action brought against KPMG Japan based on substantially the same facts as set out in the findings in this Order.

5. KPMG Japan understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a), following written notice to it at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by KPMG Japan. Within 90 days of the date of this Order, KPMG Japan shall review and evaluate its quality control policies and procedures intended to provide the Firm with reasonable assurance that its personnel comply with professional standards and regulatory requirements for journal entry testing applicable to audits and reviews conducted pursuant to PCAOB standards.

2. Reporting. Within 120 days of the date of this Order, KPMG Japan shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the area specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG Japan or, if KPMG Japan concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the Firm believes changes are not warranted. In addition, KPMG Japan shall submit any additional information and evidence concerning the Report, the information in the Report, and KPMG Japan's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within 150 days of the date of this Order, KPMG Japan's head of quality assurance shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that KPMG Japan has implemented all of the modifications and additions to its policies and procedures, if any, that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG Japan's adoptions of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG Japan shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. KPMG Japan understands that a failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 14, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Cherry Bekaert LLP,

Respondent.

PCAOB Release No. 105-2023-031

November 14, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Cherry Bekaert LLP ("Cherry Bekaert," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $35,000 upon the Firm; and

(3) requiring the Firm to comply with its policies and procedures directed toward ensuring compliance with PCAOB standards for communications with audit committees.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to make a required communication to the audit committee of Ipsidy Inc. dba authID.ai under AS 1301, *Communications with Audit Committees*.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Cherry Bekaert has submitted an Offer of Settlement ("Offer") that the Board has

determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Cherry Bekaert LLP** is a limited liability partnership headquartered in Raleigh, North Carolina and licensed to practice public accounting in multiple jurisdictions. It is licensed by, among others, the North Carolina Board of Certified Public Accountant Examiners (license no. 18220[2]), and the New York State Education Department Office of Professions (license no. 069944). At all relevant times, Cherry Bekaert was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for 28 issuer clients.

B. Issuer

2. **Ipsidy Inc. dba authID.ai** (n/k/a authID, Inc.) ("authID"), is a corporation headquartered in Denver, Colorado. Its public filings disclose that it is a provider of secure, authentication solutions that bind passwordless authentication with biometric identity. At all relevant times, authID was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Cherry Bekaert issued an audit report on authID's consolidated financial statements on March 22, 2022, for the year ended December 31, 2021 (the "Audit"), which was included in authID's Form 10-K filed with the U.S. Securities and Exchange Commission on March 22, 2022.

C. Other Relevant Entity

3. **SA Professional Consulting** ("SAPRO") is a consulting firm headquartered in New York, New York. Cherry Bekaert used a person affiliated with SAPRO to perform certain

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

[2] As required by the North Carolina Board of Certified Public Accountant Examiners, Cherry Bekaert maintains a unique license number for each of its North Carolina offices. License number 18220 is associated with Cherry Bekaert's Raleigh office.

audit procedures in connection with the Audit.

D. Cherry Bekaert Failed to Make a Required Audit Committee Communication in Violation of AS 1301

4. Pursuant to PCAOB auditing standards, an auditor should communicate with a company's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[3] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment.[4]

5. PCAOB standards specify that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms[5] or other persons, who were not employed by the auditor, that performed audit procedures in the current period audit.[6]

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[3] AS 1301.01, *Communications with Audit Committees*.

[4] *Id.* at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301) ("AS 1301 Adopting Release"), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See Auditing Standard No. 16—Communications With Audit Committees; Related Amendments to PCAOB Standards;* and *Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (August 15, 2012).

[5] The term "other independent public accounting firms" includes "firms that perform audit procedures in the current period audit regardless of whether they otherwise have any relationship with the auditor." AS 1301.10d, Note.

[6] *Id.* In the AS 1301 Adopting Release, the Board explained the rationale for identifying other independent public accounting firms for the audit committee as follows: "The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators." AS 1301 Adopting Release at Appendix 4, p. A4-15.

6. In connection with the Audit, Cherry Bekaert failed to inform the audit committee of authID of the name, location, and planned responsibilities of a person—the individual affiliated with SAPRO—who was not employed by Cherry Bekaert and performed audit procedures in the Audit.

7. Accordingly, Cherry Bekaert violated AS 1301.10d in connection with the Audit.

IV.

Cherry Bekaert has represented to the Board that, since this deficiency was identified by the PCAOB during its 2022 inspection, it has established and implemented the following changes to its policies and procedures for the purpose of providing Cherry Bekaert with reasonable assurance of compliance with PCAOB standards for communications with audit committees.

a. Cherry Bekaert has implemented updated audit planning and results guidance for communicating the names, locations, and planned responsibilities of other independent public accounting firms performing audit procedures in an audit; and

b. Cherry Bekaert has communicated this updated guidance to relevant personnel, and has provided relevant training to manager and above assurance personnel.

V.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $35,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Cherry Bekaert is required to comply with its audit committee communications policies and procedures, including those intended to provide reasonable assurance that, as part of communicating its overall audit strategy, Cherry Bekaert communicates

with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms or other persons, who were not employed by the auditor, that performed audit procedures in the audit.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 14, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Deloitte Audit,

Respondent.

PCAOB Release No. 105-2023-032

November 14, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Deloitte Audit ("DT Luxembourg," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $50,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to make certain required communications to the audit committee of ArcelorMittal S.A. under AS 1301, *Communications with Audit Committees.*

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, DT Luxembourg has submitted an Offer of Settlement ("Offer") that the Board has

determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Deloitte Audit** is headquartered in Luxembourg, Luxembourg, and is a member of the Deloitte Touche Tohmatsu Limited ("DTTL") global network. At all relevant times, DT Luxembourg was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for one issuer client.

B. Issuer

2. **ArcelorMittal S.A.** is a corporation headquartered in Luxembourg, Luxembourg. ArcelorMittal owns and operates steel manufacturing and mining facilities in Europe, North and South America, Asia, and Africa. At all relevant times, ArcelorMittal was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). DT Luxembourg issued an audit opinion on ArcelorMittal's consolidated financial statements on March 11, 2022, for the year ended December 31, 2021 (the "Audit"), which was included in ArcelorMittal's Form 20-F filed with the U.S. Securities and Exchange Commission on March 11, 2022.

C. Other Relevant Entities

3. **AO Deloitte & Touche CIS** ("DT Russia") was, at all relevant times, an independent public accounting firm headquartered in Moscow, Russian Federation and registered with the Board pursuant to Section 102 of the Act and PCAOB rules. DT Russia performed audit procedures in the Audit.

4. **Deloitte LLP** ("DT UK") is an independent public accounting firm headquartered in London, United Kingdom. At all relevant times, DT UK was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. DT UK performed audit procedures in the Audit.

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

5. **Deloitte Haskins & Sells LLP** ("DT India A") is an independent public accounting firm headquartered in Mumbai, India. At all relevant times, DT India A was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. DT India A performed audit procedures in the Audit.

6. **Deloitte Haskins & Sells** ("DT India B") is an independent public accounting firm headquartered in Ahmedabad, India. At all relevant times, DT India B was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. DT India B performed audit procedures in the Audit.

7. **Deloitte S.A.** ("DT Argentina") is an independent public accounting firm headquartered in Córdoba, Argentina. DT Argentina is not, and never has been, registered with the Board. DT Argentina performed audit procedures in the Audit.

8. **Deloitte Auditing and Consulting Kft.** ("DT Hungary") is an independent public accounting firm headquartered in Budapest, Hungary. DT Hungary is not registered with the Board. DT Hungary's registration with the Board was withdrawn in 2010. DT Hungary performed audit procedures in the Audit.

9. **Deloitte & Touche - Qatar Branch** ("DT Qatar") is an independent public accounting firm headquartered in Doha, Qatar. DT Qatar is not, and never has been, registered with the Board. DT Qatar performed audit procedures in the Audit.

10. The entities described in paragraphs 3 through 9 are public accounting firms, as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii), and each was a member of the DTTL global network at all relevant times.[2]

D. DT Luxembourg Failed to Make Required Audit Committee Communications in Violation of AS 1301

11. Pursuant to PCAOB auditing standards, an auditor should communicate with a company's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[3] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the

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[2] On May 26, 2022, DT Russia filed with the Board a Special Report on Form 3 stating that, as of May 20, 2022, it had changed its legal name to AO "Business Solutions and Technologies" ("AO"). In its most recent Annual Report on Form 2, filed with the Board on June 27, 2023, AO indicated that it is no longer a member of the DTTL global network or any other global network.

[3] AS 1301.01, *Communications with Audit Committees*.

timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment.[4]

12. PCAOB standards specify that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms[5] or other persons, who were not employed by the auditor, that performed audit procedures in the current period audit.[6]

13. In connection with the Audit, DT Luxembourg failed to inform ArcelorMittal's audit committee of the name, location, and planned responsibilities of the following independent public accounting firms that performed audit procedures in the Audit: DT Russia, DT UK, DT India A, DT India B, DT Argentina, DT Hungary, and DT Qatar.

14. Accordingly, DT Luxembourg violated AS 1301.10d in connection with the Audit.

IV.

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

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[4] *Id.* at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301) ("AS 1301 Adopting Release"), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See Auditing Standard No. 16—Communications With Audit Committees; Related Amendments to PCAOB Standards;* and *Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (August 15, 2012).

[5] The term "other independent public accounting firms" includes "firms that perform audit procedures in the current period audit regardless of whether they otherwise have any relationship with the auditor." AS 1301.10d, Note.

[6] *Id.* In the AS 1301 Adopting Release, the Board explained the rationale for identifying other independent public accounting firms for the audit committee as follows: "The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators." AS 1301 Adopting Release at Appendix 4, at A4-15.

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that Firm personnel will communicate to audit committees all matters required by AS 1301; and

2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 14, 2023

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG,

Respondent.

PCAOB Release No. 105-2023-033

November 14, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG ("KPMG Argentina," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $40,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to make certain required communications to the audit committee of its issuer audit client, Banco BBVA Argentina S.A. ("Banco BBVA"), in violation of AS 1301, *Communications with Audit Committees*.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG Argentina has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or

denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG** is a partnership headquartered in Buenos Aires, Argentina and is a member of the KPMG global network of firms ("KPMG International"). It is licensed to practice public accounting in multiple jurisdictions in Argentina, including by the Consejo Profesional de Ciencias Económicas de Buenos Aires (license no. T°1 F°193 - Docket 193). At all relevant times, KPMG Argentina was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for one issuer client.

B. Issuers

2. **Banco BBVA Argentina S.A.** is a corporation headquartered in Buenos Aires, Argentina. Its public filings disclose that it is a financial institution providing a variety of banking services. At all relevant times, Banco BBVA was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). On April 15, 2021, KPMG Argentina issued an audit report on Banco BBVA's financial statements that Banco BBVA included in its Form 20-F filed with the U.S. Securities and Exchange Commission for the fiscal year ended December 31, 2020 (the "Audit").

C. Other Relevant Entities

3. **KPMG Auditores, S.L.** ("KPMG Spain") is a limited liability company headquartered in Madrid, Spain and a member of KPMG International. At all relevant times, KPMG Spain was registered with the Board pursuant to Section 102 of the Act and PCAOB rules and licensed by the Instituto de Contabilidad y Auditoría de Cuentas de España (license no. s0702). KPMG Spain performed audit procedures in connection with the Audit.

4. **KPMG S.A.** is a corporation headquartered in Córdoba, Argentina and a member of KPMG International. KPMG S.A. is not, and has never been, registered with the Board. KPMG S.A. performed audit procedures in connection with the Audit.

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

D. KPMG Argentina Failed to Make Required Audit Committee Communications in Violation of AS 1301

5. Pursuant to PCAOB auditing standards, an auditor should communicate with a company's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[2] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment.[3]

6. PCAOB standards specify that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms[4] or other persons, who were not employed by the auditor, that performed audit procedures in the current period audit.[5]

7. In connection with the Audit, KPMG Argentina failed to inform Banco BBVA's audit committee of the name, location, and planned responsibilities of KPMG Spain and KPMG S.A., other independent public accounting firms that performed audit procedures in the Audit.

8. Accordingly, KPMG Argentina violated AS 1301.10d in connection with the Audit.

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[2] AS 1301.01, *Communications with Audit Committees*.

[3] *Id.* at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301) ("AS 1301 Adopting Release"), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See* Auditing Standard No. 16—*Communications With Audit Committees; Related Amendments to PCAOB Standards;* and *Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (Aug. 15, 2012).

[4] The term "other independent public accounting firms" includes "firms that perform audit procedures in the current period audit regardless of whether they otherwise have any relationship with the auditor." AS 1301.10d, Note.

[5] *Id.* In the AS 1301 Adopting Release, the Board explained the rationale for identifying other independent public accounting firms for the audit committee as follows: "The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators." AS 1301 Adopting Release at Appendix 4, p. A4-15.

IV.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $40,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award

of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that Firm personnel will communicate to audit committees all matters required by AS 1301; and

2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 14, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG Auditores Independentes Ltda.,

Respondent.

PCAOB Release No. 105-2023-034

November 14, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG Auditores Independentes Ltda. ("KPMG Brazil," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $40,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to make certain required communications to the audit committee of its issuer audit client, Petróleo Brasileiro S.A. ("Petrobras"), in violation of AS 1301, *Communications with Audit Committees*.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG Brazil has submitted an Offer of Settlement ("Offer") that the Board has

determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG Auditores Independentes Ltda.** is a limited liability partnership headquartered in São Paulo, Brazil and is a member of the KPMG global network of firms ("KPMG International"). It is licensed to practice public accounting by the Conselho de Contabilidade do Estado de São Paulo (license no. 2SP014428/06). At all relevant times, KPMG Brazil was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for eleven issuer clients.

B. Issuers

2. **Petróleo Brasileiro S.A.** is a corporation headquartered in Rio de Janeiro, Brazil. Its public filings disclose that it focuses on the offshore and onshore exploration, appraisal, development, production and incorporation of oil and natural gas reserves. At all relevant times, Petrobras was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). On March 30, 2022, KPMG Brazil issued an audit report on Petrobras's financial statements that Petrobras included in its Form 20-F filed with the U.S. Securities and Exchange Commission for the fiscal year ended December 31, 2021 (the "Audit").

C. Other Relevant Entity

3. **KPMG Assurance Services Ltda.** ("KPMG Assurance") is a limited liability partnership headquartered in São Paulo, Brazil, and a member of KPMG International. KPMG Assurance is not, and has never been, registered with the Board. KPMG Assurance performed audit procedures in connection with the Audit.

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

D. KPMG Brazil Failed to Make Required Audit Committee Communications in Violation of AS 1301

4. Pursuant to PCAOB auditing standards, an auditor should communicate with a company's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[2] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment.[3]

5. PCAOB standards specify that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms[4] or other persons, who were not employed by the auditor, that performed audit procedures in the current period audit.[5]

6. In connection with the Audit, KPMG Brazil failed to inform Petrobras's audit committee of the name, location, and planned responsibilities of KPMG Assurance, an other independent public accounting firm that performed audit procedures in the Audit.

7. Accordingly, KPMG Brazil violated AS 1301.10d in connection with the Audit.

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[2] AS 1301.01, *Communications with Audit Committees*.

[3] *Id.* at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301) ("AS 1301 Adopting Release"), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See* Auditing Standard No. 16—*Communications With Audit Committees; Related Amendments to PCAOB Standards;* and *Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (Aug. 15, 2012).

[4] The term "other independent public accounting firms" includes "firms that perform audit procedures in the current period audit regardless of whether they otherwise have any relationship with the auditor." AS 1301.10d, Note.

[5] *Id.* In the AS 1301 Adopting Release, the Board explained the rationale for identifying other independent public accounting firms for the audit committee as follows: "The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators." AS 1301 Adopting Release at Appendix 4, p. A4-15.

IV.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $40,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award

of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that Firm personnel will communicate to audit committees all matters required by AS 1301; and

2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 14, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of RH CPA,

Respondent.

PCAOB Release No. 105-2023-035

November 14, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring RH CPA ("RH," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $45,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to make certain required communications to the audit committee of its issuer audit client Sunrise Real Estate Group, Inc. ("Sunrise"), in violation of AS 1301, *Communications with Audit Committees*, and failed to file an accurate Form AP regarding an audit of Sunrise, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, RH has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **RH CPA** is a sole proprietorship headquartered in Bayside, New York. RH is licensed by the state of New York (lic. no. 115377). At all relevant times, RH was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for three issuer clients.

B. Issuer

2. **Sunrise Real Estate Group, Inc.** is a corporation with principal executive offices in Shanghai, the People's Republic of China ("PRC"). Its public filings disclose that it provides property brokerage services, including real estate marketing, property management, and property leasing, and that it also engages in real estate development. At all relevant times, Sunrise was an issuer as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). On September 29, 2020, RH issued an audit report on Sunrise's financial statements that Sunrise included in its Form 10-K filed with the U.S. Securities and Exchange Commission for fiscal year 2019 (the "2019 Audit").

C. Other Relevant Entity

3. **Beijing Haohe Zhongtian CPA** ("BHZ") is a limited liability corporation headquartered in Beijing, PRC. BHZ is a public accounting firm, as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii). BHZ is not now, and never has been, registered with the Board. BHZ participated in the 2019 Audit.

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

D. RH Failed to Make Required Audit Committee Communications in Violation of AS 1301

4. Pursuant to PCAOB auditing standards, an auditor must communicate with a client's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[2] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment procedures.[3]

5. PCAOB standards specify that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms or other persons, who were not employed by the auditor, that performed audit procedures in the current period audit.[4]

6. In connection with the 2019 Audit, RH failed to inform Sunrise's audit committee of the name, location, and planned responsibilities of two personnel employed by BHZ, other persons who were not employed by RH who performed audit procedures in the 2019 Audit.

7. Accordingly, RH violated AS 1301.10d in connection with the 2019 Audit.

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[2] AS 1301.01, *Communications with Audit Committees*.

[3] *Id.* at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301) ("AS 1301 Adopting Release"), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See* Auditing Standard No. 16, *Communications With Audit Committees; Related Amendments to PCAOB Standards;* and *Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (August 15, 2012).

[4] AS 1301.10d. In the AS 1301 Adopting Release, the Board explained the rationale for identifying other independent public accounting firms for the audit committee as follows: "The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators." AS 1301 Adopting Release at Appendix 4, p. A4-15.

E. RH Failed to File an Accurate Form AP in Violation of PCAOB Rule 3211

8. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.

9. In particular, Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

10. The Form AP Instructions for "Part IV – Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm" that incurs more than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*"[5] in its Form AP.[6]

11. The Form AP General Instructions[7] explain that an other accounting firm participated in the audit if "the other accounting firm or any of its principals or professional employees was subject to supervision under AS 1201, *Supervision of the Audit Engagement*."

12. During the 2019 Audit, RH used two BHZ personnel, subject to RH's supervision under AS 1201, for 216 of the 513 total hours (approximately 40%) on the 2019 Audit. Following the 2019 Audit, RH filed a Form AP that failed to identify BHZ as a participant in the audit.

13. Accordingly, RH violated PCAOB Rule 3211(a) in connection with the 2019 Audit.

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[5] *Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, Appendix 1 at p. A1-7 (Dec. 15, 2015) ("December 15, 2015, Release").

[6] In the December 15, 2015, Release, the Board indicated that information provided on Form AP was intended to "help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *Id.* at 4.

[7] *Form AP – Auditor Reporting of Certain Audit Participants General instructions*, Part III - Item 3.2, Note, *available at* https://pcaobus.org/about/rules-rulemaking/rules/form-ap-instructions.

IV.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $45,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) see or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award

of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that Firm personnel will communicate to audit committees all matters required by AS 1301 and file accurate and timely Form APs; and

2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 14, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of UHY LLP,

Respondent.

PCAOB Release No. 105-2023-036

November 14, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring UHY LLP ("UHY," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $45,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules relating to independence in connection with the audits of Mountain Crest Acquisition Corp. V. ("Mountain Crest"). The Firm also failed to make certain required communications to the audit committee of iPower Inc. ("iPower") under AS 1301, *Communications with Audit Committees*.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, UHY has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **UHY LLP** is a professional limited liability partnership formed under New York law and headquartered in New York, New York. It is licensed to practice public accounting in multiple jurisdictions, including with the New York State Education Department (license no. 053132) and the District of Columbia Board of Accountancy (license no. CPC900636). At all relevant times, UHY was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Issuers

2. **Mountain Crest Acquisition Corp. V.,** was, at all relevant times, an entity incorporated in Delaware and headquartered in New York, New York. It is a special acquisition company formed for the purpose of effecting a merger, capital stock exchange, asset acquisition, stock purchase, reorganization, or similar business combination with one or more businesses. At all relevant times, Mountain Crest was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). UHY issued an audit report that Mountain Crest included in its Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") for the period from April 8, 2021 through December 31, 2021.

3. **iPower Inc.**, was, at all relevant times, an entity incorporated in Nevada and headquartered in Duarte, California. It is engaged in the marketing and sale of indoor and greenhouse gardening products with warehouses in the United States and China. At all relevant

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

times, iPower was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). UHY issued an audit report that iPower Inc. included in its Form 10-K filed with the Commission for the year ended June 30, 2021.

C. Other Relevant Entity

4. **UKW Advisors China Co., Ltd. ("UKW")**, was at all relevant times an affiliate advisory company of UHY in China. UHY used a person affiliated with UKW to perform certain audit procedures in connection with the iPower audit.

D. UHY Failed to Obtain Audit Committee Pre-Approval of Services in Violation of PCAOB Rules 3520 and 3524

5. PCAOB rules require that a registered public accounting firm and its associated persons must be independent of the firm's audit client throughout the audit and professional engagement period.[2] That requirement includes an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB and all other independence criteria set out in the Commission's rules and regulations under the federal securities laws.[3]

6. Rule 3524, *Audit Committee Pre-approval of Certain Tax Services*, provides that, in connection with seeking audit committee pre-approval to perform for an issuer audit client any permissible tax service, a registered public accounting firm describe, in writing, to the audit committee of the issuer, among other things, the scope of the service, the fee structure of the engagement, and any side letter or other amendment to the engagement letter, or any other agreement between the firm and the audit client relating to the service.

7. Rule 2-01(c)(7)(i) of Commission Regulation S-X provides that "[a]n accountant is not independent of an issuer" unless, "[b]efore the accountant is engaged by the issuer . . . to render audit or non-audit services, the engagement is approved by the issuer's . . . audit committee."[4]

8. UHY audited Mountain Crest's financial statements for the period from April 8, 2021 through December 31, 2021, issuing an audit report that the issuer included in its Form 10-K filed with the Commission in March 2022.

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2 *See* PCAOB Rule 3520, *Auditor Independence.*

3 *See* PCAOB Rule 3520, Note 1.

4 17 C.F.R. § 210.2-01(c)(7).

9. During the time that UHY performed that audit, it also performed tax compliance and consulting services for Mountain Crest.

10. UHY failed to obtain pre-approval from Mountain Crest's audit committee to provide these additional services.

11. Accordingly, UHY violated Rule 3520 and Rule 3524 by not fulfilling the requirements of Rule 2-01(c)(7)(i) of Commission Regulation S-X, and thus was not independent of Mountain Crest.

E. UHY Failed to Communicate the Names, Locations, and Planned Responsibilities of UKW in Violation of AS 1301

12. Pursuant to PCAOB auditing standards, an auditor must communicate with a client's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[5] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment.[6]

13. PCAOB standards specify that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms[7] or other persons, who were not employed by the auditor, that performed audit procedures in the current period

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[5] AS 1301.01, *Communications with Audit Committees*.

[6] *Id.* at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301) ("AS 1301 Adopting Release"), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See Auditing Standard No. 16—Communications With Audit Committees; Related Amendments to PCAOB Standards;* and *Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (August 15, 2012).

[7] The term "other independent public accounting firms" includes "firms that perform audit procedures in the current period audit regardless of whether they otherwise have any relationship with the auditor." AS 1301.10d, Note.

audit.[8]

14. UHY audited iPower's financial statements for the year ended June 30, 2021, issuing an audit report that the issuer included in its Form 10-K filed with the Commission in September 2021.

15. In connection with the audit of iPower, UHY failed to inform iPower's audit committee of the name, location, and planned responsibilities of UKW, which performed inventory physical observation procedures in assisting the Firm's audit of the iPower's financial statements for the year ended June 30, 2021.

16. Accordingly, UHY violated AS 1301.10d in connection with the Audit.

IV.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $45,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board

[8] *Id.* In the AS 1301 Adopting Release, the Board explained the rationale for identifying other independent public accounting firms for the audit committee as follows: "The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators." AS 1301 Adopting Release at Appendix 4, p. A4-15.

staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006;

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest;

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order; and

5. Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that Firm personnel will

communicate to audit committees all matters required by PCAOB Rule 3520, PCAOB Rule 3524, and Rule 2-01(c)(7) of Commission Regulation S-X; and

2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 14, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Guney Bagimsiz Denetim Ve Serbest Muhasebeci Mali Musavirlik A.S.,

Respondent.

PCAOB Release No. 105-2023-037

November 28, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Guney Bagimsiz Denetim Ve Serbest Muhasebeci Mali Musavirlik A.S. ("EY Turkey," "Firm," or "Respondent");

(2) imposing a $25,000 civil money penalty on EY Turkey; and

(3) requiring EY Turkey to comply with its policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that EY Turkey failed to disclose certain reportable events to the PCAOB on Form 3, *Special Report*, or to do so on a timely basis.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has

determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Guney Bagimsiz Denetim Ve Serbest Muhasebeci Mali Musavirlik A.S.** is a limited liability corporation organized under the laws of Turkey. EY Turkey is headquartered in Istanbul, Turkey and is licensed to practice by the Istanbul Chamber of Public Accountants and Advisors (License No. 10356). EY Turkey is a member of the Ernst & Young Global Limited network of firms and is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns EY Turkey's failure to disclose to the PCAOB on Form 3, or to do so on a timely basis, four reportable events regarding two disciplinary proceedings brought against the Firm by the Turkish Public Oversight Accounting and Auditing Standards Authority ("POA"). PCAOB rules require registered firms, including EY Turkey, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that EY Turkey is required to report on Form 3 are its becoming aware that the Firm has become a respondent in certain disciplinary proceedings, and the conclusion of such proceedings.

3. On January 3, 2019, the POA issued a warning to EY Turkey and imposed a fine on the Firm in connection with the Firm's audit of a client for the fiscal year ended December 31, 2016 ("2019 POA Proceeding"). The initiation and conclusion of the 2019 POA Proceeding constituted reportable events under Form 3.

4. On February 2, 2021, the POA issued a warning to EY Turkey and imposed a fine on the Firm in connection with the Firm's audit of a client for the fiscal year ended December 31, 2017 ("2021 POA Proceeding" and, collectively with the 2019 POA Proceeding, the "POA

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

Proceedings"). The initiation and conclusion of the 2021 POA Proceeding constituted reportable events under Form 3.

5. EY Turkey failed to report either of the POA Proceedings on Form 3 until March 1, 2023 ("March 2023 Form 3"), well after the applicable deadlines for doing so.[2]

C. Respondent Failed to Disclose Certain Reportable Events to the PCAOB, or to Do So on a Timely Basis, in Violation of PCAOB Rules

6. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[3] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[4]

7. Another reportable event occurs when a firm has become aware that a reportable proceeding (*i.e.*, a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[5]

8. No later than January 3, 2019, EY Turkey became aware that the POA had initiated and concluded an administrative proceeding against the Firm concerning its audit of a client's financial statements for the fiscal year ended December 31, 2016, which resulted in the POA issuing a warning to and imposing a fine on the Firm.

9. No later than February 2, 2021, EY Turkey also became aware that the POA had initiated and concluded an administrative proceeding against the Firm concerning its audit of a client's financial statements for the fiscal year ended December 31, 2017, which resulted in the POA again issuing a warning to and imposing a fine on the Firm.

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[2] The March 2023 Form 3 indicated solely that the POA Proceedings had concluded and did not report or provide information about the initiation of the POA Proceedings (and EY Turkey did not file any separate Form 3s reporting the initiation of the POA Proceedings).

[3] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[4] PCAOB Form 3, at Item 2.7 (italics in the original removed).

[5] *Id.*, at Item 2.10.

10. The initiation and conclusion of the POA Proceedings constituted reportable events under Form 3. Accordingly, the Firm was required to report those events to the PCAOB on Form 3 within thirty days of their occurrence.[6] However, EY Turkey reported the conclusion of the 2019 POA Proceeding approximately four years late and the conclusion of the 2021 POA Proceeding approximately two years late. The Firm also failed to report the initiation of either POA Proceeding.

11. EY Turkey's internal compliance and reporting systems failed to identify the initiation of the POA Proceedings as reportable events, and to identify the conclusion of those proceedings as being reportable to the PCAOB on Form 3 on a timely basis. As a result, EY Turkey inappropriately notified the PCAOB of the conclusion of relevant disciplinary proceedings after the deadline for doing so, and failed to report the initiation of those proceedings.

IV.

12. EY Turkey has represented to the Board that, since the events described in this order, it has established and implemented the following changes to its policies and procedures for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements:

a. EY Turkey has revised and supplemented its policies and procedures for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by EY Turkey personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. EY Turkey has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any EY Turkey personnel who participate in the Firm's PCAOB reporting process; and

c. EY Turkey has assigned the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within EY Turkey to fulfill those requirements on behalf of EY Turkey.

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6 *See* PCAOB Rule 2203(a).

V.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon EY Turkey.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. EY Turkey shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by PCAOB staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies EY Turkey as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that EY Turkey shall pay pursuant to this Order, EY Turkey shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or

apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of EY Turkey's payment of the civil money penalty pursuant to this Order, in any private action brought against EY Turkey based on substantially the same facts as set out in the findings in this Order.

5. EY Turkey understands that failure to pay the civil money penalty described above may result in summary suspension of EY Turkey's registration, pursuant to PCAOB Rule 5304(a), following written notice to EY Turkey at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), EY Turkey is required to comply with its revised policies and procedures concerning PCAOB reporting, including:

1. those intended to provide reasonable assurance that reportable events are identified by EY Turkey personnel who participate in EY Turkey's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. those ensuring training concerning PCAOB reporting requirements, at least annually, of any EY Turkey personnel who participate in EY Turkey's PCAOB reporting process; and

3. those assigning the role of compliance with PCAOB reporting matters to an individual within EY Turkey who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within EY Turkey to fulfill those requirements on behalf of EY Turkey.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 28, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Manning Elliott LLP,

Respondent.

PCAOB Release No. 105-2023-038

November 28, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("PCAOB" or "Board") is:

(1) censuring Manning Elliott LLP ("Manning Elliott," "Firm," or "Respondent");

(2) imposing a $35,000 civil money penalty on Manning Elliott; and

(3) requiring Manning Elliott to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that Manning Elliott failed to disclose certain reportable events to the PCAOB on Form 3, *Special Report*, or to do so on a timely basis.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Manning Elliott** is a limited liability partnership organized under the laws of Canada. Manning Elliott is headquartered in Vancouver, British Columbia and is licensed to practice public accounting by the Chartered Professional Accountants of British Columbia. Manning Elliott is registered with the Canadian Public Accountability Board ("CPAB") and is, and at all relevant times was, registered with the PCAOB pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns Manning Elliott's failure to disclose to the PCAOB on Form 3, or to do so on a timely basis, nine reportable events concerning three disciplinary proceedings brought by CPAB against Manning Elliott. The proceedings addressed deficiencies in the quality of the Firm's audits of various clients that CPAB initially identified during inspections and subsequently referred to CPAB's enforcement program. PCAOB rules require registered firms, including Manning Elliott, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that Manning Elliott is required to report on Form 3 are its becoming aware that the Firm has become a respondent in certain disciplinary proceedings, the conclusion of such proceedings, and any limitations on the Firm's authorization to engage in the business of auditing or accounting.

3. On April 20, 2021, CPAB concluded an enforcement proceeding addressing findings from a 2020 CPAB inspection of the Firm ("April 2021 Proceeding"). CPAB, as part of the April 2021 Proceeding, imposed sanctions on Manning Elliott that included restrictions on client acceptance. The limitation on the Firm's practice, as well as the initiation and conclusion of the April 2021 Proceeding, constituted reportable events under Form 3. However, Manning

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

Elliott did not report the conclusion of the April 2021 Proceeding or the resulting limitation on the Firm's license on Form 3 until August 28, 2023, and did not report the initiation of the April 2021 Proceeding on that (or any other) Form 3.

4. On May 6, 2022, CPAB concluded an enforcement proceeding addressing findings from a 2021 CPAB inspection of the Firm ("May 2022 Proceeding"). CPAB, as part of the May 2022 Proceeding, again imposed sanctions on Manning Elliott that included restrictions on client acceptance. The limitation on the Firm's practice, as well as the initiation and conclusion of the May 2022 Proceeding, constituted reportable events under Form 3. However, Manning Elliott did not report the conclusion of the May 2022 Proceeding on Form 3 until August 28, 2023, and did not report the initiation of the May 2022 Proceeding, or the limitation on the Firm's practice that resulted from it, on that (or any other) Form 3.

5. On June 19, 2023, CPAB concluded an enforcement proceeding addressing findings from a 2022 CPAB inspection of the Firm ("June 2023 Proceeding" and, collectively with the April 2021 Proceeding and May 2022 Proceeding, the "CPAB Proceedings"). Once again, the sanctions that CPAB imposed on Manning Elliott, as part of the June 2023 Proceeding, included restrictions on client acceptance. That limitation on the Firm's practice, as well as the initiation and conclusion of the June 2023 Proceeding, constituted reportable events under Form 3. However, Manning Elliott did not report the conclusion of the June 2023 Proceeding or the resulting limitation on the Firm's license on Form 3 until September 15, 2023, and did not report the initiation of the June 2023 Proceeding on that (or any other) Form 3.

C. Respondent Failed to Disclose Certain Reportable Events to the PCAOB, or to Do So on a Timely Basis, in Violation of PCAOB Rules

6. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[2] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute

[2] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[3]

7. Another reportable event occurs when a firm has become aware that a reportable proceeding (*i.e.*, a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[4]

8. A registered firm must also report when it becomes aware that "its authorization to engage in the business of auditing or accounting in a particular jurisdiction has ceased to be effective or has become subject to conditions or contingencies other than conditions or contingencies imposed on all firms engaged in the business of auditing or accounting in the jurisdiction."[5]

9. No later than April 20, 2021, Manning Elliott became aware that CPAB had initiated and concluded the April 2021 Proceeding, which concerned professional services the Firm provided for its clients and imposed conditions on the Firm's authorization to engage in the business of auditing by limiting the Firm's ability to accept new clients.

10. No later than May 6, 2022, Manning Elliott became aware that CPAB had initiated and concluded the May 2022 Proceeding, which concerned professional services the Firm provided for its clients and imposed conditions on the Firm's authorization to engage in the business of auditing by limiting the Firm's ability to accept new clients.

11. No later than June 19, 2023, Manning Elliott became aware that CPAB had initiated and concluded the June 2023 Proceeding, which concerned professional services the Firm provided for its clients and imposed conditions on the Firm's authorization to engage in the business of auditing by limiting the Firm's ability to accept new clients.

12. The initiation and conclusion of each of the CPAB Proceedings, and the limitations on client acceptance imposed as a result of each of them, constituted reportable events under Form 3. Accordingly, the Firm was required to report those events to the PCAOB on Form 3 within thirty days of their occurrence.[6] However, Manning Elliott failed to report

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[3] PCAOB Form 3, at Item 2.7 (italics in the original removed).

[4] *Id.*, at Item 2.10.

[5] *Id.*, at Item 2.15 (italics in the original removed).

[6] *See* PCAOB Rule 2203(a).

certain of those events altogether, and reported others after the deadline for doing so, as summarized below.

- April 2021 Proceeding: All three reportable events occurred by April 20, 2021 and, therefore, should have been reported no later than May 20, 2021.[7] However, the Firm never reported the initiation of the April 2021 Proceeding, and it failed to report the conclusion of that proceeding and the limitations on client acceptance imposed as a result of it until August 28, 2023—over two years after the applicable deadline.

- May 2022 Proceeding: All three reportable events occurred by May 6, 2022 and, therefore, should have been reported no later than June 6, 2022.[8] However, the Firm never reported the initiation of the May 2022 Proceeding or the limitations on client acceptance imposed as a result of it, and it failed to report the conclusion of that proceeding until August 28, 2023—roughly fourteen months after the applicable deadline.

- June 2023 Proceeding: All three reportable events occurred by June 19, 2023 and, therefore, should have been reported on Form 3 no later than July 19, 2023. However, the Firm never reported the initiation of the June 2023 Proceeding, and it failed to report the conclusion of that proceeding and the limitations on client acceptance imposed as a result of it until September 15, 2023—roughly two months after the applicable deadline.

13. Manning Elliott's internal compliance and reporting systems failed to identify the initiation and conclusion of the CPAB Proceedings, as well as the limitations on the Firm's license (specifically, limitations on client acceptance) that resulted from those proceedings, as being reportable to the PCAOB on Form 3 on a timely basis, if at all. As a result, Manning Elliott inappropriately failed to notify the PCAOB of reportable events concerning relevant disciplinary proceedings, or did so after the applicable deadline.

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[7] To calculate the relevant reporting deadline for the initiation of each of the CPAB Proceedings, the Board is treating each of the proceedings as having been initiated and concluded simultaneously.

[8] Thirty days from the initiation/conclusion date of the May 2022 Proceeding is June 5, 2022, which was a Sunday. Accordingly, Manning Elliott's effective deadline to report that proceeding fell on the following Monday, June 6, 2022. *See* PCAOB Rule 1002, *Time Computation*.

IV.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $35,000 is imposed upon Manning Elliott.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Manning Elliott shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by PCAOB staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Manning Elliott as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Manning Elliott shall pay pursuant to this Order, Manning Elliott shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any

source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Manning Elliott's payment of the civil money penalty pursuant to this Order, in any private action brought against Manning Elliott based on substantially the same facts as set out in the findings in this Order.

5. Manning Elliott understands that failure to pay the civil money penalty described above may result in summary suspension of Manning Elliott's registration, pursuant to PCAOB Rule 5304(a), following written notice to Manning Elliott at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Manning Elliott is required:

1. within 90 days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing Manning Elliott with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Manning Elliott personnel who participate in Manning Elliott's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within 90 days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Manning Elliott personnel and any other individuals or entities, including outside consultants, who participate in Manning Elliott's PCAOB reporting process;

3. within 90 days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within Manning Elliott, or an outside consultant retained for such purposes, who possesses adequate knowledge and experience with PCAOB reporting

requirements and sufficient authority to fulfill those requirements on behalf of Manning Elliott; and

4. within 120 days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, Manning Elliott's compliance with paragraphs C.1 through C.3 above. The certification shall identify the actions taken to satisfy the conditions specified above, provide written evidence in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. Manning Elliott shall also submit such additional evidence and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***Manning Elliott understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 28, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Da Hua CPAs (Special General Partnership),

Respondent.

PCAOB Release No. 105-2023-039

November 28, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Da Hua CPAs (Special General Partnership) ("Da Hua," "Firm," or "Respondent");

(2) imposing a $50,000 civil money penalty on Da Hua; and

(3) requiring Da Hua to review and certify its PCAOB reporting policies and procedures.

The Board is imposing these sanctions on the basis of its findings that Da Hua failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, on a timely basis and violated PCAOB quality control standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Da Hua CPAs (Special General Partnership)** is a partnership organized under the laws of China and headquartered in Beijing, China. Da Hua is licensed in China by the Chinese Ministry of Finance and is a member of the Moore Global network of firms. Da Hua is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns Da Hua's failure to timely disclose to the Board on Form 3 ten reportable events regarding five disciplinary proceedings brought against the firm and certain of its personnel by the China Securities Regulatory Commission ("CSRC"). PCAOB rules require registered firms, including Da Hua, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that Da Hua is required to report on Form 3 are its becoming aware that the firm has become a respondent in certain disciplinary proceedings, and the conclusion of such proceedings.

3. Between May 2022 and March 2023, five separate proceedings brought by the CSRC against Da Hua (and various associated persons of the Firm) were concluded with orders that, in each instance, sanctioned the Firm and the relevant individuals. The initiation and conclusion of each of those CSRC proceedings constituted reportable events under Form 3, but the Firm failed to report any of those events on Form 3 until June 28, 2023—well past the thirty-day reporting deadline.

4. This matter also concerns Da Hua's violation of PCAOB quality control standards. The Board previously issued an order sanctioning Da Hua for failing to report certain qualifying

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

disciplinary proceedings on Form 3 and requiring the Firm to improve its PCAOB reporting process.[2] Da Hua's continued failure to comply with Form 3 reporting requirements demonstrates that the steps taken by the Firm in response to the 2020 Order were insufficient and that its system of quality control concerning PCAOB reporting remains deficient.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[3] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[4]

6. Another reportable event occurs when a firm has become aware that a reportable proceeding (*i.e.*, a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[5]

7. Between May 2022 and March 2023, five separate disciplinary proceedings initiated by the CSRC against Da Hua and various associated persons concluded. Each proceeding pertained to audits Da Hua conducted of non-issuer clients.[6]

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[2] *Da Hua CPAs (Special General Partnership)*, PCAOB Rel. No. 105-2020-015 (Sept. 29, 2020) (the "2020 Order").

[3] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[4] PCAOB Form 3, at Item 2.7 (italics in the original removed).

[5] *Id.*, at Item 2.10.

[6] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

8. No later than the dates on which the CSRC concluded the proceedings, Da Hua became aware that the proceedings had been initiated and concluded. Da Hua was required to report the initiation and conclusion of each of the proceedings within thirty days of the Firm becoming aware of each of those events.[7] However, Da Hua failed to report the initiation and conclusion of the proceedings until it filed a series of Form 3s on June 28, 2023, well after the applicable deadlines. The relevant dates and the extent of Da Hua's delinquency are listed below:

	Initiation/Conclusion Date[8]	Reporting Deadline	Delinquency
Proceeding 1	May 16, 2022	June 15, 2022	378 days
Proceeding 2	June 28, 2022	July 28, 2022	335 days
Proceeding 3	January 5, 2023	February 6, 2023[9]	142 days
Proceeding 4	March 14, 2023	April 13, 2023	76 days
Proceeding 5	March 28, 2023	April 27, 2023	62 days

9. Accordingly, Da Hua repeatedly violated PCAOB Rule 2203.

D. Respondent Violated PCAOB Quality Control Standards

10. PCAOB rules further require registered public accounting firms to comply with the Board's quality control standards.[10] PCAOB quality control standards require each registered firm to effectively design, implement, and maintain a system of quality control in the firm's accounting and auditing practice.[11] A firm should establish policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel

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7 *See* PCAOB Rule 2203(a).

8 To calculate reporting deadlines for purposes of this Order—and consistent with the dates for the initiation and conclusion of the proceedings listed in Da Hua's June 28, 2023 Form 3s—the Board is treating each of the proceedings as having been initiated and concluded on the same date.

9 Thirty days from the initiation/conclusion date of Proceeding 3 is February 4, 2023, which was a Saturday. Accordingly, the Firm's effective deadline to report that proceeding fell on the following Monday, February 6, 2023.

10 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

11 Quality Control Standard 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20"), .01-.02.

meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[12]

11. A firm should establish policies and procedures to provide it with reasonable assurance that its quality control policies and procedures are suitably designed and are being effectively applied. Monitoring involves an ongoing consideration and evaluation of the (a) relevance and adequacy of the firm's policies and procedures; (b) appropriateness of the firm's guidance materials and any practice aids; (c) effectiveness of professional development activities; and (d) compliance with the firm's policies and procedures.[13]

12. The 2020 Order sanctioned Da Hua for failing to report the initiation and conclusion of a CSRC proceeding on Form 3 and required Da Hua to complete various undertakings designed to improve its policies and procedures concerning PCAOB reporting. Specifically, the 2020 Order required Da Hua to (i) establish policies and procedures—or revise or supplement existing policies or procedures—to provide the Firm with reasonable assurance of compliance with PCAOB reporting requirements, (ii) establish policies to ensure that personnel participating in the Firm's PCAOB reporting process receive training at least annually concerning PCAOB reporting requirements, and (iii) assign the role of compliance with PCAOB reporting matters to an individual within the Firm possessing adequate knowledge and experience with PCAOB requirements, and sufficient authority within the Firm, to fulfill Da Hua's PCAOB reporting requirements, and certify in writing the Firm's compliance with the requirements listed above.

13. Following issuance of the 2020 Order, Da Hua certified to the Director of the Board's Division of Enforcement and Investigations that it had complied with the undertakings enumerated in the 2020 Order.

14. However, Da Hua's internal compliance and reporting systems failed to identify the initiation and conclusion of the five CSRC proceedings against Da Hua and its personnel described above as being reportable to the PCAOB on Form 3 on a timely basis. The Firm's continued failure to make timely disclosures on Form 3 demonstrates that Da Hua's system of quality control concerning PCAOB reporting remains deficient despite the Firm's certification following issuance of the 2020 Order.

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[12] QC § 20.17.

[13] *See* QC § 20.20; Quality Control Standard 30, *Monitoring a CPA Firm's Accounting and Auditing Practice* ("QC § 30"), .02.

15. Accordingly, Da Hua violated QC §§ 20 and 30.

IV.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon Da Hua.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Da Hua shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Da Hua as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Da Hua shall pay pursuant to this Order, Da Hua shall not, directly or indirectly, (a) seek or

accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Da Hua's payment of the civil money penalty pursuant to this Order, in any private action brought against Da Hua based on substantially the same facts as set out in the findings in this Order.

5. Da Hua understands that failure to pay the civil money penalty described above may result in summary suspension of Da Hua's registration, pursuant to PCAOB Rule 5304(a), following written notice to Da Hua at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by Da Hua. Within 90 days of the date of this Order, Da Hua shall review and evaluate its quality control or other policies and procedures intended to provide the Firm with reasonable assurance that it complies with PCAOB reporting requirements.

2. Reporting. Within 120 days of the date of this Order, Da Hua shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the area specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by Da Hua or, if Da Hua concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the Firm believes changes are not warranted. In addition, Da Hua shall submit any additional information and evidence concerning the Report, the information in the Report, and Da Hua's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within 150 days of the date of this Order, Da Hua's head of quality assurance shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and

Investigations that Da Hua has implemented all of the modifications and additions to its policies and procedures, if any, that were described in the Report. The Certificate of Implementation shall provide written evidence of Da Hua's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. Da Hua shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. Da Hua understands that a failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 28, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Olayinka Oyebola & Co (Chartered Accountants),

Respondent.

PCAOB Release No. 105-2023-040

November 28, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring Olayinka Oyebola & Co (Chartered Accountants), a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $90,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Olayinka Oyebola & Co (Chartered Accountants)** is located in Victoria Island, Nigeria. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC or Commission),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

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

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2). In the case of a Form S-1 filing, the date of the issuer's S-1/A filing is the latest possible starting point for that ten-day deadline.

3. The Firm audited the financial statements of Motos America, Inc. (f/k/a WECONNECT Tech International) for the years ended July 31, 2020, and July 31, 2021. For Motos America, Inc.'s 2020 financial statements, the Firm issued an audit report dated July 28, 2021, which was included in Motos America, Inc.'s Form 10-K/A filed with the SEC on August 25, 2021. For Motos America, Inc.'s 2021 financial statements, the Firm issued an audit report dated October 25, 2021, which was included in Motos America, Inc.'s Form 10-K filed with the SEC on October 26, 2021.

4. The Firm audited the financial statements of Hanjiao Group, Inc. (f/k/a AS Capital, Inc.) for the year ended December 31, 2018. For Hanjiao Group, Inc.'s 2018 financial statements, the Firm issued an audit report dated March 2019, which was included in Hanjiao Group, Inc.'s Form 10-12G/A filed with the SEC on April 1, 2019.

5. The Firm audited the financial statements of Namliong SkyCosmos Inc. for the year ended December 31, 2019. The Firm issued an audit report dated September 24, 2021, which was included in Namliong SkyCosmos Inc.'s Form 10-K filed with the SEC on September 28, 2021.

6. The Firm audited the financial statements of Livento Group Inc. for the year ended December 31, 2021. The Firm issued an audit report dated November 11, 2022, which was included in Livento Group Inc.'s Form 10-12G/A filed with the SEC on November 15, 2022.

7. The Firm audited the financial statements of Livento Group Inc. for the year ended December 31, 2021. The Firm issued an audit report dated December 13, 2022, which was included in Livento Group Inc.'s Form 10-12G/A filed with the SEC on December 15, 2022.

8. The Firm audited the financial statements of Livento Group Inc. for the year ended December 31, 2021. The Firm issued an audit report dated January 5, 2023, which was included in Livento Group Inc.'s Form 10-12G/A filed with the SEC on February 24, 2023.

9. The Firm audited the financial statements of Livento Group Inc. for the year ended December 31, 2022. The Firm issued an audit report dated February 22, 2023, which was included in Livento Group Inc.'s Form 10-12G/A filed with the SEC on February 24, 2023.

10. The Firm audited the financial statements of Livento Group Inc. for the year ended December 31, 2022. The Firm issued an audit report dated March 23, 2023, which was included in Livento Group Inc.'s Form 10-12G/A filed with the SEC on March 24, 2023.

11. The Firm audited the financial statements of Livento Group Inc. for the year ended December 31, 2022. The Firm issued an audit report dated May 25, 2023, which was included in Livento Group Inc.'s Form 10-K/A filed with the SEC on May 26, 2023.

12. The Firm audited the financial statements of Livento Group Inc. for the year ended December 31, 2022. The Firm issued an audit report dated June 28, 2023, which was included in Livento Group Inc.'s Form 10-K/A filed with the SEC on June 28, 2023.

13. The Firm audited the financial statements of Kenilworth Systems Corporation for the year ended December 31, 2021. The Firm issued an audit report dated April 29, 2022, which was included in Kenilworth Systems Corporation's Form 10-K filed with the SEC on May 3, 2022.

14. The Firm audited the financial statements of Yijia Group Corp. for the year ended April 30, 2023. The Firm issued an audit report dated May 12, 2023, which was included in Yijia Group Corp.'s Form 10-K filed with the SEC on May 15, 2023.

15. The Firm audited the financial statements of Connexa Sports Technologies Inc. for the year ended April 30, 2022. The Firm issued an audit report dated May 17, 2023, which was included in Connexa Sports Technologies Inc.'s Form 10-K filed with the SEC on May 17, 2023.

16. For the same year, the Firm also issued an audit report dated July 18, 2023, which was included in Connexa Sports Technologies Inc.'s Form 10-K/A filed with the SEC on July 18, 2023.

17. The Firm audited the financial statements of Costas Inc. for the year ended December 31, 2022. The Firm issued an audit report dated March 27, 2023, which was included in Costas Inc.'s Form S-1/A filed with the SEC on April 10, 2023.

18. The Firm audited the financial statements of General European Strategic Investments, Inc. for the year ended December 31, 2021. The Firm issued an audit report dated August 23, 2022, which was included in General European Strategic Investments, Inc.'s Form S-1/A filed with the SEC on December 20, 2022.

19. The Firm audited the financial statements of General European Strategic Investments, Inc. for the year ended December 31, 2021. The Firm issued an audit report dated April 5, 2023, which was included in General European Strategic Investments, Inc.'s Form S-1/A filed with the SEC on April 25, 2023.

20. The Firm audited the financial statements of General European Strategic Investments, Inc. for the year ended December 31, 2022. The Firm issued an audit report dated July 3, 2023, which was included in General European Strategic Investments, Inc.'s Form S-1/A filed with the SEC on July 5, 2023.

21. The Firm audited the financial statements of Kashin, Inc. for the year ended April 30, 2022. The Firm issued an audit report dated December 5, 2022, which was included in Kashin Inc.'s Form 10-K filed with the SEC on December 15, 2022.

22. The Firm failed to file the required Form APs for the above filings by the 35th day after the date the audit reports were first included with the filings made with the SEC, in violation of PCAOB Rule 3211. The Firm also failed to file the required Form APs by the 10th day after the date certain of the audit reports were first included in a registration statement filed with the SEC, in violation of PCAOB Rule 3211(b)(2).

23. In connection with a 2020 inspection of the Firm, the PCAOB inspection staff brought to the Firm's attention that in an audit reviewed, the Firm failed to comply with PCAOB Rule 3211. Despite this notice, the Firm failed to file additional Form APs.

IV.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $90,000 is imposed upon the Firm:

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Olayinka Oyebola & Co (Chartered Accountants) as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy

of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that the failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including PCAOB Rule 3211 and that Form APs are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 28, 2023

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

1666 K Street NW
Washington, DC 20006

Office: 202-207-9100
Fax: 202-862-8430

www.pcaobus.org

Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Victor Mokuolu, CPA PLLC,

Respondent.

PCAOB Release No. 105-2023-041

November 28, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring Victor Mokuolu, CPA PLLC, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $30,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

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

or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Victor Mokuolu, CPA PLLC** is a company located in Houston, Texas (C10829). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm audited the financial statements of Emerging Opportunities Corporation for the year ended December 31, 2020. For Emerging Opportunities Corporation's 2020 financial statements, the Firm issued an audit report dated December 14, 2022 (sic), which was included in Emerging Opportunities Corporation's Form 10-K filed with the SEC on January 24, 2022.

4. The Firm audited the financial statements of Himalaya Technologies, Inc. for the year ended July 31, 2022. For Himalaya Technologies, Inc.'s 2022 financial statements, the Firm

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

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

issued an audit report dated November 21, 2022, which was included in Himalya Technologies, Inc.'s Form 10-K filed with the SEC on November 22, 2022.

5. The Firm audited the financial statements of SmartMetric, Inc. for the year ended June 30, 2022. For SmartMetric, Inc.'s 2022 financial statements, the Firm issued an audit report dated November 8, 2022, which was included in SmartMetric, Inc.'s Form 10-K/A filed with the SEC on November 8, 2022.

6. The Firm audited the financial statements of First America Resources Corporation for the year ended June 30, 2022. For First America Resources Corporation's 2022 financial statements, the Firm issued an audit report dated October 12, 2022, which was included in First America Resources Corporation's Form 10-K filed with the SEC on October 13, 2022.

7. The Firm audited the financial statements of Mountain Top Properties, Inc. for the year ended December 31, 2021. For Mountain Top Properties, Inc.'s 2021 financial statements, the Firm issued an audit report dated April 15, 2022, which was included in Mountain Top Properties, Inc.'s Form 10-K filed with the SEC on April 18, 2022.

8. The Firm audited the financial statement of Good Gaming, Inc. for the year ended December 31, 2021. For Good Gaming, Inc.'s 2021 financial statements, the Firm issued an audit report dated April 14, 2022, which was included in Good Gaming, Inc.'s Form 10-K filed with the SEC on April 15, 2022.

9. The Firm failed to file six required Form APs for the above filings by the 35th day after the date the audit reports were first included with the filings made with the SEC, in violation of PCAOB Rule 3211.

10. The Firm belatedly filed the aforementioned Forms AP on February 6, 2023.

IV.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that the failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to

Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including PCAOB Rule 3211 and that Form APs are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 28, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Mah & Associates, LLP,

Respondent.

PCAOB Release No. 105-2023-042

November 28, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring Mah & Associates, LLP, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $25,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer that the Board has determined to accept. Solely for

purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Mah & Associates, LLP** is a partnership located in San Francisco, California (license no. 6755). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm audited the financial statements of PG&E Corporation Retirement Savings Plan for the years ended December 31, 2020, and 2021. For PG&E Corporation Retirement Savings Plan's 2020 financial statements, the Firm issued an audit report dated July 14, 2021, which was included in PG&E Corporation Retirement Savings Plan's Form 11-K filed with the SEC on July 14, 2021. For PG&E Corporation Retirement Savings Plan's 2021

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

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

financial statements, the Firm issued an audit report dated June 28, 2022, which was included in PG&E Corporation Retirement Savings Plan's Form 11-K filed with the SEC on June 29, 2022.

4. The Firm audited the financial statements of PG&E Corporation Retirement Savings Plan for Union-Represented Employees for the years ended December 31, 2020, 2021 and 2022. For PG&E Corporation Retirement Savings Plan for Union-Represented Employees' 2020 financial statements, the Firm issued an audit report dated July 14, 2021, which was included in PG&E Corporation Retirement Savings Plan for Union-Represented Employees' Form 11-K filed with the SEC on July 14, 2021. For PG&E Corporation Retirement Savings Plan for Union-Represented Employees' 2021 financial statements, the Firm issued an audit report dated June 28, 2022, which was included in PG&E Corporation Retirement Savings Plan for Union-Represented Employees' Form 11-K filed with the SEC on June 29, 2022. For PG&E Corporation Retirement Savings Plan for Union-Represented Employees' 2022 financial statements, the Firm issued an audit report dated June 28, 2023, which was included in PG&E Corporation Retirement Savings Plan for Union-Represented Employees' Form 11-K filed with the SEC on June 28, 2023.

5. The Firm failed to file five required Form APs for the above filings by the 35th day after the date the audit reports were first included with the filings made with the SEC, in violation of PCAOB Rule 3211.

6. The Firm belatedly filed the aforementioned Form APs on July 27, August 17 and August 21, 2023, after receiving notice of the deficiencies from the Division of Enforcement and Investigations ("Division").

IV.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon the Firm.

   1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that the failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including PCAOB Rule 3211 and that Form APs are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 28, 2023

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of PricewaterhouseCoopers,

Respondent.

PCAOB Release No. 105-2023-043

November 30, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon PricewaterhouseCoopers ("PwC HK," the "Firm," or "Respondent"). The Board is:

(1) censuring the Firm;

(2) imposing a $4,000,000 civil money penalty on the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that PwC HK violated PCAOB rules and quality control standards over three years in connection with the Firm's internal training program.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has

determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **PricewaterhouseCoopers** is a limited liability partnership organized under Hong Kong law and headquartered in Hong Kong, Special Administrative Region of the People's Republic of China. It is a member firm of the PwC network, of which PricewaterhouseCoopers International Limited is the coordinating entity ("PwC Global"). At all relevant times, PwC HK was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for two or more issuer audit clients.

B. Summary

2. From 2018 until 2020, PwC HK violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing internal training tests, including tests designed to help the Firm's audit professionals satisfy the requirements for maintaining their professional certifications. Those quality control failures prevented the Firm from identifying that over one thousand Firm professionals were involved from 2018 to 2019 in improper answer sharing – either by providing or receiving access to answers through unauthorized technology – in connection with online tests for mandatory internal training courses related to PwC HK's U.S. auditing curriculum. Firm personnel engaged in the answer sharing primarily by sending or receiving software applications designed to access the correct answers for exam

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

questions. Additionally, from 2019 to 2020, and as discussed more fully below, more than one hundred Firm personnel used tools and took steps to improperly fast-forward through Firm trainings or to falsely record that they had completed Firm trainings. The overwhelming majority of the above groups of professionals performed work for the Firm's assurance practice.

C. PwC HK Violated PCAOB Rules and Standards

i. Applicable PCAOB Rules and Quality Control Standards

3. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[3] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[4]

4. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[5] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[6] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[7]

5. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[8] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other

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[3] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[4] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[5] QC § 20.09.

[6] QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

[7] QC § 20.13.c; QC § 40.02.c.

[8] QC § 20.08.

elements of quality control are suitably designed and are being effectively applied."[9] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[10]

ii. Training Requirements for PwC HK

6. As part of PwC HK's personnel management system, the Firm utilizes internal training programs for its audit professionals. The training programs the Firm uses are designed to serve multiple purposes, including to provide personnel with technical instruction, to further their professional development, and to help employees satisfy some of the continuing professional education requirements imposed by the accountancy boards that license PwC HK's auditors. PwC HK's training requirements are intended to be relevant to, among other things, the independence of their personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. However, the training requirements can vary by a professional's position, role, and industry practice area. Since at least 2018, PwC HK has required its personnel to take certain online courses that contain content regarding auditing of U.S. issuers.

7. PwC Global plays a significant role in the development and deployment of the training programs PwC HK uses. PwC Global has issued several Global Assurance Quality – Learning & Education standards that PwC HK, as a member firm of the PwC network, is expected to comply with as part of PwC HK's system of quality control. To comply with these standards, PwC HK has elected to use training material provided by PwC Global to supplement trainings the Firm developed to satisfy local regulations and requirements. With respect to training tests PwC Global provides, PwC Global designs the tests, administers the platform that records test attempts and completions, and maintains certain exam-integrity measures like rotating banks of questions and randomizing the order of answer options.

8. The internal trainings utilized by PwC HK often include a testing component. For training courses with a testing component, the Firm does not credit personnel with completing the training until they satisfactorily pass the related test.

iii. Failures by PwC HK to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

9. During 2018 and 2019, PwC HK had in place certain quality control policies and procedures intended to address integrity and personnel management. The Firm had certain

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[9] *Id.*; *see also* QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; QC § 20.20.

[10] *See* QC § 20. 20.c-.d; QC § 30.02.c-.d.

policies requiring that its personnel act with integrity generally, and starting in 2019, the Firm included in its annual training a module generally covering ethics and integrity. The Firm did not, however, communicate any specific warnings against improperly sharing answers to training tests, and its policies and procedures were not adequately designed to provide reasonable assurance that Firm personnel acted with integrity when taking internal training tests. Up through 2019, PwC HK also employed certain monitoring procedures related to internal training, but those procedures were designed to track items like completion of trainings and tests, not to detect instances of improper answer sharing. It was not until August 2020 that PwC HK added notices to the start of its mandatory training tests asking participants to confirm that they will not use any inappropriate means to complete the tests, including sharing answers.

10. As described below, these policies and procedures were inadequate to prevent or detect the extensive improper answer sharing on training tests that occurred among PwC HK personnel over multiple years.

iv. Widespread Improper Answer Sharing Regarding Internal Training Tests at PwC HK

11. From at least 2018 to 2019, over one thousand PwC HK Assurance personnel obtained access to answers for training tests in an unauthorized manner. Firm personnel did so through software applications capable of obtaining the correct test answers from the online test platform.

12. Instances of improper answer sharing primarily occurred in connection with two software applications: "vLearn" and "Lifeistooshort." The vLearn application, when run while a participant was taking an online training test, conducted a trial-and-error selection of each answer option offered in the test until the correct answers were selected (*i.e.*, without the participants having to input the answer selections themselves). The application was directed at the 2018 U.S. Curriculum Auditing Workshop – Assessment. Throughout 2018, many hundreds of PwC HK personnel downloaded the vLearn software application. Despite the vast number of PwC HK personnel who downloaded the vLearn application, no one reported the improper conduct to the Firm until a staff member did so in December 2018.

13. By early 2019, the Firm had started an internal investigation and ascertained the names of the Firm personnel who had downloaded the vLearn application. Also at that time, it provided the technical specifications of the vLearn application to the network information security team for the PwC network ("NIS"), and requested the placement of a technological block on further use of the vLearn application in the PwC environment. However, the Firm merely gave a general explanation to NIS that vLearn was an undesirable software application that NIS should block; the Firm also did not inform PwC Global's assurance and learning

education team that the vLearn application was a tool designed for improper answer sharing. PwC HK's failure to share this information with PwC Global's assurance and learning education team, on which the Firm placed substantial reliance for significant aspects of its training program, compromised PwC Global's ability to evaluate the nature and extent of the threat and to assist PwC HK in formulating potential defenses against future uses of software applications engineered to undermine the integrity of the trainings and related tests that PwC Global deployed to the Firm.

14. About one year later, in December 2019, the Firm initiated a review of test completion times for all mandatory training tests on U.S.-related topics taken by Firm personnel in 2019. The review showed that some tests were completed after an unreasonably high number of attempts. By January 2020, PwC HK investigated and learned that Lifeistooshort, another software application that automatically input the correct answers in online training tests for the test taker, had been downloaded by many hundreds of Firm personnel over the course of 2019. No Firm personnel had reported the existence of the Lifeistooshort application to the Firm prior to the Firm's discovery of the application through its investigation. The Firm again requested that NIS institute a technological block, this time for the Lifeistooshort application. Again, though, the Firm merely gave a general explanation to NIS that Lifeistooshort was an undesirable software application that NIS should block; the Firm also did not inform PwC Global's assurance and learning education team that the Lifeistooshort application was a tool designed for improper answer sharing.

15. After learning of the vLearn and Lifeistooshort applications, the Firm ascertained the names of those personnel who had involvement with the applications and created a plan to sanction them.

16. Despite first becoming aware of Firm personnel's extensive dissemination of the vLearn application in January 2019, it was not until August 2020 that the Firm sent a firm-wide communication to its personnel specifically prohibiting the sharing of answers for the purpose of completing training tests. This communication was in the form of a screen at the beginning of all mandatory training tests informing the test taker of the policy and asking the test taker to confirm that he or she will complete the test individually.

17. The Firm also took years to report to PwC Global the nature of the two answer sharing applications and that more than one thousand personnel downloaded the applications. In fact, it was not until September 2022, when the PCAOB conducted its first inspection of the Firm in Hong Kong and asked the Firm to identify any instances of improper answer sharing by its personnel, that the Firm finally told the PCAOB and PwC Global about these details.

v. Fast-Forwarding Through Online Firm Trainings at PwC HK

18. In March 2020, the Firm conducted a review of completion times for mandatory online trainings that did not include a testing component, and that Firm personnel completed between April 2019 and December 2019. It also began monitoring the completion times for certain mandatory online trainings going forward through 2020. Based upon that review and ongoing monitoring, the Firm learned that, throughout 2019 and 2020, over one hundred PwC HK personnel improperly fast-forwarded through internal trainings at speeds too fast to allow comprehension of the material, or utilized tools to mark their training sessions as complete when the sessions had not actually been completed. Through PwC HK's internal investigation, the Firm ascertained the names of these personnel and created a plan to sanction them. The Firm also learned subsequent to 2020 that improperly launching more than one online training course simultaneously could also be done as a means of improperly fast-forwarding. As mentioned below, the Firm has taken steps to monitor and remediate that issue, along with other forms of fast-forwarding conduct.

* * *

19. As illustrated by the misconduct described above, from at least 2018 to 2020, PwC HK failed to establish policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) PwC HK personnel performed all professional responsibilities with integrity; (2) PwC HK personnel had the degree of technical training and proficiency required in the circumstances; and (3) PwC HK personnel participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies. Accordingly, the Firm violated PCAOB quality control policies related to integrity and personnel management.[11]

IV.

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

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation in this matter.[12] The Firm provided substantial assistance to the PCAOB's investigation by sharing the results of the Firm's extensive investigation to uncover more than one thousand

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[11] *See* QC § 20.09, .13.b-.c, .20; QC § 30.02; and QC § 40.02.b-.c.

[12] *See Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations*, PCAOB Rel. No. 2013-003 (Apr. 24, 2013).

Firm personnel who had downloaded the vLearn and Lifeistooshort applications, as well as personnel who had used tools to fast-forward through trainings or falsely mark them as completed as described above. The Firm also performed forensic examinations of computer records and laptops to develop evidence showing how individuals used the applications. Additionally, the Firm subsequently instituted remedial measures to address the above-described issues, including conducting periodic searches across certain Firm systems to identify improper answer sharing, requiring personnel to re-take certain training and testing, and enhancing the quantity and quality of communications to personnel about the Firm's policy against providing or receiving improper assistance with Firm training tests. Absent the Firm's extraordinary cooperation, the civil money penalty imposed would have been larger, and the Board may have imposed additional sanctions.

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $4,000,000 is imposed on PricewaterhouseCoopers.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. PricewaterhouseCoopers shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies PricewaterhouseCoopers as the Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. With respect to any civil money penalty amounts that PricewaterhouseCoopers shall pay pursuant to this Order, PricewaterhouseCoopers shall not, directly or indirectly, (a) seek or accept

reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy (except Respondent may seek or accept reimbursement or indemnification of any civil money penalty amounts from self-insurance provided through a captive insurer owned by Respondent and/or other firms within the network of which Respondent is a member that provides insurance solely to Respondent and other firms within that network); (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of PricewaterhouseCoopers's payment of the civil money penalty pursuant to this Order, in any private action brought against PricewaterhouseCoopers based on substantially the same facts as set out in the findings in this Order.

4. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. PricewaterhouseCoopers understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), PricewaterhouseCoopers is required:

1. Within 120 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (a) personnel perform all internal training and tests associated with such training with integrity; (b) personnel to whom work has been assigned have the degree of technical training and proficiency required in the circumstances; (c) personnel participate in general and industry-specific continuing professional education that enable them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies; and (d) the above-described policies and procedures are suitably designed and are being effectively applied.

2. Within 120 days of the entry of this Order, to examine the extent to which the Firm implemented the sanctions it planned to impose on its personnel in connection with the events involving the vLearn or Lifeistooshort software applications, the improper fast-forwarded through internal Firm trainings, and the use of tools to mark Firm training sessions as complete when they had not actually been completed; and to the extent such planned sanctions have not yet been imposed as of the entry of this Order, to impose such planned sanctions on any such personnel currently employed at the Firm.

3. Within 150 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraphs IV.C.1.-2. above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. PricewaterhouseCoopers shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 30, 2023

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of PricewaterhouseCoopers Zhong Tian LLP,

Respondent.

PCAOB Release No. 105-2023-044

November 30, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon PricewaterhouseCoopers Zhong Tian LLP ("PwC ZT," the "Firm," or "Respondent"). The Board is:

(1) censuring the Firm;

(2) imposing a $3,000,000 civil money penalty on the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that PwC ZT violated PCAOB rules and quality control standards over three years in connection with the Firm's internal training program.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **PricewaterhouseCoopers Zhong Tian LLP** is a special general partnership organized under Chinese law and headquartered in Shanghai, People's Republic of China. It is a member firm of the PwC network, of which PricewaterhouseCoopers International Limited is the coordinating entity ("PwC Global"). At all relevant times, PwC ZT was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for forty or more issuer audit clients.

B. Summary

2. From 2018 until 2020, PwC ZT violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing internal training tests, including tests designed to help the Firm's audit professionals satisfy the requirements for maintaining their professional certifications. Those quality control failures prevented the Firm from identifying that hundreds of Firm professionals were involved from 2018 to 2019 in improper answer

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

sharing – either by providing or receiving access to answers through unauthorized technology – in connection with online tests for mandatory internal training courses related to PwC ZT's U.S. auditing curriculum. Firm personnel engaged in the answer sharing primarily by sending or receiving software applications designed to access the correct answers for exam questions. Additionally, from 2019 to 2020, and as discussed more fully below, hundreds of Firm personnel used tools and took steps to improperly fast-forward through Firm trainings or to falsely record that they had completed Firm trainings. The overwhelming majority of the above groups of professionals performed work for the Firm's assurance practice.

C. PwC ZT Violated PCAOB Rules and Standards

i. Applicable PCAOB Rules and Quality Control Standards

3. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[3] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[4]

4. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[5] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[6] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[7]

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[3] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[4] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[5] QC § 20.09.

[6] QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

[7] QC § 20.13.c; QC § 40.02.c.

5. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[8] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[9] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[10]

ii. Training Requirements for PwC ZT

6. As part of PwC ZT's personnel management system, the Firm utilizes internal training programs for its audit professionals. The training programs the Firm uses are designed to serve multiple purposes, including to provide personnel with technical instruction, to further their professional development, and to help employees satisfy some of the continuing professional education requirements imposed by the accountancy boards that license PwC ZT's auditors. PwC ZT's training requirements are intended to be relevant to, among other things, the independence of their personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. However, the training requirements can vary by a professional's position, role, and industry practice area. Since at least 2018, PwC ZT has required its personnel to take certain online courses that contain content regarding auditing of U.S. issuers.

7. PwC Global plays a significant role in the development and deployment of the training programs PwC ZT uses. PwC Global has issued several Global Assurance Quality – Learning & Education standards that PwC ZT, as a member firm of the PwC network, is expected to comply with as part of PwC ZT's system of quality control. To comply with these standards, PwC ZT has elected to use training material provided by PwC Global to supplement trainings the Firm developed to satisfy local regulations and requirements. With respect to training tests PwC Global provides, PwC Global designs the tests, administers the platform that records test attempts and completions, and maintains certain exam-integrity measures like rotating banks of questions and randomizing the order of answer options.

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[8] QC § 20.08.

[9] *Id.*; *see also* QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; QC § 20.20.

[10] *See* QC § 20. 20.c-.d; QC § 30.02.c-.d.

8. The internal trainings utilized by PwC ZT often include a testing component. For training courses with a testing component, the Firm does not credit personnel with completing the training until they satisfactorily pass the related test.

iii. Failures by PwC ZT to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

9. During 2018 and 2019, PwC ZT had in place certain quality control policies and procedures intended to address integrity and personnel management. The Firm had certain policies requiring that its personnel act with integrity generally, and starting in 2019, the Firm included in its annual training a module generally covering ethics and integrity. The Firm did not, however, communicate any specific warnings against improperly sharing answers to training tests, and its policies and procedures were not adequately designed to provide reasonable assurance that Firm personnel acted with integrity when taking internal training tests. Up through 2019, PwC ZT also employed certain monitoring procedures related to internal training, but those procedures were designed to track items like completion of trainings and tests, not to detect instances of improper answer sharing. It was not until August 2020 that PwC ZT added notices to the start of its mandatory training tests asking participants to confirm that they will not use any inappropriate means to complete the tests, including sharing answers.

10. As described below, these policies and procedures were inadequate to prevent or detect the extensive improper answer sharing on training tests that occurred among PwC ZT personnel over multiple years.

iv. Widespread Improper Answer Sharing Regarding Internal Training Tests at PwC ZT

11. From at least 2018 to 2019, hundreds of PwC ZT Assurance personnel obtained access to answers for training tests in an unauthorized manner. Firm personnel did so through software applications capable of obtaining the correct test answers from the online test platform.

12. Instances of improper answer sharing primarily occurred in connection with two software applications: “vLearn” and “Lifeistooshort.” The vLearn application, when run while a participant was taking an online training test, conducted a trial-and-error selection of each answer option offered in the test until the correct answers were selected (*i.e.*, without the participants having to input the answer selections themselves). The application was directed at the 2018 U.S. Curriculum Auditing Workshop – Assessment. Throughout 2018, hundreds of PwC ZT personnel downloaded the vLearn software application. Despite the high number of PwC ZT

personnel who downloaded the vLearn application, no one reported the improper conduct to the Firm. The Firm learned about the vLearn application when a staff member at another PwC member firm made an internal report about it at that firm in December 2018.[11]

13. By early 2019, the Firm had started an internal investigation and ascertained the names of the Firm personnel who had downloaded the vLearn application. Also at that time, it provided the technical specifications of the vLearn application to the network information security team for the PwC network ("NIS"), and requested the placement of a technological block on further use of the vLearn application in the PwC environment. However, the Firm merely gave a general explanation to NIS that vLearn was an undesirable software application that NIS should block; the Firm also did not inform PwC Global's assurance and learning education team that the vLearn application was a tool designed for improper answer sharing. PwC ZT's failure to share this information with PwC Global's assurance and learning education team, on which the Firm placed substantial reliance for significant aspects of its training program, compromised PwC Global's ability to evaluate the nature and extent of the threat and to assist PwC ZT in formulating potential defenses against future uses of software applications engineered to undermine the integrity of the trainings and related tests that PwC Global deployed to the Firm.

14. About one year later, in December 2019, the Firm initiated a review of test completion times for all mandatory training tests on U.S.-related topics taken by Firm personnel in 2019. The review showed that some tests were completed after an unreasonably high number of attempts. By January 2020, PwC ZT investigated and learned that Lifeistooshort, another software application that automatically input the correct answers in online training tests for the test taker, had been downloaded by hundreds of Firm personnel over the course of 2019. No Firm personnel had reported the existence of the Lifeistooshort application to the Firm prior to the Firm's discovery of the application through its investigation. The Firm again requested that NIS institute a technological block, this time for the Lifeistooshort application. Again, though, the Firm merely gave a general explanation to NIS that Lifeistooshort was an undesirable software application that NIS should block; the Firm also did not inform PwC Global's assurance and learning education team that the Lifeistooshort application was a tool designed for improper answer sharing.

[11] *See PricewaterhouseCoopers*, PCAOB Rel. No. 105-2023-043 (Nov. 30, 2023) (re PwC Hong Kong).

15. After learning of the vLearn and Lifeistooshort applications, the Firm ascertained the names of those personnel who had involvement with the applications and created a plan to sanction them.

16. Despite first becoming aware of Firm personnel's extensive dissemination of the vLearn application in January 2019, it was not until August 2020 that the Firm sent a firm-wide communication to its personnel specifically prohibiting the sharing of answers for the purpose of completing training tests. This communication was in the form of a screen at the beginning of all mandatory training tests informing the test taker of the policy and asking the test taker to confirm that he or she will complete the test individually.

17. The Firm also took years to report to PwC Global the nature of the two answer sharing applications and that hundreds of personnel downloaded the applications. In fact, it was not until September 2022, in response to events initiated by the PCAOB, that the Firm finally told the PCAOB and PwC Global about these details.

v. Fast-Forwarding Through Online Firm Trainings at PwC ZT

18. In March 2020, the Firm conducted a review of completion times for mandatory online trainings that did not include a testing component, and that Firm personnel completed between April 2019 and December 2019. It also began monitoring the completion times for certain mandatory online trainings going forward through 2020. Based upon that review and ongoing monitoring, the Firm learned that, throughout 2019 and 2020, over one hundred PwC ZT personnel improperly fast-forwarded through internal trainings at speeds too fast to allow comprehension of the material, or utilized tools to mark their training sessions as complete when the sessions had not actually been completed. Through PwC ZT's internal investigation, the Firm ascertained the names of these personnel and created a plan to sanction them. The Firm also learned subsequent to 2020 that improperly launching more than one online training course simultaneously could also be done as a means of improperly fast-forwarding. As mentioned below, the Firm has taken steps to monitor and remediate that issue, along with other forms of fast-forwarding conduct.

* * *

19. As illustrated by the misconduct described above, from at least 2018 to 2020, PwC ZT failed to establish policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) PwC ZT personnel performed all professional responsibilities with integrity; (2) PwC ZT personnel had the degree of technical training and proficiency required in the circumstances; and (3) PwC ZT personnel participated in general and

industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies. Accordingly, the Firm violated PCAOB quality control policies related to integrity and personnel management.[12]

IV.

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

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation in this matter.[13] The Firm provided substantial assistance to the PCAOB's investigation by sharing the results of the Firm's extensive investigation to uncover hundreds of Firm personnel who had downloaded the vLearn and Lifeistooshort applications, as well as personnel who had used tools to fast-forward through trainings or falsely mark them as completed as described above. The Firm also performed forensic examinations of computer records and laptops to develop evidence showing how individuals used the applications. Additionally, the Firm subsequently instituted remedial measures to address the above-described issues, including conducting periodic searches across certain Firm systems to identify improper answer sharing, requiring personnel to re-take certain training and testing, and enhancing the quantity and quality of communications to personnel about the Firm's policy against providing or receiving improper assistance with Firm training tests. Absent the Firm's extraordinary cooperation, the civil money penalty imposed would have been larger, and the Board may have imposed additional sanctions.

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $3,000,000 is imposed on PricewaterhouseCoopers Zhong Tian LLP.

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[12] *See* QC § 20.09, .13.b-.c, .20; QC § 30.02; and QC § 40.02.b-.c.

[13] *See Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations*, PCAOB Rel. No. 2013-003 (Apr. 24, 2013).

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. PricewaterhouseCoopers Zhong Tian LLP shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies PricewaterhouseCoopers Zhong Tian LLP as the Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. With respect to any civil money penalty amounts that PricewaterhouseCoopers Zhong Tian LLP shall pay pursuant to this Order, PricewaterhouseCoopers Zhong Tian LLP shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy (except Respondent may seek or accept reimbursement or indemnification of any civil money penalty amounts from self-insurance provided through a captive insurer owned by Respondent and/or other firms within the network of which Respondent is a member that provides insurance solely to Respondent and other firms within that network); (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of PricewaterhouseCoopers Zhong Tian LLP's payment of the civil money penalty pursuant to this Order, in any private action brought against PricewaterhouseCoopers Zhong Tian LLP based on substantially the same facts as set out in the findings in this Order.

4. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. PricewaterhouseCoopers Zhong Tian LLP understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), PricewaterhouseCoopers Zhong Tian LLP is required:

1. Within 120 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (a) personnel perform all internal training and tests associated with such training with integrity; (b) personnel to whom work has been assigned have the degree of technical training and proficiency required in the circumstances; (c) personnel participate in general and industry-specific continuing professional education that enable them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies; and (d) the above-described policies and procedures are suitably designed and are being effectively applied.

2. Within 120 days of the entry of this Order, to examine the extent to which the Firm implemented the sanctions it planned to impose on its personnel in connection with the events involving the vLearn or Lifeistooshort software applications, the improper fast-forwarded through internal Firm trainings, and the use of tools to mark Firm training sessions as complete when they had not actually been completed; and to the extent such planned sanctions have not yet been imposed as of the entry of this Order, to impose such planned sanctions on any such personnel currently employed at the Firm.

3. Within 150 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraphs IV.C.1.-2. above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. PricewaterhouseCoopers Zhong Tian LLP shall also submit such

additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 30, 2023

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Shandong Haoxin Certified Public Accountants Co., Ltd., LIU Kun, MA Yao, SUN Penghuan, and ZHU Dawei,

Respondents.

PCAOB Release No. 105-2023-045

November 30, 2023

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Shandong Haoxin Certified Public Accountants Co., Ltd. ("Haoxin" or the "Firm") and four associated persons of the Firm: LIU Kun ("Liu"), MA Yao ("Ma"), SUN Penghuan ("Sun"), and ZHU Dawei ("Zhu") (collectively, "Respondents");

(2) limiting the activities, functions, and operations of Haoxin, including by prohibiting it from accepting new engagements to prepare or issue audit reports for new clients who are issuers, brokers, or dealers, as those terms are defined by U.S. securities laws and PCAOB rules, until the Firm completes certain quality control remediation measures, and requiring pre-issuance quality control monitoring reviews on issuer audits for a defined period of time;

(3) requiring Haoxin to engage an independent monitor for the period specified in this Order;

(4) requiring Haoxin to adopt and implement certain policies and procedures related to its system of quality control;

(5) barring Liu, Ma, Sun, and Zhu (collectively, the "Individual Respondents") each from being an associated person of a registered public accounting firm;[1]

(6) limiting Ma's activities for an additional one-year period if the Board later consents to Ma's association with a registered firm;

(7) imposing civil money penalties in the amount of $750,000 upon Haoxin, $100,000 upon Liu, $50,000 upon Ma, $20,000 upon Sun, and $20,000 upon Zhu;[2] and

(8) requiring Liu, Ma, and Sun to complete 50 hours of additional continuing professional education.

The Board is imposing these sanctions on the basis of its findings that Respondents violated securities laws and/or PCAOB rules and standards in connection with the audits of the 2015-2017 financial statements of Gridsum Holding Inc. ("Gridsum" or the "Company"). Specifically, (1) Haoxin violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Exchange Act Rule 10b-5 by issuing an audit report falsely stating that the Firm's audits of the 2015-2017 financial statements of Gridsum ("Gridsum Audits") had been performed in accordance with PCAOB standards and that Haoxin was independent of Gridsum; (2) Liu, the engagement partner for the Gridsum Audits, and Ma, the engagement quality reviewer, recklessly contributed to the Firm's Section 10(b) and Rule 10b-5 violations; (3) Haoxin and the Individual Respondents violated independence requirements and/or PCAOB auditing, ethics, and quality control rules and standards; and (4) Haoxin and Zhu failed to cooperate with the investigation conducted by the PCAOB Division of Enforcement and Investigations ("Division") by providing false information and testimony.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondents

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[1] Liu, Ma, and Sun may file petitions for Board consent to associate with a registered public accounting firm after the expiration of the following time periods from the date of this Order: Liu—four years, Ma—two years, and Sun—one year.

[2] Based on their conduct, Zhu's civil money penalty in this settlement would have been $120,000 and Ma's civil money penalty would have been $75,000. The Board determined to accept Zhu's and Ma's offers of settlement and impose lower penalties after considering their financial resources.

pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act") and PCAOB Rule 5200(a)(1) and (3).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, the "Offers") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings contained herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **Shandong Haoxin Certified Public Accountants Co., Ltd.** is a limited liability corporation headquartered in Weifang City, Shandong Province, the People's Republic of China ("China"). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and is licensed by the China Ministry of Finance (license no. 37060025). Haoxin served as the external auditor of Gridsum from January 6, 2019, until the Company terminated its registration with the Securities and Exchange Commission ("SEC" or the "Commission") in April 2021.

2. **LIU Kun** is a partner of Haoxin, and served as the engagement partner for the Gridsum Audits. He is a certified public accountant licensed by the Chinese Institute of Certified Public Accountants ("CICPA") (license no. 110001022639). He is, and at all relevant times was, an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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

[4] The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

3. **MA Yao** is a director of Haoxin, and served as the engagement quality reviewer for the Gridsum Audits. She is a certified practising accountant licensed by CPA Australia (license no. 10537234). She is, and at all relevant times was, an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

4. **SUN Penghuan** is a director of Haoxin, and served as the manager for the Gridsum Audits. She is a certified public accountant licensed by the CICPA (license no. 370600250003). She is, and at all relevant times was, an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

5. **ZHU Dawei** is a partner of Haoxin, and at all relevant times was the Firm's chief partner and legal representative.[5] He is a certified public accountant licensed by the CICPA (license no. 370600010005). He is, and at all relevant times was, an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer

6. **Gridsum Holding Inc.** was, at all relevant times, an exempted company with limited liability, incorporated in the Cayman Islands, with its headquarters in Beijing, China. Its public filings disclose that Gridsum provided data analysis software for multinational and domestic enterprises and government agencies in China. During all relevant times, Gridsum's American Depository Shares were listed on Nasdaq Stock Market LLC and Gridsum was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

7. This matter involves Haoxin's issuance of a false audit report, as well as a host of other egregious violations of independence requirements and PCAOB rules and standards committed by the Firm and some of its most senior personnel.[6]

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[5] Under Chinese law, each company in mainland China is required to have a legal representative, who executes the functions and powers on behalf of a company. The legal representative has the statutory power to represent a company, and his or her acts bind the company.

[6] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the Gridsum Audits.

8. On January 6, 2019, Haoxin, having never previously served as a principal auditor on an audit governed by PCAOB standards, executed an agreement to audit Gridsum's 2015, 2016, and 2017 financial statements. *On the next day,* the Firm issued an unqualified audit opinion on those financial statements. It did so even though it was aware that (a) Gridsum had terminated a predecessor auditor ("Auditor A") after Auditor A had raised concerns about Gridsum's 2017 financial statements and informed Gridsum that its audit report on the Company's 2016 financial statements should no longer be relied upon; and (b) the audit firm ("Auditor B") that had replaced Auditor A had determined that it could not finish its audits of Gridsum's 2015, 2016, and 2017 financial statements because of an inability to obtain certain information it needed to complete its procedures and express an audit opinion.

9. To conduct the Gridsum Audits, Haoxin obtained incomplete draft work papers from Auditor B for the audits of Gridsum's 2015, 2016, and 2017 financial statements in late December 2018 under a "pre-audit agreement," adopted those draft work papers as its own, and performed limited additional procedures. However, even that improper approach left substantial gaps in the audit work, as evidenced by the fact that Haoxin continued to ask Auditor B for additional draft work papers—some of which later became part of the audit file—weeks after Haoxin issued its unqualified audit opinion, which stated that the Firm had conducted the Gridsum Audits in accordance with PCAOB standards. In issuing that unqualified audit opinion stating that the audit had been performed in accordance with PCAOB standards knowing, or recklessly not knowing, that statement was false, Haoxin violated Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5.

10. Haoxin also violated Section 10(b) and Rule 10b-5 because, at the time it issued what it described as its "Report of Independent Registered Public Accounting Firm," it knew, or was reckless in not knowing, that it was not independent of Gridsum. That was because Haoxin, prior to being retained as auditor and at Gridsum's request, had conducted a "pre-audit" of Gridsum's financial statements and had told Gridsum's audit committee that it was prepared to issue an unqualified audit opinion. It was only after Haoxin made that commitment that Gridsum terminated Auditor B and appointed Haoxin as its auditor. Because the Firm informed Gridsum of its expectation to issue an unqualified opinion prior to being engaged to perform the Gridsum Audits, the Firm was not independent of Gridsum. The Firm also was not independent because, through its financial arrangements with Gridsum, the Firm effectively agreed to provide an unqualified opinion for a contingent fee.

11. The Firm also violated other PCAOB rules and standards in connection with the Gridsum Audits. Because it improperly relied on Auditor B's draft work papers in multiple areas, including areas involving significant risks and fraud risks, the Firm failed to plan and perform the Gridsum Audits to obtain sufficient appropriate audit evidence supporting its opinion, in

violation of multiple PCAOB standards. And because the Firm failed to satisfy the independence criteria of Rule 2-01 of SEC Regulation S-X, it also violated PCAOB rules and standards related to auditor independence.

12. In addition, the Firm (1) violated PCAOB audit documentation standards because the Gridsum audit documentation contained a substantial amount of false information; (2) failed to cooperate with a PCAOB investigation by knowingly providing false audit documentation to the Division and by making a false statement to the Division about the personnel involved in the Gridsum audits; (3) violated PCAOB rules by failing to make required communications to Gridsum's audit committee related to independence; and (4) failed to design and implement a system of quality control that would provide the Firm with reasonable assurance that (a) its personnel would maintain independence and perform all professional responsibilities with integrity and maintain objectivity; (b) the Firm would undertake only those engagements it could reasonably expect to be completed with professional competence; and (c) its personnel would comply with applicable professional standards.

13. The Individual Respondents also engaged in significant conduct violative of securities laws and PCAOB rules and standards. Liu, the engagement partner on the Gridsum Audits, violated PCAOB rules and standards because he failed to obtain sufficient appropriate audit evidence supporting the Firm's audit opinion. He also violated independence requirements because he informed Gridsum's audit committee of the Firm's expectation to issue an unqualified audit opinion prior to being engaged to perform the Gridsum Audits. In addition, Liu violated PCAOB audit documentation standards and ethics rules because he signed audit documentation containing a substantial amount of materially false, inaccurate, and/or misleading information. And he directly and substantially contributed to the Firm's violation of PCAOB rules by recklessly failing to make required communications to Gridsum's audit committee regarding independence prior to the Firm accepting the engagement for the Gridsum Audits. Finally, he directly and substantially contributed to the Firm's violations of Section 10(b) and Rule 10b-5 when he authorized the issuance of the Firm's audit opinion knowing, or recklessly not knowing, that the Gridsum Audits had not been conducted in accordance with PCAOB standards and that the Firm was not independent of Gridsum.

14. Ma, the engagement quality reviewer on the Gridsum Audits, violated PCAOB rules and standards because she failed to conduct her engagement quality review with due professional care and in accordance with AS 1220, *Engagement Quality Review.* Like Liu, Ma also violated independence requirements, PCAOB audit documentation standards, and PCAOB ethics rules. Further, as the individual at the Firm responsible for the design and implementation of the Firm's system of quality control, Ma also knowingly or recklessly contributed to the Firm's violations of PCAOB quality control standards. Finally, Ma directly and

substantially contributed to the Firm's Section 10(b) and Rule 10b-5 violations when she concurred in the issuance of the Firm's audit opinion knowing, or recklessly not knowing, that the Gridsum Audits had not been conducted in accordance with PCAOB standards and that the Firm was not independent of Gridsum.

15. Zhu, the head of the Firm at all relevant times, knowingly or recklessly contributed to the Firm's violations of quality control standards, its violations of independence rules and standards, and its failure to make required communications to Gridsum's audit committee related to independence. Zhu also failed to cooperate with a PCAOB investigation because he provided false audit documentation and other false information to the Division in response to accounting board demands.

16. Finally, Sun, the manager on the Gridsum Audits, violated PCAOB audit documentation standards and ethics rules because, like Liu and Ma, she signed audit documentation containing materially false, inaccurate, and/or misleading information.

D. Haoxin Violated Federal Securities Laws in Issuing a False Audit Report, and Liu and Ma Knowingly or Recklessly, and Directly and Substantially, Contributed to the Firm's Violations

i. Applicable Securities Laws

17. Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5 prohibit a person, in connection with the purchase or sale of a security, from making an untrue statement of a material fact or from omitting to state a material fact necessary to make statements made, in light of the circumstances under which they were made, not misleading.[7] To violate Section 10(b) or Rule 10b-5, a respondent must act with scienter,[8] which the Supreme Court has defined as "a mental state embracing intent to deceive, manipulate, or defraud."[9] Scienter encompasses knowing or intentional conduct, or recklessness.[10]

18. An auditor violates Section 10(b) of the Exchange Act and Rule 10b-5 thereunder by issuing an audit report stating that the audit has been performed in accordance with PCAOB

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7 *See* Section 10(b) of the Exchange Act, 15 U.S.C. § 78j; Exchange Act Rule 10b-5, *Employment of manipulative and deceptive devices*, 17 C.F.R. § 240.10b-5(b).

8 *Aaron v. SEC*, 446 U.S. 680, 695, 701-02 (1980).

9 *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 n.12 (1976).

10 *See*, *e.g.*, *IIT v. Cornfeld*, 619 F.2d 909, 923 (2d Cir. 1980).

standards or that the auditor is "independent" when the auditor knows, or is reckless in not knowing, that the statement is false.[11]

ii. Haoxin's "Pre-Audit Engagement" with Gridsum

19. In late April 2018, Auditor A, after previously informing Gridsum of concerns it had identified in its 2017 audit, notified Gridsum's audit committee that its audit opinion on Gridsum's financial statements for the year ended December 31, 2016 should no longer be relied upon. Shortly thereafter, Gridsum dismissed Auditor A and engaged Auditor B as its new external auditor.[12]

20. Auditor B then began performing audit procedures on Gridsum's 2015, 2016, and 2017 financial statements. In the second half of December 2018, after performing substantial audit procedures, Auditor B recognized that it would not be able to complete its audit because a China-based audit firm with a technology specialty retained to help verify certain of Gridsum's revenue-generating activities could not agree to share its work with Auditor B, due to cybersecurity and data privacy regulations in China.

21. On December 10, 2018, while Auditor B was still Gridsum's external auditor, Haoxin's legal representative and partner, Zhu, and Gridsum's Co-Chief Financial Officer executed a document under which Haoxin agreed to: (1) review Auditor B's draft work papers for Auditor B's incomplete 2015, 2016, and 2017 audits of Gridsum; and (2) "pre-audit" Gridsum's financial statements and related information for those three years (the "Pre-Audit Engagement Agreement"). In return, Gridsum was required to pay a fixed fee to Haoxin that would offset any later audit fee, should Gridsum subsequently engage Haoxin as its external auditor.

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[11] *See Anthony Kam & Assocs. Ltd., and Anthony KAM Hau Choi, CPA,* PCAOB Release No. 105-2017-043, at 5 (Nov. 28, 2017); *Deloitte Touche Tohmatsu Auditores Independentes,* PCAOB No. 105-2016-031, at 9 (Dec. 5, 2016); *Richard P. Scalzo, CPA*, Exchange Act Rel. No. 48328, 2003 WL 21938985, at *1 (Aug. 13, 2003); *Dennis M. Gaito, CPA*, Exchange Act Rel. No. 34-45941, 2002 WL 992743, at *10 (May 16, 2002).

[12] From 2015, Haoxin served as Auditor B's mainland China accounting firm as required by the Provisional Rule for Accounting Firms Engaged in Audit Services in Respect of Overseas Listing of Chinese Mainland Enterprises (Cai Kuai [2015] No. 9 by the Ministry of Finance of the People's Republic of China) for Auditor B's audits of overseas listed, mainland China enterprises.

22. In late December 2018, while operating under the Pre-Audit Engagement Agreement, Haoxin obtained and reviewed electronic copies of certain of Auditor B's draft work papers.

23. Then, on January 3, 2019, before Gridsum engaged Haoxin as its external auditor, Haoxin informed Gridsum's audit committee that it had substantially completed its pre-audit work and was ready to issue an unqualified audit opinion on Gridsum's 2015, 2016, and 2017 financial statements (subject to management making any changes to its financial information).

iii. Haoxin's Issuance of an Unqualified Audit Opinion

24. On January 6, 2019, Gridsum engaged Haoxin as its external auditor by executing a formal audit engagement agreement (the "Audit Engagement Agreement"), which required Haoxin to "complete the audit work and issue the auditor's report within 15 business days after receiving from [Gridsum] all materials required for the audit."

25. Under the Audit Engagement Agreement, Gridsum was required to pay Haoxin RMB 2.4 million for performing the Gridsum Audits. However, prior to entering into the Audit Engagement Agreement, Haoxin had already billed Gridsum 75% of that amount under the Pre-Audit Engagement Agreement.

26. On January 7, 2019, the day after executing the Audit Engagement Agreement, Haoxin released its same-dated audit report containing an unqualified audit opinion on Gridsum's 2015-2017 financial statements.

iv. Haoxin's Improper Reliance on Auditor B's Audit Documentation

27. PCAOB standards permit auditors, under certain circumstances, to "use the work and reports of other independent auditors who have audited the financial statements *of one or more [of an issuer's] subsidiaries, divisions, branches, components, or investments*."[13] PCAOB standards do not, however, permit an auditor to adopt wholesale another auditor's work papers and, based on the other auditor's work papers, issue an audit opinion for an issuer.

28. To support its unqualified audit opinion on Gridsum's 2015-2017 financial statements, Haoxin did what PCAOB standards do not allow. Rather than performing sufficient procedures to support its opinion, Haoxin performed limited procedures and relied primarily on the draft work papers Auditor B had prepared.

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[13] AS 1205.01, *Part of the Audit Performed by Other Independent Auditors* (emphasis added).

29. Indeed, Haoxin copied, in many instances word-for-word, Auditor B's draft documentation without reperforming the relevant audit procedures. In fact, over one-quarter of Haoxin's audit documentation, much of which contained responses to significant or fraud risks, is essentially identical, or substantially similar, to Auditor B's draft audit documentation.

30. Moreover, at the time Haoxin released its audit report, it had not even completed its efforts to obtain all of the documentation from Auditor B that it had sought. For example, the Firm requested specific additional audit documentation from Auditor B more than a week after it released its audit report. Haoxin included some of that additional documentation in the final set of work papers that it assembled for retention in connection with the Gridsum Audits.

v. Haoxin Improperly Issued Its Audit Report, in Violation of Securities Laws, and Liu and Ma Knowingly or Recklessly, and Directly and Substantially, Contributed to that Violation

31. As detailed above, rather than conduct its own audit, Haoxin primarily relied on the audit work performed by Auditor B, and therefore failed to plan and perform the Gridsum Audits in accordance with PCAOB standards. In addition, Haoxin was not independent of Gridsum during the Gridsum Audits because, as discussed above and in more detail below, it (1) informed Gridsum of the Firm's expectation to issue an unqualified opinion prior to being engaged to perform the Gridsum Audits; and (2) effectively agreed to provide an unqualified opinion for a contingent fee.

32. Haoxin nevertheless issued its audit report with an unqualified opinion on Gridsum's 2015-2017 financial statements. That audit report stated that the Gridsum Audits had been conducted in accordance with PCAOB standards and that Haoxin was independent of Gridsum, when the Firm knew, or was reckless in not knowing, that both of those statements were false. Thus, Haoxin violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

33. PCAOB Rule 3502 provides that "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[14]

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[14] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

34. When Liu, as the engagement partner for the Gridsum Audits, authorized the issuance of Haoxin's audit report, and when Ma, as the engagement quality reviewer for the Gridsum Audits, provided her concurring approval of issuance, they also knew, or were reckless in not knowing, that the Gridsum Audits had not been conducted in accordance with PCAOB standards and that Haoxin was not independent of Gridsum. By nonetheless authorizing and concurring in the issuance of Haoxin's audit report, they directly and substantially contributed to the Firm's violations of Section 10(b) and Rule 10b-5, in violation of PCAOB Rule 3502.

E. Haoxin and Liu Failed to Obtain Sufficient Appropriate Audit Evidence in Connection with the Gridsum Audits in Violation of PCAOB Rules and Standards

35. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards.[15]

36. An auditor may express an unqualified opinion on the financial statements of a company when the auditor conducted an audit in accordance with the standards of the PCAOB and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[16]

37. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report, including obtaining reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud.[17] Auditors are required to evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[18]

38. As described above, Haoxin and Liu failed to perform necessary audit procedures and instead improperly relied on draft work papers prepared by Auditor B. As a result of this

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[15] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[16] *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

[17] *See* AS 1105.04, *Audit Evidence*; AS 2401.12, *Consideration of Fraud in a Financial Statement Audit*.

[18] *See* AS 2810.33, *Evaluating Audit Results*.

conduct, Haoxin and Liu failed to plan and perform the Gridsum Audits to obtain reasonable assurance about whether the financial statements were free of material misstatement. Haoxin and Liu also failed to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for their opinion. Therefore, Haoxin and Liu violated AS 1105 and AS 2810.

F. Haoxin, Liu, and Ma Violated PCAOB Rules and Standards Relating to Auditor Independence, and Zhu Knowingly or Recklessly, and Directly and Substantially, Contributed to Haoxin's Violations

39. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client.[19] A firm's independence obligation with respect to an audit client encompasses not only an obligation to satisfy the independence criteria in the rules and standards of the PCAOB, but also an obligation to satisfy all other applicable independence criteria, including those in the Commission's rules and regulations under the federal securities laws.[20] Under PCAOB standards, "[i]ndependent auditors should not only be independent in fact; they should avoid situations that may lead outsiders to doubt their independence."[21]

40. Rule 2-01(b) of Regulation S-X sets forth the SEC's general standard of auditor independence.[22] "The Commission will not recognize an accountant as independent, with respect to an audit client, if the accountant is not, or a reasonable investor with knowledge of all relevant facts and circumstances would conclude that the accountant is not, capable of exercising objective and impartial judgment on all issues encompassed within the accountant's engagement."[23] When considering that standard of independence, the Commission, among other things, looks at whether a relationship or the provision of a service creates a mutual or conflicting interest between the accountant and the audit client.[24]

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19 *See* PCAOB Rule 3520, *Auditor Independence*; AS 1005, *Independence*.

20 *See* PCAOB Rule 3520 n.1; *see also* AS 1005.05-.06.

21 AS 1005.03.

22 *See* SEC Regulation S-X, Preliminary Note to Rule 2-01, 17 C.F.R. § 210.2-01.

23 SEC Regulation S-X, Rule 2-01(b).

24 *See* SEC Regulation S-X, Preliminary Note to Rule 2-01.

41. Rule 2-01(c) of Regulation S-X sets forth a non-exclusive specification of circumstances inconsistent with the standard set forth in Rule 2-01(b).[25] Rule 2-01(c)(5) provides that an accountant is not independent of an audit client if, at any point during the audit and professional engagement period, the accountant provides any service or product to an audit client for a contingent fee or a commission, or receives a contingent fee or commission from an audit client.[26] The audit and professional engagement period includes the period covered by any financial statements being audited or reviewed.[27] It also includes the period of the engagement to audit or review the audit client's financial statements, which begins with the earlier of the agreement to perform audit or review services or the start of those procedures, and ends when the audit client or the accountant notifies the SEC that the client is no longer that accountant's audit client.[28] PCAOB Rule 3521, *Contingent Fees,* likewise states that "[a] registered public accounting firm is not independent of its audit client if the firm, or any affiliate of the firm, during the audit and professional engagement period, provides any service or product to the audit client for a contingent fee or a commission, or receives from the audit client, directly or indirectly, a contingent fee or commission."[29]

42. As noted above, the December 10, 2018 Pre-Audit Engagement Agreement required Haoxin to review Auditor B's draft work papers and to "pre-audit" Gridsum's financial statements and related information. The Firm and Zhu, who executed the agreement on behalf of Haoxin, understood the term "pre-audit" to mean performing audit procedures on Gridsum's financial statements. The Pre-Audit Engagement Agreement also stated that Gridsum "will intend" to engage Haoxin as its external auditor, but it did not commit Gridsum to doing so.

43. According to the Pre-Audit Engagement Agreement, Gridsum was required to pay a fixed fee to Haoxin. However, the agreement also provided that, "if after the execution of the Agreement, [Gridsum] engages [Haoxin] as its independent auditor and signs the audit engagement letter, this Agreement shall become invalid immediately, and any fee paid by [Gridsum] would offset the audit fee that [Gridsum] shall pay [Haoxin] afterwards." This arrangement created an incentive for Haoxin to perform its audit procedures under the Pre-

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25 *See* SEC Regulation S-X, Rule 2-01(c).

26 *See* SEC Regulation S-X, Rule 2-01(c)(5).

27 *See* SEC Regulation S-X, Rule 2-01(f)(5); *see also* PCAOB Rule 3501(a)(iii).

28 *See id.*

29 PCAOB Rule 3521.

Audit Engagement Agreement in a manner that would induce Gridsum to retain Haoxin as its auditor, allowing Haoxin to collect additional fees.

44. Before Haoxin was engaged as Gridsum's external auditor, Liu prepared a presentation that Ma delivered to Gridsum's audit committee on January 3, 2019. The presentation included the following language: "Our work is substantially complete and we expect to provide an unqualified audit opinion on the consolidated financial statements of Gridsum Holding Inc., subject to any changes management, you or the board may make to the published information before the planned release date…." As of January 3, 2019, Gridsum still had not committed to engaging Haoxin as its external auditor.

45. Three days later, on January 6, 2019, Gridsum engaged Haoxin as its external auditor and executed the Audit Engagement Agreement. On the same day, Haoxin billed Gridsum for an amount approximating the remainder of the audit fee noted in the Audit Engagement Agreement. On the next day, January 7, 2019, Liu authorized, and Ma concurred in, the issuance of Haoxin's audit report containing an unqualified audit opinion on Gridsum's 2015-2017 financial statements.

46. At the time Haoxin issued its unqualified opinion, the Firm, Liu, and Ma were not independent of Gridsum within the meaning of Rule 2-01 of SEC Regulation S-X. They had compromised their independence by informing Gridsum's audit committee—before Gridsum had actually engaged, or had even committed to engage, Haoxin as its external auditor—that they expected the Firm to issue an unqualified opinion. Under these circumstances, no reasonable investor would conclude that Haoxin, Liu, and Ma were capable of exercising objective and impartial judgment once Haoxin became Gridsum's external auditor. As a result, Haoxin, Liu, and Ma violated PCAOB Rule 3520 and AS 1005.

47. Haoxin further impaired its independence by effectively entering into a contingent fee arrangement with Gridsum. As explained above, the Pre-Audit Engagement Agreement required Haoxin to perform audit procedures on Gridsum's 2015-2017 financial statements but conditioned Haoxin's receipt of additional fees on being retained as Gridsum's external auditor. The timing and circumstances of Haoxin's actual retention demonstrate that such retention, in turn, was conditioned on the Firm's assuring Gridsum's audit committee that the Firm expected to issue an unqualified opinion. The contingent fee arrangement that was effectively created—payment of the additional fees conditioned on the issuance of an unqualified audit opinion—was inconsistent with Rule 2-01(c)(5) of Regulation S-X and violated PCAOB Rule 3521 and AS 1005.

48. Zhu, who executed both the Pre-Audit Engagement Agreement and the Audit Engagement Agreement on behalf of Haoxin, knew or was reckless in not knowing, that the

terms, timing, and performance of those agreements created an improper contingent fee structure. By executing those agreements, he directly and substantially contributed to Haoxin's violations of PCAOB Rule 3521 and AS 1005, in violation of PCAOB Rule 3502.

G. Ma Violated PCAOB Rules and Auditing Standards in Connection with Her Engagement Quality Review of the Gridsum Audits

49. In an audit, the engagement quality reviewer is responsible for evaluating the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[30] Among other things, the engagement quality reviewer should: (1) evaluate the significant judgments that relate to engagement planning; (2) evaluate the engagement team's assessment of, and audit responses to, significant risks identified by the engagement team or the engagement quality reviewer; (3) review the engagement team's evaluation of the firm's independence in relation to the engagement; and (4) review the engagement completion document for the audit.[31] The engagement quality reviewer should also evaluate whether the engagement documentation that he or she reviewed indicates that the engagement team responded appropriately to significant risks and supports the conclusions reached by the engagement team with respect to the matters reviewed.[32]

50. The engagement quality reviewer may provide concurring approval of issuance of an audit report only if, after performing the engagement quality review with due professional care, he or she is not aware of a significant engagement deficiency.[33] "Due professional care requires the auditor to exercise *professional skepticism*. Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence."[34]

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30 *See* AS 1220.09.

31 *See id.* ¶ .10(a), (b), (d), (e).

32 *See id*. ¶ .11.

33 *See id*. ¶ .12 and Note ("A *significant engagement deficiency* in an audit exists when (1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client.").

34 AS 1015.07, *Due Professional Care in the Performance of Work* (emphasis in original).

51. "Documentation of an engagement quality review should be included in the engagement documentation."[35] That documentation should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the engagement quality reviewer, including, but not limited to, information that identifies the documents reviewed by the engagement quality reviewer.[36]

52. In performing the engagement quality reviews for the Gridsum Audits and evaluating the significant judgments made by the engagement team and the related conclusions reached, Ma failed to identify numerous significant engagement deficiencies. In particular, she failed to identify that the engagement team had not performed necessary audit procedures and instead had improperly relied on draft work papers prepared by Auditor B. Ma also failed to identify the independence impairments described above.

53. As a result, Ma failed to exercise due professional care and professional skepticism and failed to perform her engagement quality reviews in accordance with PCAOB standards.[37]

54. Additionally, Ma failed to properly document her engagement quality review. Indeed, she failed to identify any documents that she reviewed as part of her engagement quality review. As a result, Ma violated AS 1220.

H. The Firm, Liu, Ma, and Sun Violated Audit Documentation Requirements, and Liu, Ma, and Sun Violated Ethics Rules

i. Audit Documentation

55. PCAOB standards provide that the auditor must prepare audit documentation in connection with each engagement conducted pursuant to the standards of the PCAOB.[38] The auditor should prepare audit documentation in sufficient detail to provide a clear understanding of its purpose, source, and the conclusions reached.[39] Audit documentation

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35 AS 1220.20.

36 *See id.* ¶ .19.

37 *See* AS 1015.07; AS 1220.10-.12.

38 AS 1215.04, *Audit Documentation*.

39 *Id.*

must clearly demonstrate that the work was in fact performed.[40] This requirement applies to the work of all those who participate in the engagement.[41]

56. Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to: (1) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached; and (2) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review.[42] In addition, prior to the report release date, the auditor must have completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report.[43]

57. As noted above, over one-quarter of Haoxin's audit documentation was essentially identical to, or substantially similar to, Auditor B's draft audit documentation. Yet Haoxin's audit documentation does not indicate that the documented audit procedures had actually been performed by Auditor B, as opposed to Haoxin.

58. Further, Haoxin's audit documentation contains numerous false statements about the audit procedures performed, who performed the work, and the date the work was performed. The audit documentation also contains material omissions. These false statements, inaccuracies, and omissions include, but are not limited to, the following:

a. Multiple workpapers reviewed by Sun inaccurately reflect that they were prepared by a staff member ("Staff A") who Sun knew was not a member of the Haoxin engagement team;

b. An Engagement Status Report, signed by Liu, inaccurately reflects the budget and planned or actual dates of activities relating to the Gridsum Audits;

c. The Supervision, Review, and Approval Form, signed by Liu, Sun, and Ma to reflect their respective approval, satisfaction, or concurrence to issue Haoxin's

40 *Id.* ¶ .06.

41 *Id.*

42 *Id.*

43 *Id.* ¶ .15.

audit report for Gridsum, includes inaccurate information and omits significant items;

d. The Fraud and Significant Risk Inquiries Form, prepared by Sun and reviewed by Liu to document required fraud inquiries of management and others, includes inaccurate dates of interviews with Gridsum personnel;

e. A document entitled "Summary of Inquiry with Predecessor Auditor," prepared by Liu to document required inquiries of a predecessor auditor, falsely reflects the dates, participants, and substance of communications between Liu and Auditor B personnel; and

f. The Engagement Completion Document, signed by Liu, Ma, and Sun, which is required to identify all significant findings or issues in an audit, is blank, inaccurately indicating that there were no significant findings or issues in the Gridsum Audits, when other audit documentation indicates that there were significant findings and issues in the Gridsum Audits.

59. As a result, the Firm, Liu, Ma, and Sun violated AS 1215.

60. In addition, as noted above, Haoxin continued to request and obtain additional draft audit documentation from Auditor B after Haoxin had issued and released its audit opinion on Gridsum's 2015-2017 financial statements. At least some of the documentation obtained post-issuance was included in the complete and final set of audit documentation that Haoxin assembled for retention for the Gridsum Audits. That late-obtained audit documentation does not accurately indicate who performed the work documented, the date such work was completed, who reviewed the work documented, and the date of any review. For these reasons as well, Haoxin violated AS 1215.

ii. Ethics Violations

61. PCAOB rules require associated persons to comply with PCAOB ethics standards.[44] Those ethics standards include ET Section 102, *Integrity and Objectivity*, which provides, in part, that an associated person "shall maintain . . . integrity" and "shall not knowingly misrepresent facts" in the performance of professional services.[45] An associated person knowingly misrepresents facts in violation of ET Section 102 when, for example, he or she knowingly: (1) makes, or permits or directs another to make, materially false and

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44 *See* PCAOB Rule 3500T(a), *Interim Ethics and Independence Standards*.

45 ET § 102.01.

misleading entries in an entity's records; or (2) signs, or permits or directs another to sign, a document containing materially false and misleading information.[46]

62. Liu, Ma, and Sun violated PCAOB ethics standards in connection with the Gridsum Audits by repeatedly making materially false or misleading statements in audit documentation, as described above.

I. The Firm Failed to Make Required Audit Committee Communications, and Liu and Zhu Recklessly, and Directly and Substantially, Contributed to That Failure

63. PCAOB Rule 3526, *Communications with Audit Committees Concerning Independence,* requires that prior to accepting an audit engagement, a registered public accounting firm must describe, in writing, to the audit committee of the potential audit client, all relationships between the registered public accounting firm that, as of the date of the communication, may reasonably be thought to bear on independence.

64. Prior to accepting the engagement for the Gridsum Audits, Haoxin did not describe, in writing, to Gridsum's audit committee a significant relationship between Haoxin and Gridsum that bore on independence. Most notably, Haoxin had no communications, written or otherwise, with Gridsum's audit committee about the Pre-Audit Engagement Agreement or its potential effects on Haoxin's independence. As a result, Haoxin violated PCAOB Rule 3526.

65. Liu, as engagement partner on the Gridsum Audits, failed to communicate the potential independence impairment to Gridsum's audit committee before the Firm accepted the engagement, even though he was aware of the Pre-Audit Engagement Agreement. As a result, he recklessly contributed to the Firm's violation of PCAOB Rule 3526. Further, by executing the Audit Engagement Agreement with Gridsum without understanding whether Haoxin had made the required independence communications, Zhu also recklessly contributed to the Firm's violation of PCAOB Rule 3526. Liu and Zhu thereby violated PCAOB Rule 3502.

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[46] *See id.* § 102.02(a), (c).

J. The Firm Violated Quality Control Standards, and Zhu and Ma Knowingly or Recklessly, and Directly and Substantially, Contributed to Those Violations

66. PCAOB rules require a registered public accounting firm and its associated persons to comply with PCAOB quality control standards.[47] These standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice.[48] A firm's system of quality control provides a critical foundation and infrastructure for a firm's audit quality as it should "ensure that services are competently delivered and adequately supervised."[49] "A system of quality control is broadly defined as a process to provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality."[50]

67. As described below, Haoxin failed to suitably design and effectively apply policies and procedures to provide reasonable assurance concerning (i) independence, integrity, and objectivity; (ii) client acceptance and continuance; and (iii) engagement performance. Zhu and Ma knowingly or recklessly, and directly and substantially, contributed to the Firm's violations of the PCAOB quality control standards.

i. Haoxin's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Independence, Integrity, and Objectivity

68. A registered public accounting firm should establish quality control policies and procedures to provide the firm with reasonable assurance that personnel maintain independence (in fact and in appearance) in all required circumstances, perform all professional responsibilities with integrity, and maintain objectivity in discharging professional responsibilities.[51] With respect to independence, the Firm and its personnel must be free from any obligation to or interest in the client, its management, or its owners.[52]

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47 *See* PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

48 *See* Quality Control Standard 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

49 *Id.* at § 20.02.

50 *Id.* at § 20.03.

51 *Id.* at § 20.09.

52 *Id.* at § 20.10.

69. The repeated failures of Haoxin and its personnel to act with integrity and maintain independence from Gridsum illustrate the significant deficiencies in Haoxin's system of quality control in those areas. As a result, Haoxin violated QC § 20.09.

ii. Haoxin's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Client Acceptance

70. PCAOB quality control standards require that a registered public accounting firm establish quality control policies and procedures for deciding whether to accept a client relationship and whether to perform a specific engagement for that client.[53] Such policies and procedures should provide reasonable assurance that the firm undertakes only those engagements that the firm can reasonably expect to be completed with professional competence, and appropriately considers the risks associated with providing professional services in the particular circumstances.[54]

71. As explained above, Haoxin decided to accept Gridsum as its audit client and rely primarily on another auditor's work papers to conduct its audit of three years of financial statements. Further, when making that decision, Haoxin failed to appropriately consider the risks of accepting Gridsum as a client, given Auditor A's withdrawal of its audit opinion on Gridsum's 2016 financial statements, the concerns Auditor A had identified in attempting to conduct its audit of Gridsum's 2017 financial statements, and the inability of Auditor B to complete its audits of Gridsum's 2015-2017 financial statements. The flaws in Haoxin's approach to deciding whether to accept the Gridsum engagement illustrate that the Firm's policies and procedures failed to provide reasonable assurance that the Firm (1) undertook only those engagements that it could reasonably expect to be completed with professional competence; and (2) appropriately considered the risks associated with providing professional services in particular circumstances. As a result, Haoxin violated QC §§ 20.14-.15.

iii. Haoxin's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Engagement Performance

72. A registered public accounting firm should also establish quality control policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[55] Quality control policies and procedures for engagement

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53 *Id.* at § 20.14.

54 *Id.* at § 20.15.

55 *Id.* at § 20.17.

performance encompass all phases of the design and execution of an engagement.[56] Such policies and procedures should also provide reasonable assurance that personnel refer to appropriate authoritative literature or other sources and consult, on a timely basis, with individuals within or outside the firm, including when dealing with complex, unusual, or unfamiliar issues.[57]

73. The numerous deficiencies in Haoxin's engagement performance and documentation outlined above illustrate that Haoxin's system of quality control did not provide the Firm with reasonable assurance that the work performed by engagement personnel met applicable professional standards and regulatory requirements. As a result, Haoxin violated QC §§ 20.17-.19.

iv. Zhu and Ma Knowingly or Recklessly, and Directly and Substantially, Contributed to Haoxin's Quality Control Failures

74. At all relevant times, Zhu was the head of the Firm and the individual ultimately responsible for the assignment of quality control responsibilities within the Firm. Zhu knowingly or recklessly contributed to the Firm's quality control failures, in violation of PCAOB Rule 3502, because he assigned Ma to design and maintain the Firm's system of quality control without appropriately considering Ma's proficiency to serve in that role, and by not appropriately supervising her.

75. Ma knowingly or recklessly contributed to the Firm's quality control failures, in violation of PCAOB Rule 3502, because she failed to design and maintain a system of quality control for the Firm that complied with PCAOB standards.

K. The Firm and Zhu Failed to Cooperate with the Division's Investigation

76. The Board may conduct investigations pursuant to Section 105(b) of the Act and PCAOB rules into acts or practices that may violate any provision of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports, or professional standards.

77. The Act authorizes the Board to sanction a registered firm or any of its associated persons if they "refuse[] to testify, produce documents, or otherwise cooperate with

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56 *Id.* at § 20.18.

57 *Id.* at § 20.19.

the Board in connection with an investigation."[58] PCAOB rules similarly authorize sanctions for a registered firm or associated person who has "knowingly made any false material declaration."[59]

78. In early March 2022, the Division requested that Haoxin produce audit documentation for the Gridsum Audits. Nearly two months later, the Firm produced that documentation, which included (i) two revenue workpapers indicating that they had been prepared by a Haoxin staff auditor, Staff A, and (ii) an audit program indicating that Staff A performed substantially all the "sales" audit procedures described in the audit program. Further, in late June 2022, in responding to a Division request regarding Firm personnel, the Firm indicated that Staff A was a Haoxin engagement team member on the Gridsum Audits, was assigned to "Sales & AR," and had charged nearly 300 "Working Hours" in the Gridsum Audits. On August 24, 2022, the Board issued an accounting board demand to Haoxin, incorporating all of the previous requests for documents from the Firm, in response to which the Firm did not revise or supplement the aforementioned documentation.

79. Based on Haoxin's responses to the Division's requests and accounting board demand, the Division scheduled the testimony of Staff A and traveled to Hong Kong to conduct that and other testimony. However, the day before the Division was to take Staff A's testimony, Zhu, during his testimony, informed the Division for the first time that Staff A was not involved in the Gridsum Audits and that Staff A performed no audit procedures in those audits.

80. At the time Haoxin produced the audit documentation for the Gridsum Audits to the Division, Zhu knew that Staff A had not participated in the Gridsum Audits. Nonetheless, with the help of an assistant, Zhu prepared the response to the Division that falsely indicated that Staff A had charged hundreds of hours to the Gridsum Audits, working in an area of significant risk. Zhu falsified the Firm's response to the Division to maintain consistency with the Firm's audit documentation, which also falsely indicated that Staff A had performed work in that area of significant risk. Accordingly, the Firm and Zhu failed to cooperate with a PCAOB investigation.

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[58] Section 105(b)(3)(A) of the Act.

[59] PCAOB Rule 5110(a)(2), *Noncooperation with an Investigation*; *see also* PCAOB Rule 5300(b), *Sanctions*.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED, effective immediately, that:

A. Pursuant to Sections 105(b)(3)(A) and/or 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Shandong Haoxin Certified Public Accountants Co., Ltd., LIU Kun, MA Yao, SUN Penghuan, and ZHU Dawei are hereby censured.

B. Pursuant to Sections 105(b)(3)(A) and/or 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), LIU Kun, MA Yao, SUN Penghuan, and ZHU Dawei are each barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[60]

C. Pursuant to PCAOB Rule 5302, LIU Kun, MA Yao, and SUN Penghuan may file petitions for Board consent to associate with a registered public accounting firm after the expiration of the following time periods from the date of this Order: LIU Kun—four years; MA Yao—two years; and SUN Penghuan—one year.

D. If MA Yao is permitted to associate again with a registered public accounting firm, pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a one-year period from the date her bar is terminated, Ma's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Ma shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or

[60] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Liu, Ma, Sun, and Zhu. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, to either sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) assist the engagement partner in fulfilling his or her responsibilities under paragraph 4 of AS 1201; (6) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*; or (7) participate in designing, establishing, implementing, maintaining, or monitoring compliance with a registered firm's system of quality control.

E. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), LIU Kun, MA Yao, and SUN Penghuan are required to complete, before filing a petition for Board consent to associate with a registered firm, fifty hours of continuing professional education ("CPE") in subjects that are directly related to the audits of issuer financial statements under PCAOB standards (such hours shall be in addition to, and shall not be counted in, the CPE they are required to obtain in connection with any professional license).

F. Pursuant to Sections 105(b)(3)(A) and/or 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), civil money penalties are imposed on the Firm and Individual Respondents in the following amounts: (i) Shandong Haoxin Certified Public Accountants Co., Ltd.—$750,000; (ii) LIU Kun—$100,000; (iii) MA Yao—$50,000; (iv) SUN Penghuan—$20,000; and (v) ZHU Dawei—$20,000.

1. All funds collected by the PCAOB as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act.

2. Each Respondent shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Division staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the Firm or the person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary,

Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondents' payment of the civil money penalty pursuant to this Order, in any private action brought against Respondents based on substantially the same facts as set out in the findings in this Order.

5. The Firm understands that failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a), following written notice to the Firm at the address on file with the PCAOB at the time of the issuance of this Order. Liu, Ma, and Sun understand that their failure to pay the civil money penalty imposed upon them may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b). Zhu understands that his failure to pay the civil money penalty imposed on him may alone be grounds to deny any request for leave to file a petition to terminate a bar pursuant to PCAOB Rule 5302(c).

6. Zhu and Ma acknowledge that the determination to accept their Offers is contingent upon the accuracy and completeness of the financial information they provided to the Division. Zhu and Ma also acknowledge that, if at any time following this settlement, the Division obtains information indicating that any financial information provided by them—including, but not limited to, any information concerning assets, income, liabilities, or net worth—was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such information was provided, then at any time following entry of this Order (1) the Board may institute a disciplinary proceeding for noncooperation with an investigation under PCAOB Rule 5110 and/or (2) the

Division may petition the Board to (a) reopen this matter to consider whether Zhu or Ma provided accurate and complete financial information at the time such information was provided to the Division; and (b) seek an order directing payment of the maximum civil money penalty allowable under the law or any lesser amount determined to be appropriate. No other issue shall be considered in connection with this petition other than whether the financial information provided by Zhu or Ma was fraudulent, misleading, inaccurate, or incomplete in any material respect; and, if so, whether a civil money penalty should be ordered up to the maximum civil money penalty allowable under the law. Zhu and Ma may not, by way of defense to any such petition: (i) contest the findings in this Order; (ii) assert that payment of a civil money penalty should not be ordered; (iii) contend that the amount of the civil money penalty to be ordered should be less than $120,000 as to Zhu, and $75,000 as to Ma, which is specified herein as the amount the penalties would have been, based on Zhu's and Ma's conduct and without consideration of Zhu's and Ma's financial resources; or (iv) put forward any other contention or assert any defense to liability or remedy, including, but not limited to, any defense based on statute of limitations or any other time-related defense, other than to contend (a) that Zhu and Ma did not provide financial information that was fraudulent, misleading, inaccurate, or incomplete in any material respect, or (b) that a civil money penalty should not be ordered in an amount higher than $120,000 as to Zhu and $75,000 as to Ma.

G. Pursuant to Section 105(c)(4)(C), (F), and (G) of the Act and PCAOB Rule 5300(a)(3), (6), (7), and (9), and as detailed in the following specific provisions, Shandong Haoxin Certified Public Accountants Co., Ltd.'s activities, functions, and operations are limited; and Haoxin shall undertake remedial steps, conduct training, and appoint an independent monitor:

1. Definitions: The following definitions shall apply to the provisions of this section:

   a. *Immediate Practice Limitations*: The limitations imposed on Haoxin's audit practice pursuant to subsection G.2.

   b. *Interim Certificate of Compliance*: A certificate submitted by Haoxin to the PCAOB, after review and approval by the Independent Monitor, certifying that certain requirements of this Order have been fulfilled pursuant to subsection G.6.

c. *Interim Compliance Date*: The date on which Haoxin submits the Interim Certificate of Compliance. In any event, the Interim Compliance Date shall not be earlier than one year after the date of this Order.

d. *Pre-Issuance Review*: Review of audits performed by Haoxin pursuant to subsection G.2(b).

e. *Pre-Issuance Reviewer*: An individual who: (i) is not associated with the Firm but is an associated person of another PCAOB-registered firm; (ii) has experience in the conduct of audits pursuant to PCAOB standards; and (iii) performs Pre-Issuance Reviews pursuant to subsection G.2(b).

f. *Final Certificate of Compliance*: A certificate submitted by Haoxin to the PCAOB, after review and approval by the Independent Monitor, certifying that all requirements of this Order have been fulfilled pursuant to subsection G.7.

g. *Final Compliance Date*: The date on which Haoxin submits the Final Certificate of Compliance.

h. *Independent Monitor*: An independent monitor retained by Haoxin to monitor, evaluate, and report on the Firm's compliance with the requirements of this Order pursuant to subsection G.4.

i. *Monitoring Period*: The period of the Independent Monitor's required retention by Haoxin, ending on the Final Compliance Date.

j. *Undertakings*: Actions required by subsection G.3.

2. Immediate Practice Limitations: From the date of this Order to the dates set forth in subsections a and b below, Haoxin shall be subject to the following Immediate Practice Limitations:

a. *Prohibition on Engagements to Prepare or Issue Audit Reports for New Clients Before the Interim Compliance Date*. Prior to the Interim Compliance Date, the Firm shall be prohibited from accepting engagements to prepare or issue audit reports for new clients who are "issuers," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), and who are "brokers" or "dealers," as those terms are defined by PCAOB Rules 1001(b)(iii) and 1001(d)(iii), and shall be

prohibited from accepting engagements in which the Firm would "play a substantial role in the preparation or furnishing of an audit report," as that term is defined by PCAOB Rule 1001(p)(ii).

b. *Pre-Issuance Review*. From the date of the Order until the Final Compliance Date, Haoxin shall arrange for one or more Pre-Issuance Reviewers to conduct a pre-issuance quality control monitoring review for each issuer, broker, or dealer audit, in which the Firm prepares or issues an audit report or plays a substantial role in the preparation or furnishing of an audit report (a "PCAOB Engagement").[61] The purpose of each Pre-Issuance Review shall be to support the Firm in identifying deficiencies, if any, in the application of PCAOB rules or standards, and adequately addressing those deficiencies prior to the issuance of the audit report. The review described in this paragraph must be in addition to the Engagement Quality Review required by AS 1220, *Engagement Quality Review*.

3. Undertakings: Haoxin shall carry out the following Undertakings:

a. *Executed Acknowledgement*. Within 10 days of the date of this Order, Haoxin shall circulate this Order (in both English and Chinese) to all partners and staff of the Firm. Each of the Firm's partners and staff shall review this Order and, within 20 days of the date of this Order, sign and return to Haoxin's Managing Partner an acknowledgment that he or she reviewed this Order and understands and will comply with the requirements and obligations thereof. The Firm shall retain such acknowledgements for seven years.

b. *Initial Certification*. Within 45 days of the date of this Order, Haoxin shall provide a certification, signed by its Managing Partner, stating that personnel in the Firm's PCAOB Engagements Group[62] have received 24 hours of additional training regarding independence, integrity, and objectivity; client acceptance and continuance; and professional

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61 *See* PCAOB Rule 1001(p)(ii).

62 The Firm's PCAOB Engagements Group includes any partner, director, manager, employee, or contractor of the Firm who spends more than 20 hours in any year performing or supervising procedures on audits and reviews governed by PCAOB rules and standards.

standards and regulatory requirements for audits under PCAOB standards.

c. *Policies and Procedures*. Haoxin shall conduct a review of its quality control policies and procedures and determine whether modifications should be made, or additional policies and procedures should be adopted, concerning: (i) independence, integrity, and objectivity; (ii) acceptance and continuance of clients and engagements; and (iii) engagement performance, especially with respect to sufficient appropriate audit evidence, audit documentation, engagement quality review, and use of the work of other auditors. No later than 90 days from the date of the Order, the Firm shall submit a written report to Division staff and the Independent Monitor summarizing its review, attaching any new or modified policies and procedures in the areas enumerated above, and, with respect to any of the areas enumerated above, in which modifications will not be made and additional policies and procedures will not be adopted, providing an explanation concerning why new or modified policies and procedures are not required ("QC Report").

d. *Training*. In addition to the training required in paragraph G.3(b), within one year after the date of this Order, Haoxin shall provide to all personnel in the Firm's PCAOB Engagements Group, as well as to other Firm personnel who are or will be involved in PCAOB Engagements, 40 hours of training concerning PCAOB rules and standards, including: (i) integrity and objectivity; (ii) independence; (iii) audit evidence; (iv) audit documentation; (v) engagement quality review; (vi) supervision; and (vii) the use of the work of other auditors. During each year thereafter until the end of the Monitoring Period, the Firm shall provide to personnel in its PCAOB Engagements Group, and to other personnel who are or will be involved in PCAOB Engagements, at least 25 hours of training concerning the above topics.

e. *Certifications*. Until the Final Compliance Date, Haoxin shall obtain annually from each individual involved in PCAOB Engagements a signed certification stating that the individual, during the prior year, (i) has complied with all applicable Firm policies and procedures; (ii) has cooperated with the Independent Monitor and all internal and external reviews and inspections of audit work governed by PCAOB standards; and (iii) is not aware of, or has reported to Firm management or the

Independent Monitor, any violations of PCAOB rules and standards of which the individual has become aware. The Firm shall retain such certifications for seven years.

4. Independent Monitor:

   a. *Selection, Retention, and Term*. Haoxin shall retain and pay the fees and reasonable expenses for a third-party Independent Monitor, not unacceptable to Division staff, who has experience with public company reporting in the United States and is knowledgeable concerning PCAOB rules and standards. Within 60 days of the date of this Order, the Firm shall submit the name, qualifications, and proposed terms of engagement of the Independent Monitor to Division staff. The Firm may not retain as Independent Monitor any person who has been employed by or had a professional relationship with the Firm or any audit client of the Firm in the previous two years; and the Firm shall require the Independent Monitor to agree not to enter into any employment or other professional relationship with the Firm or any audit client of the Firm for two years following the expiration of the Monitoring Period. The Independent Monitor shall not be any individual who conducts, or will conduct, or who is employed by the firm that conducts or will conduct, any Pre-Issuance Reviews for Haoxin. The Monitoring Period shall end as of the Final Compliance Date. The Independent Monitor shall have unobstructed access to all Firm-related information needed to carry out his or her responsibilities as set forth in this Order.

   b. *Monitor QC Report*. The Independent Monitor shall review the QC Report and determine whether, as supplemented and modified, Haoxin's policies and procedures appear reasonably designed to ensure compliance with PCAOB rules and standards. No later than 60 days after receiving the QC Report, the Independent Monitor shall provide a report ("Monitor QC Report") to the Firm and Division staff setting out the Independent Monitor's recommendations concerning any additional policies or procedures or modifications to policies or procedures that should be made to reasonably assure compliance with PCAOB rules and standards then in effect. The Firm shall adopt the Independent Monitor's recommendations as soon as practicable, except that the Firm may notify the Independent Monitor within 30 days of receiving the Monitor QC Report of any recommendations contained therein that the Firm believes

to be unnecessary, impractical, unduly burdensome, or outside the scope of this Order, and the bases of the Firm's objection(s). In connection with that notification, the Firm may propose alternative policies and procedures that it believes will achieve the objectives of the recommendations contained in the Monitor QC Report. The Firm and the Independent Monitor shall engage in good-faith negotiations concerning any objection raised by the Firm, but if the Firm and the Independent Monitor are unable to come to agreement within 45 days, the Firm shall be required to adopt the Independent Monitor's recommendations to which it objects.

c. *Additional Responsibilities*. The Independent Monitor shall have, and the engagement agreement between Haoxin and the Independent Monitor shall provide for the Independent Monitor to have, the following additional powers and responsibilities: (i) to review and assess the Firm's quality control system, including but not limited to its policies, procedures, and practices relating to audit documentation (including the assembly of a complete and final set of audit documentation for retention ("archiving")) and ethics and integrity; (ii) to monitor the Firm's compliance with the Immediate Practice Limitations; (iii) to monitor the performance and results of the Pre-Issuance Reviews that are performed pursuant to subsection G.2(b); (iv) to review and assess the Firm's process for training its PCAOB Engagements Group and other personnel who are or will be involved in PCAOB Engagements, including the training materials used and the conduct of the training sessions; (v) to monitor the Firm's implementation of the Undertakings described in subsection G.3; (vi) to review and assess the results of any internal or third-party review or inspection of the Firm that occurs during the Monitoring Period of audit or review work governed by PCAOB standards or that relates to any aspect of Haoxin's quality control system (including reviewing and assessing any inspection comments and responses to comments); (vii) to make recommendations to the Firm concerning improvements to its policies, procedures, or practices in light of any of the Independent Monitor's activities; (viii) to take steps to provide reasonable assurance that the Firm's Managing Partner and other leaders of the Firm are competent and qualified to perform the tasks they have undertaken or have been assigned; (ix) to take steps to provide reasonable assurance that Zhu, Liu, Ma, and Sun do not violate the terms of their bars, which, among other effects, prohibit them from, in connection with the

preparation or issuance of any audit report, as defined in Section 110(2) of the Act and PCAOB Rule 1001(a)(vi), (1) sharing in the profits of, or receiving compensation in any other form from, the Firm; (2) participating as an agent or otherwise on behalf of the Firm in any activity of the Firm; and (x) to take steps to provide reasonable assurance that the Firm and all Firm personnel comply with the terms of this Order.

5. Documentation and Reporting:

   a. *Documentation Requirements*. During the Monitoring Period, the Firm shall maintain documentation sufficient to describe in reasonable detail all steps that it has taken to comply with Section IV.G of this Order. The Firm shall make such documentation available at any time to the Independent Monitor or Division staff, upon reasonable request, and shall retain such documentation for two years after the Final Compliance Date.

   b. *Reporting Requirements*. No later than six months from the date of this Order, the Firm shall submit to the Independent Monitor and Division staff a report: (i) detailing its progress in implementing and complying with the Undertakings and other requirements of this Order; (ii) identifying any recommendations that the Independent Monitor has made to the Firm and the Firm's response to those recommendations; and (iii) identifying any noncompliance by the Firm with this Order or any material noncompliance by the Firm with PCAOB rules and standards it has identified in its audit and review work. The Independent Monitor shall review and evaluate the report and, within 60 days of the receipt of the report, provide a separate report to Division staff, with a copy to the Firm: (i) describing the Independent Monitor's work during the previous six months; and (ii) concurring with the Firm's report or listing the points of non-concurrence. The Firm shall make subsequent reports of an identical nature no later than one year from the date of this Order and every six months thereafter until the end of the Monitoring Period, all of which shall be subject to the Independent Monitor's review, evaluation, and report as described above.

   c. *Division Staff Access*. Throughout the Monitoring Period, and for a period of two years after the end of the Monitoring Period, Division staff shall have reasonable access to the Independent Monitor and to the content and results of the Independent Monitor's work. The Independent

Monitor shall be required to provide prompt responses to all Division staff requests for documents and information concerning the content and results of the Independent Monitor's work, and neither the Independent Monitor nor the Firm shall assert any basis on which to fail to comply with such requests. The engagement agreement between the Firm and the Independent Monitor shall require the Independent Monitor to comply with the terms of this subsection.

6. Interim Certificate of Compliance: No earlier than ten months after the date of this Order, the Firm may submit to the Independent Monitor (with a copy to Division staff) a report ("Interim Firm Report") stating its intention to submit an Interim Certificate of Compliance to Division staff, and containing a summary of its compliance with this Order and any other supporting material the Firm believes appropriate. Within 45 days of receiving the Interim Firm Report, the Independent Monitor shall submit a report ("Interim Monitor Report") to the Firm and Division staff setting out the Independent Monitor's conclusion concerning whether: (a) the Firm has complied with the Immediate Practice Limitations; (b) the Firm has made substantial progress in implementing the recommendations in the Monitor QC Report; (c) the Firm has taken appropriate steps to ensure compliance by Firm personnel with its policies and procedures, as supplemented and modified; (d) the Firm has made substantial progress in addressing the Independent Monitor's other recommendations; (e) the Firm has made substantial progress in implementing and complying with the Undertakings, including by conducting all required training sessions; (f) the Firm has made substantial progress implementing policies, procedures, and practices to establish and maintain a quality control system that provides reasonable assurance that Firm personnel will comply with PCAOB standards, including with regard to audit documentation (including archiving) and ethics and integrity; and (g) the performance and results of the Pre-Issuance Reviews required by subsection G.2(b) indicate that the Firm is conducting its audit work for issuers substantially in compliance with PCAOB standards. Division staff shall have the right to request documentation and other evidence supporting any original or supplementary Interim Firm Report or Interim Monitor Report, and the Firm and/or the Independent Monitor shall promptly comply with any such requests. Additionally, the Independent Monitor shall inform Division staff with 14 days advance notice of the Independent Monitor's intention to issue the Interim Monitor Report and shall provide the Division with a summary of the Independent Monitor's intended findings, the basis

for those findings, and any draft of the intended report. If the Interim Monitor Report concludes that each of the above conditions has been met, the Firm may submit an Interim Certificate of Compliance to Division staff. If the Interim Monitor Report does not conclude that each of the above conditions has been met, the Firm shall have an opportunity to remediate any deficiencies and submit supplementary Interim Firm Reports every 30 days thereafter, as necessary. The Independent Monitor shall consider any supplementary Interim Firm Reports promptly and shall issue a new Interim Monitor Report when he or she has concluded that each of the above conditions has been met, at which time the procedures above relating to an Interim Certificate of Compliance shall apply. The date on which the Firm submits the Interim Certificate of Compliance to Division staff shall be the Interim Compliance Date. The Interim Compliance Date shall be no earlier than one year after the Date of this Order.

7. Final Certificate of Compliance: No less than one year from the Interim Compliance Date, the Firm may submit to the Independent Monitor (with a copy to Division staff) a report ("Final Firm Report") stating its intention to submit a Final Certificate of Compliance to Division staff, and containing a summary of its compliance with this Order since the Interim Compliance Date and any other supporting material the Firm believes appropriate. Within 60 days of receiving the Final Firm Report, the Independent Monitor shall submit a report ("Final Monitor Report") to the Firm and Division staff setting out the Independent Monitor's conclusion concerning whether: (a) the Firm has adequately implemented the recommendations in the Monitor QC Report; (b) the Firm has taken appropriate steps to ensure compliance by Firm personnel with its policies and procedures, as supplemented and modified; (c) the Firm has adequately addressed the Independent Monitor's other recommendations; (d) the Firm has implemented and complied with the Undertakings, including by conducting all required training sessions; and (e) the Firm has made adequate progress implementing policies, procedures, and practices to establish and maintain a quality control system that provides reasonable assurance that Firm personnel will comply with PCAOB standards, including with regard to audit documentation (including archiving) and ethics and integrity. Division staff shall have the right to request documentation and other evidence supporting any original or supplementary Final Firm Report or Final Monitor Report, and the Firm and/or the Independent Monitor shall promptly comply with any such requests. Additionally, the Independent Monitor shall inform Division

staff with 14 days advance notice of the Independent Monitor's intention to issue the Final Monitor Report and shall provide the Division with a summary of the Independent Monitor's intended findings, the bases for those findings, and any draft of the intended report. If the Final Monitor Report concludes that each of the above conditions has been met, the Firm may submit a Final Certificate of Compliance to Division staff. If the Final Monitor Report does not conclude that each of the above conditions has been met, the Firm shall have an opportunity to remediate any deficiencies and submit supplementary Final Firm Reports every 30 days thereafter, as necessary. The Independent Monitor shall consider any supplementary Final Firm Reports promptly, and shall issue a new Final Monitor Report when he or she has concluded that each of the above conditions has been met, at which time the procedures above relating to a Final Certificate of Compliance shall apply. The date on which the Firm submits the Final Certificate of Compliance to Division staff shall be the Final Compliance Date.

8. For good cause shown, Division staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend, a U.S. federal holiday or official public holiday in the People's Republic of China, the next business day shall be considered the last day.

9. The Firm understands that the failure to satisfy any provision of Section IV.G may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 30, 2023

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Haynie & Company,

Respondent.

PCAOB Release No. 105-2024-001

January 23, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Haynie & Company ("Haynie," the "Firm," or "Respondent");

(2) imposing a $400,000 civil money penalty on Haynie; and

(3) requiring the Firm to engage an independent consultant to review and make recommendations concerning its system of quality control as specified in Section IV of this Order.

The Board is imposing these sanctions on Haynie on the basis of its findings that the Firm violated PCAOB rules and standards in connection with the Firm's audits of the financial statements of George Risk Industries, Inc. ("George Risk") for the fiscal year ended April 30, 2019 ("2019 George Risk Audit"), and of Investview, Inc. ("Investview") for the fiscal year ended March 31, 2019 ("2019 Investview Audit") (collectively, the "2019 Audits").

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Haynie has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Haynie and the subject matter of these proceedings, which is admitted, Haynie consents to the entry of this Order as set forth below.[1]

III.

On the basis of Haynie's Offer, the Board finds that:

A. Respondent

1. **Haynie & Company** is a professional corporation organized under the laws of Utah and headquartered in Salt Lake City, Utah. Haynie is licensed to practice public accounting by the Utah Board of Accountancy (license nos. 13292009-2603 and 103735-2603), among other state boards. Haynie is, and at all relevant times was, registered with the Board, and is a "registered public accounting firm" as that term is defined in Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i).

B. Relevant Individuals

2. **Tyson Holman** was, at all relevant times, a certified public accountant licensed by the states of Colorado (license no. 24301) and New York (license no. 135845). Holman is a partner in the Denver, Colorado office of Haynie. Holman served as the engagement partner for the 2019 George Risk Audit. At all relevant times, Holman was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **Anna Hrabova** was, at all relevant times, a certified public accountant licensed by the state of Georgia (license no. CPA028398) and a partner of Haynie. Hrabova served as the engagement quality review ("EQR") partner for the 2019 George Risk Audit. At all relevant times, Hrabova was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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

4. **Steven Avis** was, at all relevant times, a certified public accountant licensed by the state of Utah (license no. 363384-2601). Avis is a partner in the Salt Lake City, Utah office of Haynie. Avis served as the engagement partner for the 2019 Investview Audit. At all relevant times, Avis was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

5. **Richard Fleischman** was, at all relevant times, a certified public accountant licensed by the state of Colorado (license no. 21292). Fleischman was, until July 2019, a partner in the Littleton, Colorado office of Haynie. Fleischman served as the EQR partner for the 2019 Investview Audit. At all relevant times, Fleischman was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

C. Issuers

6. **George Risk Industries, Inc.** was, at all relevant times, a Colorado corporation headquartered in Kimball, Nebraska. George Risk's public filings disclose that it designs, manufactures, and sells computer keyboards, push button switches, burglar alarm components and systems, pool alarms, EZ Duct wire covers, water sensors, and wire and cable installation tools. George Risk is, and at all relevant times was, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

7. **Investview, Inc.** was, at all relevant times, a Nevada corporation headquartered in Salt Lake City, Utah.[2] Investview's public filings disclose that it provides access to financial education, market research, and technology on certain financial subjects including equities, options, binary options, and cryptocurrency. Investview is, and at all relevant times was, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

D. Summary

8. This matter concerns Haynie's violations of PCAOB rules and standards during the 2019 Audits, as well as PCAOB quality control standards. On the 2019 George Risk Audit, the Firm violated PCAOB rules and standards by failing to: (1) evaluate whether George Risk's revenue was reported in conformity with the applicable financial reporting framework; (2) obtain sufficient appropriate audit evidence with respect to George Risk's investments; and

[2] Investview's corporate headquarters is now located in Haverford, Pennsylvania.

(3) notify George Risk's Board of Directors and management of an identified material weakness.[3]

9. On the 2019 Investview Audit, the Firm violated PCAOB rules and standards by failing to obtain sufficient appropriate audit evidence concerning: (1) Investview's accounting for its acquisition of United Games, LLC and United League, LLC (collectively, "United Games"); (2) Investview's cryptocurrency mining revenue; and (3) a license agreement held by Investview.[4]

10. In addition, on both of the 2019 Audits, the Firm violated PCAOB rules and standards by failing to document the EQRs, including the work papers reviewed by the EQR partners, in accordance with PCAOB standards.

11. In numerous areas across both of the 2019 Audits, the Firm's engagement teams failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for the Firm's audit opinions, and to conduct the 2019 Audits with due care and professional skepticism. Despite being on notice of two deficiencies identified during the PCAOB's inspection of the audit of the financial statements of George Risk for the fiscal year ended April 30, 2017 ("2017 George Risk Audit"), Haynie repeated the same deficiencies on the 2019 George Risk Audit. There are also similar deficiencies in the 2019 George Risk Audit and the 2019 Investview Audit, including a total of four failures to evaluate whether areas of the financial statements identified as significant risks were presented in conformity with the applicable financial reporting framework, and two failures to document EQRs in accordance with PCAOB standards.

12. Finally, this matter concerns the Firm's violations of PCAOB rules and quality control standards. Specifically, as evidenced by the 2019 Audits, the Firm failed to: (1) maintain a system of quality control sufficient to provide the Firm with reasonable assurance that engagement teams performed issuer audits and reviews in accordance with applicable professional standards and regulatory requirements; and (2) establish policies and procedures to provide the Firm with reasonable assurance that its quality control policies and procedures were suitably designed and were being effectively applied, and that its system of quality control was effective.

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[3] *See Tyson Holman, CPA and Anna Hrabova, CPA*, PCAOB Rel. No. 105-2024-002 (Jan. 23, 2024).

[4] *See Steven Avis, CPA and Richard Fleischman, CPA*, PCAOB Rel. No. 105-2024-003 (Jan. 23, 2024).

E. Relevant PCAOB Rules and Standards

13. In connection with the preparation and issuance of an audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with all applicable auditing and related professional standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements when the auditor conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[6]

14. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit.[7] Due professional care requires that the auditor exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[8]

15. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion.[9] In addition, an auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.[10]

16. While an auditor may use inquiry of management to obtain information, "[i]nquiry alone does not provide sufficient appropriate evidence to support a conclusion about a relevant assertion."[11] Management representations "are not a substitute for the application

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5 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

6 *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

7 *See* AS 1015.01, *Due Professional Care in the Performance of Work*.

8 *See* AS 1015.07; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*.

9 *See* AS 1105.04, *Audit Evidence*.

10 *See* AS 2401.12, *Consideration of Fraud in a Financial Statement Audit*.

11 AS 2301.39; *see also* AS 1105.17, Note ("Inquiry of company personnel, by itself, does not provide sufficient audit evidence to reduce audit risk to an appropriately low level for a relevant assertion. . . .").

of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[12]

17. In addition, if audit evidence obtained from one source is inconsistent with audit evidence obtained from another source, "the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit."[13] Likewise, if management's responses to an auditor's inquiries appear to be "inconsistent with other audit evidence, imprecise, or not at a sufficient level of detail to be useful, the auditor should perform procedures to address the matter."[14] "If a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made," and, based on the circumstances, "consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified."[15]

18. As described below, Haynie violated these and other PCAOB rules and standards on the 2019 Audits.

F. Haynie Violated PCAOB Rules and Standards on the 2019 George Risk Audit

i. Haynie Failed to Evaluate Whether George Risk's Revenue was Presented in Conformity With the Applicable Financial Reporting Framework

19. Haynie issued an audit report containing an unqualified opinion on George Risk's financial statements for the fiscal year ended April 30, 2019 on August 13, 2019. The report was included with George Risk's Form 10-K filed with the Securities and Exchange Commission ("Commission") on August 13, 2019.

20. George Risk disclosed in its Form 10-K for fiscal year 2019 revenue of $14,126,000. Haynie identified improper revenue recognition as a significant risk and a fraud risk.

21. PCAOB standards required Haynie to design and perform audit procedures in a manner that addressed the Firm's identification of improper revenue recognition as a

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12 AS 2805.02, *Management Representations*.

13 AS 1105.29.

14 AS 2810.08, *Evaluating Audit Results*.

15 AS 2805.04.

significant risk and a fraud risk,[16] and to evaluate whether George Risk's revenue was presented in the financial statements fairly, in all material respects, in conformity with the applicable financial reporting framework.[17]

22. George Risk disclosed in its Form 10-K that it had adopted FASB ASC 606, *Revenue from Contracts with Customers* ("ASC 606") effective May 1, 2018, the beginning of the 2019 fiscal year. During the 2019 George Risk Audit, however, Haynie evaluated George Risk's revenue recognition under FASB ASC 605, *Revenue Recognition* ("ASC 605"), which had been superseded by ASC 606. The adoption of ASC 606 resulted in different considerations in the determination of whether revenue had met the criteria to be recognized. Haynie failed to evaluate the implications to the audit procedures of the adoption of ASC 606. For example, Haynie failed to evaluate whether George Risk recognized revenue when (or as) George Risk satisfied performance obligations set forth in a contract with a major customer, in conformity with ASC 606.

23. As a result, Haynie failed to evaluate whether the recognized revenue in George Risk's financial statements was presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[18] By testing George Risk's revenue under ASC 605 rather than ASC 606, Haynie also failed to design and perform audit procedures in a manner that addressed the Firm's identification of improper revenue recognition as a significant risk.[19]

ii. Haynie Failed to Test the Valuation and Disclosure of George Risk's Investments Despite Prior Notice of Issues Regarding its Testing the Valuation and Disclosure of Investments

24. George Risk's 2019 Form 10-K reported $27,291,000 in investments and securities, which primarily consisted of mutual funds and municipal bond securities. The Firm identified the valuation of investments as a significant risk.

a. Haynie Failed to Adequately Test the Fair Value of George Risk's Level 2 Investments

25. In connection with the PCAOB's 2017 inspection of Haynie, PCAOB inspectors brought to Haynie's attention apparent failures by the Firm during the 2017 George Risk Audit.

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16 *See* AS 2301.03, .08-.09.

17 *See* AS 2810.30-.31.

18 *See id.*

19 *See* AS 2301.03, .08-.09.

In particular, PCAOB inspectors informed Haynie that during the 2017 George Risk Audit, the Firm failed to perform sufficient procedures to test whether the valuation and disclosure of George Risk's investments were presented in conformity with AS 2502, *Auditing Fair Value Measurements and Disclosures*. Haynie understood that this failure was in part because (1) other than comparing the custodial statements to the investment balances George Risk recorded, and tracing a small sample of George Risk's municipal bonds to a third-party website, the Firm failed to perform any procedures to test the reasonableness of the fair values of George Risk's municipal bonds; and (2) for the sample of municipal bonds, the Firm failed to evaluate the relevance and reliability of the data from the third-party website.

26. Despite being aware of these apparent failures, Haynie followed a similar approach to testing the valuation of George Risk's municipal bonds during the 2019 George Risk Audit. George Risk disclosed in its 2019 Form 10-K that its municipal bonds were valued at approximately $5,483,000, representing approximately 13% of George Risk's total assets. George Risk characterized these municipals bonds as Level 2 investments.[20]

27. George Risk also disclosed in its 2019 Form 10-K that municipal bonds did not trade in an active market. George Risk obtained the market value of municipal bonds at year-end from third-party custodians' statements.

28. PCAOB standards required Haynie to obtain an understanding of the process George Risk used to determine the fair value of the municipal bonds, and, in the event there were no observable market prices for the municipal bonds, to evaluate whether the valuation method was appropriate under the circumstances.[21]

29. PCAOB standards also provided that Haynie had to evaluate whether the significant assumptions used to measure the fair value of George Risk's municipal bonds

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[20] Under U.S. Generally Accepted Accounting Principles ("U.S. GAAP"), investments are characterized as either Level 1 Investments, Level 2 Investments, or Level 3 Investments, based upon the inputs used to value the investments. Level 1 Investments reflect inputs based upon quoted prices in active markets for identical assets or liabilities that the reporting entity can access at the measurement date. Level 2 Investments reflect inputs other than quoted prices included within Level 1 Investments. Level 3 Investments reflect inputs that are unobservable. *See* FASB ASC 820-10-20, *Fair Value Measurement*.

[21] *See* AS 2502.09, .18.

provided a reasonable basis for the fair value measurements and disclosures in George Risk's financial statements.[22]

30. To test the valuation of George Risk's approximately $5,483,000 in municipal bonds, Haynie relied solely on two things. First, the Firm relied on custodial statements, which were also the sources of the values of the municipal bonds recorded by George Risk. The Firm failed, however, to evaluate the methods and assumptions used by the custodians. Second, Haynie relied on data from a third-party website. The Firm did not, however, assess the relevance or reliability of that data.

31. More specifically, Haynie traced approximately $3,300,000 in municipal bonds to a third-party website and a custodial statement, agreed approximately $764,000 to a custodial statement only, and agreed approximately $851,000 to an investment schedule prepared by George Risk. Haynie failed to assess whether the third-party pricing data was a reliable source of evidence of fair value in an illiquid market. The Firm also failed to evaluate George Risk's process for determining that the custodial statements provided reliable measures of the fair value for the municipal bonds at year-end. Additionally, a balance of approximately $568,000 was not tested.

32. Therefore, despite being on notice of the deficiencies in this testing approach from the 2017 PCAOB inspection, Haynie failed to perform sufficient audit procedures to understand and evaluate the valuation methods used by George Risk to calculate the market value of George Risk's municipal bonds at year-end or the appropriateness of the pricing data obtained from a third-party website as audit evidence.

33. As a result, Haynie failed to adequately test the fair value of George Risk's municipal bonds.[23] The Firm failed to adequately perform substantive procedures specifically responsive to the identified significant risks over George Risk's investments.[24] The Firm also failed to perform sufficient audit procedures related to George Risk's municipal bonds, and failed to obtain sufficient appropriate audit evidence that George Risk's municipal bonds were properly valued.[25]

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22 *See* AS 2502.28; *see also* AS 2502.26.

23 *See* AS 2502.09, .18, .28.

24 *See* AS 2301.11.

25 *See* AS 1105.04.

b. Haynie Failed to Evaluate George Risk's OTTI Investments

34. In connection with the 2017 inspection of Haynie, PCAOB inspectors also brought to Haynie's attention another apparent failure by the Firm during the 2017 George Risk Audit. In particular, Haynie was made aware that during the 2017 George Risk Audit, the Firm failed to perform sufficient procedures to evaluate whether George Risk's investments in loss positions were other-than-temporarily impaired ("OTTI"). That failure was in part because the Firm failed to evaluate whether George Risk had the ability to hold these investments and securities until recovery of their fair value. For example, Haynie did not consider the arrangements with George Risk's broker that conveyed to it the sole discretion to buy and sell investments and securities, which called into question George Risk's ability to limit its broker from selling investments and securities that were in a loss position.

35. Despite being aware of this apparent failure, the Firm followed the same approach to evaluating whether George Risk's investment losses were OTTI during the 2019 George Risk Audit. In its 2019 Form 10-K, George Risk disclosed in the notes to the financial statements that it had the ability to hold investments in municipal bonds, real estate investment trusts, and equity securities until recovery of their fair values and, therefore, the unrealized loss of approximately $357,000 associated with these investments was not an indicator of an OTTI.

36. George Risk also disclosed, however, that it "use[d] 'money manager' accounts for most stock transactions," and thereby gave "an independent third-party firm, who are experts in this field, permission to buy and sell stocks at will."

37. Haynie obtained George Risk's calculation of the $357,000 unrealized loss and documented George Risk's policy for determining whether its investment losses were OTTI. Haynie concluded that George Risk's policy was reasonable, without analyzing why George Risk's methodology was reasonable or describing any audit steps performed to support the conclusion.

38. Additionally, despite being on notice of the deficiencies in this testing approach from the 2017 PCAOB inspection, Haynie never talked to George Risk's third-party investment broker, or otherwise considered that George Risk's broker had "permission to buy and sell stocks at will," in evaluating the appropriateness of George Risk's policy for impairment of investments during the 2019 George Risk Audit.

39. Haynie, therefore, failed to adequately perform substantive procedures specifically responsive to the identified significant risks over the valuation of George Risk's

investments.[26] Haynie also failed to obtain sufficient appropriate audit evidence that George Risk's investment losses were OTTI.[27]

c. Haynie Failed to Evaluate Whether George Risk's Investments Were Presented in Conformity With the Applicable Financial Reporting Framework

40. During the 2019 George Risk Audit, Haynie failed to evaluate whether the accounting for George Risk's investments was in conformity with U.S. GAAP. Specifically, the Firm failed to recognize that changes in the fair value of equity investments should no longer be recorded on the balance sheet but instead were required to be recognized in the income statement, pursuant to Accounting Standards Update No. 2016-01, *Recognition and Measurement of Financial Assets and Financial Liabilities* (January 2016) ("ASU 2016-01"), thereby impacting net income for the period. During the 2019 George Risk Audit, Haynie failed to perform any audit procedures to test whether George Risk was accounting for its investments consistent with ASU 2016-01.

41. George Risk restated its 2019 financial statements and filed two amendments to its 2019 Form 10-K on March 25, 2020 and May 26, 2020, to give effect to ASU 2016-01. As a result of the restatement, George Risk recorded a gain from changes in fair value of equity security of $444,000 for the 2019 fiscal year, which increased George Risk's net income from approximately $3.2 million to $3.6 million, or approximately 12%.

42. Therefore, Haynie failed to evaluate whether George Risk's investments in the financial statements were presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[28]

iii. Haynie Failed to Appropriately Communicate a Material Weakness to George Risk's Audit Committee

43. Under AS 1305, *Communications About Control Deficiencies in an Audit of Financial Statements*, Haynie was required to communicate in writing all significant deficiencies

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26 *See* AS 2301.11.

27 *See* AS 1105.04.

28 *See* AS 2810.30-.31.

and material weaknesses identified during the audit to George Risk's management and audit committee.[29]

44. In the risk assessment performed in relation to the 2019 George Risk Audit, Haynie documented a material weakness concerning the lack of ASC and PCAOB knowledge in the financial statement reporting function. Haynie, however, failed to communicate that material weakness in writing to George Risk's management and audit committee equivalent.[30]

45. In addition, for all of the reasons described above, Haynie failed to exercise due professional care and professional skepticism on the 2019 George Risk Audit.[31]

iv. Haynie Failed to Document the EQR on the 2019 George Risk Audit

46. PCAOB standards require that an EQR be performed on all audit engagements conducted pursuant to PCAOB standards.[32] PCAOB standards also require that documentation of an EQR be included in the engagement documentation.[33] Such documentation should "contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the engagement quality reviewer," including, but not limited to, "[t]he documents reviewed by the engagement quality reviewer."[34]

47. Haynie failed to document the EQR of the 2019 George Risk Audit with sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the EQR partner, including the documents reviewed by the EQR partner.[35]

G. Haynie Violated PCAOB Rules and Standards on the 2019 Investview Audit

48. On June 28, 2019, Haynie issued an audit report containing an unqualified opinion on Investview's March 31, 2019 financial statements, with an explanatory paragraph

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29 *See* AS 1305.04.

30 *See id.*

31 *See* AS 1015.01, .07.

32 *See* AS 1220.01, *Engagement Quality Review.*

33 *See* AS 1220.20.

34 *See* AS 1220.19.

35 *See id.*

describing substantial doubt about the company's ability to continue as a going concern. The report was included with Investview's Form 10-K filed with the Commission on June 28, 2019.

i. Haynie Failed to Appropriately Audit Investview's Accounting for its Acquisition of United Games

49. On July 20, 2018, Investview entered into a purchase agreement with United Games Marketing LLC to purchase United Games in exchange for 50,000,000 shares of Investview common stock.

50. Investview disclosed in its public filings that it accounted for its acquisition of United Games as a business combination pursuant to FASB ASC 805, *Business Combinations* ("ASC 805"), and recognized it as a "bargain purchase," meaning that, according to Investview's accounting, the United Games assets were acquired for less than their fair market value.[36]

51. Haynie identified a significant risk related to the accounting for the United Games acquisition, and assessed the control risk as "High" for all assertions.

52. PCAOB standards required Haynie to design and perform audit procedures in a manner that addressed Haynie's identification of the accounting for the United Games acquisition as a significant risk,[37] and to evaluate whether the acquisition was presented in the financial statements fairly, in all material respects, in conformity with the applicable financial reporting framework.[38]

53. As described below, Haynie failed to obtain sufficient appropriate audit evidence related to Investview's accounting for the United Games acquisition, because the Firm failed to appropriately evaluate (1) Investview's valuation of the intangible assets acquired and shares used as consideration in the United Games acquisition; and (2) whether Investview's acquisition of United Games, including Investview's recognition of a bargain purchase gain, was presented in conformity with ASC 805.

a. Haynie Failed to Appropriately Evaluate Valuation Estimates Related to the United Games Acquisition

54. According to its public filings, Investview estimated the valuation of the intangible assets it acquired from United Games at approximately $1.8 million, and the

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36 *See* ASC 805-30-25-2.

37 *See* AS 2301.03, .08-.09.

38 *See* AS 2810.30-.31.

Investview shares used as consideration at approximately $800,000, resulting in a one-time gain of approximately $971,000 recorded in earnings in 2019. Investview used a third-party valuation firm (the "Third-Party Specialist"), to support these fair value estimates.

55. PCAOB standards require auditors to evaluate the reasonableness of accounting estimates made by management, and to obtain sufficient appropriate evidential matter to provide reasonable assurance that all accounting estimates that could be material to the financial statements have been developed, are reasonable in the circumstances, and are presented in conformity with applicable accounting principles and properly disclosed.[39]

56. In evaluating the reasonableness of an accounting estimate, PCAOB standards require the auditor to obtain an understanding of how management developed the estimate. Based on that understanding, the auditor should use one or a combination of the following approaches: (a) review and test the process used by management to develop the estimate; (b) develop an independent expectation of the estimate to corroborate the reasonableness of management's estimate; and (c) review subsequent events or transactions occurring prior to the date of the auditor's report.[40]

57. PCAOB standards further require auditors who use the work of a company's specialist as evidential matter in performing an audit to, among other things, "make appropriate tests of data provided to the specialist, taking into account the auditor's assessment of control risk."[41]

58. Haynie knew that Investview relied on the valuation reports prepared by the Third-Party Specialist to account for the United Games acquisition. The valuation reports prepared by the Third-Party Specialist relied on data and assumptions provided by Investview, including projected rates of United Games' revenue growth and royalty rates from United Games' technology, as well as Investview's revenue growth rates, as key assumptions in calculating the fair value of the acquired intangible assets and of the shares used as consideration. The Third-Party Specialist did not perform any procedures to evaluate the reasonableness of this information Investview provided.

59. Haynie used the Third-Party Specialist's reports as evidential matter in the 2019 Investview Audit to evaluate Investview's accounting for the United Games acquisition. Haynie

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39 *See* AS 2501.07, *Auditing Accounting Estimates*.

40 *See* AS 2501.10.

41 AS 1210.03(a), .12, *Using the Work of a Specialist*.

reviewed the Third-Party Specialist's valuation reports, and made high-level inquiries of management. Haynie understood that the Third-Party Specialist relied on Investview-provided projections. With respect to the revenue projections for Investview, Haynie documented that Investview's revenue projections were "fairly aggressive."

60. Despite this, and though Haynie had assessed the control risk related to the United Games acquisition accounting as "High," the Firm failed to test the projections that Investview provided to the Third-Party Specialist.[42] Likewise, Haynie failed to perform procedures to (a) sufficiently review, or perform any procedures to test, the process used to develop the estimated valuation of United Games' intangible assets, the Investview shares used as consideration, or the underlying projections; (b) develop an independent expectation of those estimates; or (c) review subsequent events or transactions to evaluate the reasonableness of those estimates.[43]

61. In addition, with respect to the approximately $1.8 million valuation of United Games' intangible assets, Haynie received a representation from Investview management that the estimate included the value of a software system that was not reflected on United Games' books. Haynie understood generally that the intangible assets also included proprietary technology, customer contacts, and trade names. Haynie took no steps, however, to gain an understanding of the software system or other intangible assets, or to evaluate whether Investview's valuation estimate for the intangible assets was reasonable in the circumstances.

62. As such, Haynie failed to obtain sufficient appropriate evidential matter to evaluate the valuation of United Games' assets acquired by Investview or the Investview shares used as consideration,[44] and failed to make appropriate tests of the projections provided by Investview to the Third-Party Specialist.[45]

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42 *See* AS 1210.12.

43 *See* AS 2501.10.

44 *See* AS 2501.07.

45 *See* AS 1210.12.

b. Haynie Failed to Appropriately Evaluate Whether Investview's Recognition of a Bargain Purchase Gain was Presented in Conformity With the Applicable Financial Reporting Framework

63. Haynie also failed to appropriately evaluate whether Investview's recognition of a bargain purchase gain in connection with the acquisition was presented in conformity with ASC 805.

64. ASC 805 recognizes that a bargain purchase may happen "[o]ccasionally," and provides the example of "a forced sale in which the seller is acting under compulsion." ASC 805 also requires that an issuer recognizing a gain in connection with a bargain purchase disclose a "description of the reasons why the transaction resulted in a gain."[46]

65. Haynie received no indication that United Games was a "forced" sale. Investview management represented to Haynie that United Games' management wanted to leave the industry. Haynie took no steps to follow up on that representation or gain an understanding of why United Games' management might be willing to sell its subsidiaries for less than fair market value, or whether other circumstances might warrant the unusual recognition of a gain from an acquisition.

66. Nor did Haynie identify that Investview's 2019 Form 10-K failed to disclose a "description of the reasons why the transaction resulted in a gain" as required by ASC 805.[47]

67. Therefore, Haynie failed to evaluate whether the United Games acquisition was presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[48]

68. Based on this failure, together with the failure described above to appropriately evaluate Investview's estimates of the valuation of United Games intangible assets and the Investview shares used as consideration in the acquisition, Haynie failed to design and perform audit procedures in a manner that addressed Haynie's identification of the accounting for the

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46 ASC 805-30-25, 805-30-50-1(f)(2).

47 *See* ASC 805-30-50-1(f)(2).

48 *See* AS 2810.30-.31.

United Games acquisition as a significant risk,[49] and failed to obtain sufficient appropriate audit evidence with respect to Investview's accounting for the United Games acquisition.[50]

ii. Haynie Failed to Appropriately Audit Investview's Cryptocurrency Mining Revenue

69. Investview reported net cryptocurrency mining revenue of approximately $1.94 million for the fiscal year ended March 31, 2019. Haynie identified improper revenue recognition as a significant risk and a fraud risk.

70. PCAOB standards required Haynie to design and perform audit procedures in a manner that addressed Haynie's identification of improper revenue recognition as a significant risk and a fraud risk,[51] and to evaluate whether Investview's revenue was presented in the financial statements fairly, in all material respects, in conformity with the applicable financial reporting framework.[52]

71. As described below, Haynie failed to obtain sufficient appropriate audit evidence related to Investview's cryptocurrency mining revenue, because the Firm (1) failed to evaluate whether Investview's cryptocurrency mining revenue recognition approach was presented in conformity with ASC 606, which Investview adopted at the beginning of the 2019 fiscal year; and (2) failed to perform detailed testing of a $3.83 million component of cryptocurrency mining net revenue representing the amounts Investview paid to its cryptocurrency mining supplier.

a. Haynie Failed to Evaluate Whether Investview's Cryptocurrency Mining Revenue was Presented in Conformity With the Applicable Financial Reporting Framework

72. Investview's public filings disclosed that it generated revenue from the sale of cryptocurrency mining services through an arrangement with a third-party supplier ("Supplier"). Investview leased cryptocurrency mining services from the Supplier, and subleased those services to Investview customers. To execute this arrangement, Investview engaged in separate agreements with (1) its customers; and (2) the Supplier.

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49 *See* AS 2301.08; *see also* AS 2301.03, .09, .11.

50 *See* AS 1105.04.

51 *See* AS 2301.03, .08-.09.

52 *See* AS 2810.30-.31.

73. Investview reported that it recognized revenue generated through this arrangement on a net basis, at the time the customer purchased the cryptocurrency mining services (*i.e.*, before the cryptocurrency mining services were provided by the Supplier).

74. Haynie failed to perform sufficient procedures during the 2019 Investview Audit to assess the reasonableness under ASC 606 of Investview's cryptocurrency mining revenue recognition approach. Instead, the Firm simply relied on the information in a work paper titled "Mining Revenue Treatment Memo" from the Firm's audit of Investview's financial statements for the prior fiscal year ended March 31, 2018 (the "2018 Investview Audit").

75. Investview had prepared the Mining Revenue Treatment Memo during the 2018 fiscal year to document the company's conclusion that its cryptocurrency mining revenue recognition approach was reasonable, applying the indicators set forth in ASC 605, regarding whether revenue in connection with a transaction should be recognized on a gross basis or a net basis (the "ASC 605 Indicators").[53] During the 2018 Investview Audit, Haynie reviewed the Mining Revenue Treatment Memo, added notations including excerpts from ASC 605 regarding each of the ASC 605 Indicators, and added the annotated Mining Revenue Treatment Memo to the corresponding work papers.

76. In relying on the Mining Revenue Treatment Memo copied from the 2018 Investview Audit file during the following year 2019 Investview Audit, Haynie failed to consider that Investview had adopted a new accounting standard for revenue, ASC 606, at the beginning of the 2019 fiscal year. ASC 606 required consideration of a different model for determining whether to recognize revenue in connection with a transaction on a gross basis or a net basis, based upon whether the entity recognizing revenue exercised control over the specified goods or services before they were transferred to the customer. As a result, the ASC 605 Indicators, which were the basis for the Mining Revenue Treatment Memo's analysis and conclusion, were no longer applicable during the 2019 fiscal year.[54]

77. Haynie did not request an updated analysis from Investview applying ASC 606 during the 2019 Investview Audit, or conduct any procedures to evaluate whether it was reasonable under ASC 606 for Investview to recognize cryptocurrency mining revenue on a net basis at the time the customer purchased the cryptocurrency mining services.

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53 *See* ASC 605-45-45-10.

54 *Compare* ASC 605-45-45-10 *with* ASC 606-10-55-39.

78. Therefore, Haynie failed to evaluate whether the cryptocurrency mining revenue recognized in Investview's 2019 financial statements was presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[55]

b. Haynie Failed to Test the "Amounts Paid to Supplier" Component of Investview's Cryptocurrency Mining Revenue

79. Investview reported that it had $1.94 million in net cryptocurrency mining revenue for the 2019 fiscal year which consisted of: (1) approximately $5.77 million in "gross billings," which represented sublease payments from customers to Investview; and (2) approximately $3.83 million in "amounts paid to supplier," which represented payments from Investview to the Supplier.

80. Because Haynie had identified improper revenue recognition as a significant risk and a fraud risk, PCAOB standards required the Firm to perform substantive procedures, including tests of details, specifically responsive to the assessed risk.[56]

81. Haynie failed to test the $3.83 million "amounts paid to supplier" component of Investview's net cryptocurrency mining revenue. Haynie knew that Investview had agreed to provide 60% of the amounts collected from each cryptocurrency mining customer to the Supplier, and that Investview would keep the remaining 40% as its commission. Based on this agreement, Investview should have paid the supplier 60% of the $5.77 million that the company reported in gross billings, which would have resulted in approximately $3.46 million in "amounts paid to supplier." Investview, however, reported approximately $370,000 more in "amounts paid to supplier."

82. Haynie did not identify this inconsistency during the 2019 Investview Audit, nor did the Firm perform any testing, detailed or otherwise, of the overall "amounts paid to supplier."

83. Therefore, Haynie failed to perform substantive procedures, including tests of details, specifically responsive to the Firm's identification of improper revenue recognition as a significant risk and fraud risk.[57]

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55 *See* AS 2810.30-.31.

56 *See* AS 2301.11.

57 *See id*.

84. In addition, by failing both to evaluate whether Investview's cryptocurrency mining revenue recognition approach was in conformity with ASC 606, and to test the "amounts paid to supplier" component, Haynie failed to design and perform audit procedures in a manner that addressed the Firm's identification of improper revenue recognition as a significant risk and a fraud risk,[58] and failed to obtain sufficient appropriate audit evidence that Investview's cryptocurrency mining revenue was properly valued.[59]

iii. Haynie Failed to Appropriately Audit an Investview License Agreement

85. In June 2017, Investview purchased a long-term, fifteen-year license agreement (the "License Agreement"). As of March 31, 2019, Investview recorded a net carrying value for the License Agreement of approximately $2 million. Haynie did not identify a significant risk related to the License Agreement during the 2019 Investview Audit.

86. Based on an oral representation from Investview's accounting staff, Haynie noted in a planning work paper that "the license agreement is no longer of value to the company as the service and license has failed due to issues with the brokerage platform." Haynie later received a management representation from Investview's Director of Finance indicating that the License Agreement was not impaired.

87. Haynie failed to take any steps to resolve the inconsistent representations from Investview management regarding the License Agreement.[60] Haynie also failed to take any steps to evaluate whether indicators may have been present that would have required Investview to perform an impairment analysis to assess whether the value of the License Agreement should have been impaired in accordance with FASB ASC 350, *Intangibles—Goodwill and Other*.[61] Indeed, Haynie did not ask Investview management whether the License Agreement had been evaluated for impairment.

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58 *See* AS 2301.03, .08-.09.

59 *See* AS 1105.04.

60 *See* AS 1105.29 (requiring auditors to perform procedures to resolve inconsistent audit evidence and to determine the effect, if any, on other aspects of the audit).

61 *See* ASC 350-30-35-14.

88. Accordingly, Haynie failed to perform audit procedures necessary to resolve inconsistent audit evidence.[62] The Firm also failed to perform sufficient audit procedures and obtain sufficient appropriate audit evidence that the License Agreement was properly valued.[63]

89. In addition, for all of the reasons described above, Haynie failed to exercise due professional care and professional skepticism on the 2019 Investview Audit.[64]

iv. Haynie Failed to Document the EQR on the 2019 Investview Audit

90. As in the 2019 George Risk Audit, Haynie also failed to document the EQR of the 2019 Investview Audit with sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the EQR partner, including the documents reviewed by the EQR partner and the date the EQR partner provided concurring approval of issuance.[65]

H. Haynie Violated PCAOB Standards Related to Quality Control

91. PCAOB rules require registered public accounting firms to comply with the Board's quality control standards.[66] PCAOB quality control standards require each registered firm to effectively design, implement, and maintain a system of quality control to provide reasonable assurance that its personnel comply with applicable professional standards.[67]

92. A firm's system of quality control also should, among other things, include policies and procedures for engagement performance.[68] These quality control policies and procedures should provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[69] To the extent appropriate and as required by applicable

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62 *See* AS 1105.29.

63 *See* AS 1105.04.

64 *See* AS 1015.01, .07.

65 *See* AS 1220.19.

66 *See* PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

67 *See* QC §§ 20.01-.03, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

68 *See* QC § 20.07.

69 *See* QC § 20.17.

professional standards, these policies and procedures should cover planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement.[70] These policies and procedures also should address EQRs.[71]

93. Monitoring is one of the five elements of quality control.[72] Through monitoring, an audit firm should establish policies and procedures to provide the firm with reasonable assurance that the policies and procedures relating to each of the other elements of quality control are suitably designed and are being effectively applied, and that its system of quality control is effective.[73] Procedures that provide the firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the firm's policies and procedures contribute to the monitoring element.[74] A firm's monitoring procedures may include follow-up by appropriate firm personnel to ensure that any necessary modifications are made to the quality control policies and procedures on a timely basis.[75]

94. Throughout the relevant time period, the Firm failed to maintain an adequate system of quality control, as evidenced by the 2019 Audits. First, in four instances on the 2019 Audits, Haynie failed to evaluate whether areas of the financial statements identified as significant risks were presented in conformity with the applicable financial reporting framework.[76] On the 2019 George Risk Audit, Haynie audited George Risk's revenue to the criteria of ASC 605 rather than ASC 606, and failed to consider ASU 2016-01 in auditing George Risk's investments. On the 2019 Investview Audit, Haynie failed to adequately evaluate whether Investview's acquisition of United Games was presented in conformity with ASC 805, and failed to evaluate whether Investview's cryptocurrency mining revenue was presented in conformity with ASC 606.

95. Second, despite being on notice of deficiencies in the Firm's testing approach during the 2017 George Risk Audit related to (1) the fair value of George Risk's Level 2

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70 *See* QC § 20.18.

71 *See id*.

72 *See* QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; QC § 20.20.

73 *See* QC §§ 30.02-.03; QC § 20.20.

74 *See* QC § 30.03.

75 *See id.*

76 *See* AS 2810.30-.31.

Investments, and (2) whether George Risk's investments in loss positions were OTTI, Haynie failed to implement timely and necessary corrective action, and repeated the same failures during the 2019 George Risk Audit.

96. Third, on both of the 2019 Audits, Haynie failed to document the EQRs in accordance with PCAOB standards.

97. These failures illustrate the Firm's failures to have: (1) effectively implemented policies and procedures to provide it with reasonable assurance that the work performed by its engagement personnel met applicable professional standards and regulatory requirements;[77] and (2) established policies and procedures to provide the Firm with reasonable assurance that its quality control policies and procedures were suitably designed and were being effectively applied, and that its system of quality control was effective.[78]

IV.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $400,000 is imposed on Haynie & Company.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Haynie & Company shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check

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77 *See* QC § 20.17.

78 *See* QC §§ 30.02-.03.

(i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Haynie & Company as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Haynie & Company understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to the Firm at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Sections 105(c)(4)(C), (F), and (G) of the Act and PCAOB Rules 5300(a)(3), (6), (8), and (9), the Board orders that:

1. Independent Consultant.

   a. Haynie & Company shall retain and pay for an independent consultant ("Independent Consultant") not unacceptable to the staff of the PCAOB Division of Enforcement and Investigations ("DEI Staff") to review and make recommendations regarding Haynie & Company's quality control policies and procedures applicable to an audit of an issuer, as that term is defined in PCAOB Rule 1001, as described below. The Independent Consultant must have experience with, and be knowledgeable concerning, PCAOB auditing and quality control rules and standards. Within 60 days after the entry of this Order, Haynie & Company shall submit to DEI Staff a proposal setting forth the identity, qualifications, and proposed terms of retention of the Independent Consultant. Haynie & Company may not retain as the Independent Consultant any individual or entity that has provided legal, auditing, or other services not set forth in Paragraph IV.C.2 below to, or has had any other affiliation with, Haynie & Company during the two years prior to the date of this Order.

   b. To ensure the independence of the Independent Consultant, Haynie & Company: (i) shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of DEI Staff; and (ii) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

   c. Haynie & Company will enter into an agreement with the Independent Consultant that provides that, for the period of the engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any new employment, consultant, attorney-client, auditing, or other professional relationship with Haynie & Company or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. The agreement also will provide that the Independent Consultant will require that any firm

with which the Independent Consultant is affiliated or of which the Independent Consultant is a member, and any person engaged to assist the Independent Consultant in performance of the Independent Consultant's duties under this Order, shall not, without prior written consent of DEI Staff, enter into any employment, consultant, attorney-client, auditing, or other professional relationship with Haynie & Company or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such, for the period of the engagement and for a period of two years after the engagement.

d. Haynie & Company shall provide to DEI Staff a copy of the engagement letter detailing the scope of the Independent Consultant's responsibilities, which shall include the review described in Paragraph IV.C.2 below.

e. Haynie & Company shall cooperate fully with the Independent Consultant and shall provide reasonable access to its personnel, information, and records as the Independent Consultant may reasonably request for the Independent Consultant's review, evaluation, and reports described in Paragraphs IV.C.2 and IV.C.3 below.

f. If Haynie & Company, despite its best, good-faith efforts, is unable to identify an Independent Consultant candidate that meets all of the above-listed criteria, Haynie & Company may seek approval from DEI Staff of alternative candidates or alternative terms that Haynie & Company believes to be otherwise suitable.

2. Areas Independent Consultant is to Review. Within the time periods specified in Paragraph IV.C.3 below, the Independent Consultant will review and evaluate the following:

a. Haynie & Company's quality control policies and procedures as they relate to "Engagement Performance," as that term is described in QC § 20.17, including in the areas of the failures described in Sections III.F-H above;

b. Haynie & Company's quality control policies and procedures as they relate to "Monitoring," as that term is described in QC § 20.20 and as further discussed in QC §§ 30.02-.03, including in the areas of the failures described in Sections III.F-H above;

c. The resources Haynie & Company is devoting to provide reasonable assurance of its personnel's compliance with PCAOB standards, including the expertise, experience, and staffing of Haynie's quality control personnel; and

d. Haynie & Company's professional education and training policies and materials relating to compliance with PCAOB standards.

3. Independent Consultant Reports and Certifications.

a. Within 90 days of the Independent Consultant being retained, Haynie & Company shall require the Independent Consultant to issue a detailed written report ("Report") to Haynie & Company: (i) summarizing the Independent Consultant's review and evaluation of the areas identified in Paragraph IV.C.2 above, and (ii) making recommendations, where appropriate, reasonably designed to ensure that Haynie & Company's system of quality control provides reasonable assurance of its personnel's compliance with applicable PCAOB standards. Haynie & Company shall require the Independent Consultant to provide a copy of the Report to DEI Staff when the Report is issued.

b. Haynie & Company will adopt, as soon as practicable, all recommendations of the Independent Consultant in the Report; provided, however, that within 30 days of the issuance of the Report, Haynie & Company may advise the Independent Consultant and DEI Staff in writing of any recommendation that it considers to be unnecessary, unduly burdensome, or impractical. Haynie & Company need not adopt any such recommendation at that time, but instead may propose in writing to the Independent Consultant and DEI Staff an alternative proposal designed to achieve the same objective or purpose. Haynie & Company and the Independent Consultant will engage in good faith negotiations

in an effort to reach agreement on any recommendations objected to by Haynie & Company.

c. In the event that the Independent Consultant and Haynie & Company are unable to agree on an alternative proposal within 45 days of the issuance of the Report, Haynie & Company either will abide by the determinations of the Independent Consultant or will seek approval from DEI Staff to engage, at Haynie & Company's expense, a qualified third party not unacceptable to DEI Staff to promptly resolve the issue(s).

d. Within 60 days of the issuance of the Report, Haynie & Company will certify to DEI Staff in writing that it has adopted and has implemented or will implement all recommendations of the Independent Consultant ("Certification of Compliance"). Haynie & Company will provide a copy of the Certification of Compliance to DEI Staff.

e. Within 120 days of the issuance of the Report, Haynie & Company shall require the Independent Consultant to test whether Haynie & Company has implemented and enforced the Independent Consultant's recommendations and to assess the effectiveness of those implemented recommendations. Haynie & Company shall require the Independent Consultant to issue a written final report summarizing the results of the Independent Consultant's test and assessment ("Final Report") and to provide a copy of the Final Report to DEI Staff. At this time, if the Independent Consultant determines that the undertakings discussed herein have been completed to the satisfaction of the Independent Consultant, Haynie & Company shall require the Independent Consultant to certify in writing that the undertakings have been so completed ("Independent Consultant Certification") and to provide a copy of this certification to DEI Staff.

f. The Report, Final Report, Certification of Compliance, and Independent Consultant Certification shall be submitted to the Director of DEI.

g. For good cause shown, PCAOB staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

h. Haynie & Company agrees that DEI may petition the Board to reopen this matter to determine whether additional sanctions or findings are appropriate if it believes that Haynie & Company has not satisfied any provision in Section IV of this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

January 23, 2024

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Washington, DC 20006

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Tyson Holman, CPA, and Anna Hrabova, CPA,

Respondents.

PCAOB Release No. 105-2024-002

January 23, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Tyson Holman, CPA ("Holman");

(2) barring Holman from being an associated person of a registered public accounting firm;[1]

(3) imposing a $65,000 civil money penalty on Holman;

(4) censuring Anna Hrabova, CPA ("Hrabova");

(5) limiting Hrabova's activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for a period of one year from the date of this Order; and

(6) imposing a $30,000 civil money penalty on Hrabova.

The Board is imposing these sanctions on Holman and Hrabova (collectively, "Respondents") on the basis of its findings that Respondents violated PCAOB rules and standards in connection with the audit by Haynie & Company (the "Firm" or "Haynie") of the

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

financial statements of George Risk Industries, Inc. ("George Risk") for the fiscal year ended April 30, 2019 ("2019 George Risk Audit").

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[2]

III.

On the basis of Respondents' Offers, the Board finds that:[3]

A. Respondents

1. **Tyson Holman** was, at all relevant times, a certified public accountant licensed by the states of Colorado (license no. 24301) and New York (license no. 135845). Holman is a partner in the Denver, Colorado office of Haynie. Holman served as the engagement partner for the 2019 George Risk Audit. At all relevant times, Holman was an "associated person of a

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

[3] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

2. **Anna Hrabova** was, at all relevant times, a certified public accountant licensed by the state of Georgia (license no. CPA028398) and a partner of Haynie. Hrabova served as the engagement quality review ("EQR") partner for the 2019 George Risk Audit. At all relevant times, Hrabova was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities

3. **Haynie & Company** is a professional corporation organized under the laws of Utah and headquartered in Salt Lake City, Utah. Haynie is licensed to practice public accounting by the Utah Board of Accountancy (license nos. 13292009-2603 and 103735-2603), among other state boards. Haynie is, and at all relevant times was, registered with the Board, and is a "registered public accounting firm" as that term is defined in Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i).

4. **George Risk Industries, Inc.** was, at all relevant times, a Colorado corporation headquartered in Kimball, Nebraska. George Risk's public filings disclose that it designs, manufactures, and sells computer keyboards, push button switches, burglar alarm components and systems, pool alarms, EZ Duct wire covers, water sensors, and wire and cable installation tools. George Risk is, and at all relevant times was, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the 2019 George Risk Audit. As detailed below, Holman failed to: (1) evaluate whether George Risk's revenue was reported in conformity with the applicable financial reporting framework; (2) obtain sufficient appropriate audit evidence with respect to George Risk's investments; and (3) notify George Risk's Board of Directors and management of an identified material weakness.

6. Additionally, Hrabova violated AS 1220, *Engagement Quality Review,* by providing her concurring approval of issuance of the 2019 George Risk Audit report without performing the required EQR with due professional care.

D. Holman Violated PCAOB Rules and Standards on the 2019 George Risk Audit

7. In connection with the preparation and issuance of an audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with all applicable auditing and related professional standards.[4] An auditor may express an unqualified opinion on an issuer's financial statements when the auditor conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[5]

8. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit.[6] Due professional care requires that the auditor exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[7]

9. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion.[8] In addition, an auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.[9]

10. Haynie issued an audit report containing an unqualified opinion on George Risk's 2019 financial statements on August 13, 2019. The report was included with George Risk's Form 10-K filed with the Securities and Exchange Commission ("Commission") on August 13, 2019.

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4 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

5 *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

6 *See* AS 1015.01, *Due Professional Care in the Performance of Work*.

7 *See* AS 1015.07; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*.

8 *See* AS 1105.04, *Audit Evidence*.

9 *See* AS 2401.12, *Consideration of Fraud in a Financial Statement Audit*.

i. Holman Failed to Evaluate Whether George Risk's Revenue was Presented in Conformity With the Applicable Financial Reporting Framework

11. George Risk disclosed in its Form 10-K for fiscal year 2019 revenue of $14,126,000. Holman identified improper revenue recognition as a significant risk and a fraud risk.

12. PCAOB standards required Holman and the engagement team to design and perform audit procedures in a manner that addressed Holman's identification of improper revenue recognition as a significant risk and a fraud risk,[10] and to evaluate whether George Risk's revenue was presented in the financial statements fairly, in all material respects, in conformity with the applicable financial reporting framework.[11]

13. George Risk disclosed in its Form 10-K that it had adopted FASB ASC 606, *Revenue from Contracts with Customers* ("ASC 606") effective May 1, 2018, the beginning of the 2019 fiscal year. During the 2019 George Risk Audit, however, Holman and the engagement team evaluated George Risk's revenue recognition under FASB ASC 605, *Revenue Recognition* ("ASC 605"), which had been superseded by ASC 606. The adoption of ASC 606 resulted in different considerations in the determination of whether revenue had met the criteria to be recognized. Holman and the engagement team failed to evaluate the implications to the audit procedures of the adoption of ASC 606. For example, Holman and the engagement team failed to evaluate whether George Risk recognized revenue when (or as) George Risk satisfied performance obligations set forth in a contract with a major customer, in conformity with ASC 606.

14. As a result, Holman and the engagement team failed to evaluate whether the recognized revenue in George Risk's financial statements was presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[12] By testing George Risk's revenue under ASC 605 rather than ASC 606, Holman and the engagement team also failed to design and perform audit procedures in a manner that addressed Holman's identification of improper revenue recognition as a significant risk.[13]

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10 *See* AS 2301.03, .08-.09.

11 *See* AS 2810.30-.31, *Evaluating Audit Results.*

12 *See id.*

13 *See* AS 2301.03, .08-.09.

ii. Holman Failed to Test the Valuation and Disclosure of George Risk's Investments Despite Prior Notice of Issues Regarding its Testing the Valuation and Disclosure of Investments

15. George Risk's 2019 Form 10-K reported $27,291,000 in investments and securities, which primarily consisted of mutual funds and municipal bond securities. Holman identified the valuation of investments as a significant risk.

a. Holman Failed to Adequately Test the Fair Value of George Risk's Level 2 Investments

16. In connection with the PCAOB's 2017 inspection of Haynie, PCAOB inspectors brought to the Firm and Holman's attention apparent failures by the engagement team during the Firm's audit of the financial statements of George Risk for the fiscal year ended April 30, 2017 ("2017 George Risk Audit"). In particular, PCAOB inspectors informed Holman, who also served as the engagement partner on the 2017 George Risk Audit, that he and the engagement team failed to perform sufficient procedures to test whether the valuation and disclosure of George Risk's investments were presented in conformity with AS 2502, *Auditing Fair Value Measurements and Disclosures*. Holman understood that this failure was in part because (1) other than comparing the custodial statements to the investment balances George Risk recorded, and tracing a small sample of George Risk's municipal bonds to a third-party website, Holman and the engagement team failed to perform any procedures to test the reasonableness of the fair values of George Risk's municipal bonds; and (2) for the sample of municipal bonds, Holman and the engagement team failed to evaluate the relevance and reliability of the data from the third-party website.

17. Despite being aware of these apparent failures, Holman and the engagement team followed a similar approach to testing the valuation of George Risk's municipal bonds during the 2019 George Risk Audit. George Risk disclosed in its 2019 Form 10-K that its municipal bonds were valued at approximately $5,483,000, representing approximately 13% of George Risk's total assets. George Risk characterized these municipals bonds as Level 2 investments.[14]

[14] Under U.S. Generally Accepted Accounting Principles ("U.S. GAAP"), investments are characterized as either Level 1 Investments, Level 2 Investments, or Level 3 Investments, based upon the inputs used to value the investments. Level 1 Investments reflect inputs based upon quoted prices in active markets for identical assets or liabilities that the reporting entity can access at the measurement date. Level 2 Investments reflect inputs other than quoted prices included within Level 1 Investments.

18. George Risk also disclosed in its 2019 Form 10-K that municipal bonds did not trade in an active market. George Risk obtained the market value of municipal bonds at year-end from third-party custodians' statements.

19. PCAOB standards required Holman and the engagement team to obtain an understanding of the process George Risk used to determine the fair value of the municipal bonds, and, in the event there were no observable market prices for the municipal bonds, to evaluate whether the valuation method was appropriate under the circumstances.[15]

20. PCAOB standards also provided that Haynie had to evaluate whether the significant assumptions used to measure the fair value of George Risk's municipal bonds provided a reasonable basis for the fair value measurements and disclosures in George Risk's financial statements.[16]

21. To test the valuation of George Risk's approximately $5,483,000 in municipal bonds, the engagement team relied solely on two things. First, the engagement team relied on custodial statements, which were also the sources of the values of the municipal bonds recorded by George Risk. The engagement team failed, however, to evaluate the methods and assumptions used by the custodians. Second, the engagement team relied on data from a third-party website. The engagement team did not, however, assess the relevance or reliability of that data.

22. More specifically, the engagement team traced approximately $3,300,000 in municipal bonds to a third-party website and a custodial statement, agreed approximately $764,000 to a custodial statement only, and agreed approximately $851,000 to an investment schedule prepared by George Risk. Holman and the engagement team failed to assess whether the third-party pricing data was a reliable source of evidence of fair value in an illiquid market. They also failed to evaluate George Risk's process for determining that the custodial statements provided reliable measures of the fair value for the municipal bonds at year-end. Additionally, a balance of approximately $568,000 was not tested.

23. Therefore, despite being on notice of the deficiencies in this testing approach from the 2017 PCAOB inspection, Holman and the engagement team failed to perform sufficient audit procedures to understand and evaluate the valuation methods used by George

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Level 3 Investments reflect inputs that are unobservable. *See* FASB ASC 820-10-20, *Fair Value Measurement*.

15 *See* AS 2502.09, .18.

16 *See* AS 2502.28; *see also* AS 2502.26.

Risk to calculate the market value of George Risk's municipal bonds at year-end or the appropriateness of the pricing data obtained from a third-party website as audit evidence.

24. As a result, Holman and the engagement team failed to adequately test the fair value of George Risk's municipal bonds.[17] They failed to adequately perform substantive procedures specifically responsive to the identified significant risks over George Risk's investments.[18] They also failed to perform sufficient audit procedures related to George Risk's municipal bonds, and failed to obtain sufficient appropriate audit evidence that George Risk's municipal bonds were properly valued.[19]

b. Holman Failed to Evaluate George Risk's OTTI Investments

25. In connection with the 2017 inspection of Haynie, PCAOB inspectors also brought to the Firm and Holman's attention another apparent failure by the engagement team during the 2017 George Risk Audit. In particular, Holman was made aware that during the 2017 George Risk Audit, he and the engagement team failed to perform sufficient procedures to evaluate whether George Risk's investments in loss positions were other-than-temporarily impaired ("OTTI"). That failure was in part because they failed to evaluate whether George Risk had the ability to hold these investments and securities until recovery of their fair value. For example, Holman and the engagement team did not consider the arrangements with George Risk's broker that conveyed to it the sole discretion to buy and sell investments and securities, which called into question George Risk's ability to limit its broker from selling investments and securities that were in a loss position.

26. Despite being aware of this apparent failure, Holman and the engagement team followed the same approach to evaluating whether George Risk's investment losses were OTTI during the 2019 George Risk Audit. In its 2019 Form 10-K, George Risk disclosed in the notes to the financial statements that it had the ability to hold investments in municipal bonds, real estate investment trusts, and equity securities until recovery of their fair values and, therefore, the unrealized loss of approximately $357,000 associated with these investments was not an indicator of an OTTI.

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17 *See* AS 2502.09, .18, .28.

18 *See* AS 2301.11.

19 *See* AS 1105.04.

27. George Risk also disclosed, however, that it "use[d] 'money manager' accounts for most stock transactions," and thereby gave "an independent third-party firm, who are experts in this field, permission to buy and sell stocks at will."

28. Holman and the engagement team obtained George Risk's calculation of the $357,000 unrealized loss and documented George Risk's policy for determining whether its investment losses were OTTI. They concluded that George Risk's policy was reasonable, without analyzing why George Risk's methodology was reasonable or describing any audit steps performed to support the conclusion.

29. Additionally, despite being on notice of the deficiencies in this testing approach from the 2017 PCAOB inspection, Holman and the engagement team never talked to George Risk's third-party investment broker, or otherwise considered that George Risk's broker had "permission to buy and sell stocks at will," in evaluating the appropriateness of George Risk's policy for impairment of investments during the 2019 George Risk Audit.

30. Holman and the engagement team, therefore, failed to adequately perform substantive procedures specifically responsive to the identified significant risks over the valuation of George Risk's investments.[20] They also failed to obtain sufficient appropriate audit evidence that George Risk's investment losses were OTTI.[21]

c. Holman Failed to Evaluate Whether George Risk's Investments Were Presented in Conformity With the Applicable Financial Reporting Framework

31. During the 2019 George Risk Audit, Holman and the engagement team failed to evaluate whether the accounting for George Risk's investments was in conformity with U.S. GAAP. Specifically, they failed to recognize that changes in the fair value of equity investments should no longer be recorded on the balance sheet, but instead were required to be recognized in the income statement, pursuant to Accounting Standards Update No. 2016-01, *Recognition and Measurement of Financial Assets and Financial Liabilities* (January 2016) ("ASU 2016-01"), thereby impacting net income for the period. During the 2019 George Risk Audit, Holman and the engagement team failed to perform any audit procedures to test whether George Risk was accounting for its investments consistent with ASU 2016-01.

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20 *See* AS 2301.11.

21 *See* AS 1105.04.

32. George Risk restated its 2019 financial statements and filed two amendments to its 2019 Form 10-K on March 25, 2020 and May 26, 2020, to give effect to ASU 2016-01. As a result of the restatement, George Risk recorded a gain from changes in fair value of equity security of $444,000 for the 2019 fiscal year, which increased George Risk's net income from approximately $3.2 million to $3.6 million, or approximately 12%.

33. Therefore, Holman and the engagement team failed to evaluate whether George Risk's investments in the financial statements were presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[22]

iii. Holman Failed to Appropriately Communicate a Material Weakness to George Risk's Audit Committee

34. Under AS 1305, *Communications About Control Deficiencies in an Audit of Financial Statements*, Holman and the engagement team were required to communicate in writing all significant deficiencies and material weaknesses identified during the audit to George Risk's management and audit committee.[23]

35. In the risk assessment performed in relation to the 2019 George Risk Audit, Holman and the engagement team documented a material weakness concerning the lack of ASC and PCAOB knowledge in the financial statement reporting function. Holman and the engagement team, however, failed to communicate that material weakness in writing to George Risk's management and audit committee equivalent.[24]

36. In addition, for all of the reasons described above, Holman failed to exercise due professional care and professional skepticism in serving as the engagement partner on the 2019 George Risk Audit.[25]

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22 *See* AS 2810.30-.31.

23 *See* AS 1305.04.

24 *See id.*

25 *See* AS 1015.01, .07.

E. Hrabova Failed to Appropriately Perform the EQR on the 2019 George Risk Audit

37. PCAOB standards require that an EQR be performed on all audit engagements conducted pursuant to PCAOB standards.[26] In conducting the EQR, PCAOB standards require the EQR partner to evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[27]

38. PCAOB standards also require the EQR partner to evaluate the assessment of, and audit responses to, among other things, significant risks identified by the engagement team, including fraud risks.[28] In addition, the EQR partner is required to evaluate whether the engagement documentation that he or she reviewed in connection with the EQR indicates that the engagement team responded appropriately to significant risks, and supports the conclusions reached by the engagement team with respect to the matters reviewed.[29]

39. The EQR partner may provide concurring approval of issuance of an audit report only if, after performing the EQR with due professional care, he or she is not aware of a significant engagement deficiency.[30] Among other things, a significant engagement deficiency in an audit exists when the engagement team failed to obtain sufficient appropriate audit evidence in accordance with PCAOB standards.[31]

40. Hrabova served as the EQR partner on the 2019 George Risk Audit and provided her concurring approval of issuance of the 2019 George Risk Audit report.

41. During her EQR of the 2019 George Risk Audit, Hrabova was aware that Holman and the engagement team identified George Risk's revenue as a significant risk. She reviewed the revenue work papers from the audit file, including the work papers documenting that

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26 *See* AS 1220.01.

27 *See* AS 1220.09.

28 *See* AS 1220.10.

29 *See* AS 1220.11.

30 *See* AS 1220.12; *see also* AS 1015.07 ("[d]ue professional care requires the auditor to exercise professional skepticism," which is "an attitude that includes a questioning mind and a critical assessment of audit evidence").

31 *See* AS 1220.12, Note.

Holman and the engagement team audited George Risk's revenue pursuant to the criteria of ASC 605 rather than ASC 606.

42. Hrabova was also aware that Holman and the engagement team identified George Risk's investments as a significant risk, and reviewed the investment work papers from the audit file indicating that the engagement team failed to consider ASU 2016-01 in auditing George Risk's investments.

43. Hrabova failed to conduct the EQR in accordance with PCAOB standards by failing to properly: (1) evaluate the significant judgments Holman and the engagement team made with respect to the areas of revenue and investments, and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report;[32] (2) evaluate Holman and the engagement team's assessment of, and audit responses to the significant risks they identified, in the areas of revenue and investments;[33] and (3) evaluate whether the engagement documentation that Hrabova reviewed indicated that Holman and the engagement team responded properly to significant risks and supported the conclusions Holman and the engagement team reached with respect to the matters reviewed related to the area of revenue and investments.[34]

44. An EQR partner performing an EQR with due professional care, in compliance with AS 1220, should have detected the significant engagement deficiencies described above. Because Hrabova did not identify the significant engagement deficiencies, she failed to exercise due professional care and perform her EQR in accordance with AS 1220, and she inappropriately provided her concurring approval of issuance, in violation of PCAOB rules and standards.[35]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

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32 *See* AS 1220.09.

33 *See* AS 1220.10.

34 *See* AS 1220.11.

35 *See* AS 1220.09-.12; AS 1015.01.

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Tyson Holman is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[36]

C. Pursuant to PCAOB Rule 5302(b), Tyson Holman may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $65,000 is imposed on Tyson Holman.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Tyson Holman shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Tyson Holman as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant

[36] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Holman. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Tyson Holman understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

5. With respect to any civil money penalty amounts that Tyson Holman shall pay pursuant to this Order, Tyson Holman shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Tyson Holman's payment of the civil money penalty pursuant to this Order, in any private action brought against Tyson Holman based on substantially the same facts as set out in the findings in this Order.

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

F. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date of this Order, Anna Hrabova's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Anna Hrabova shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but

differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) assist the engagement partner in fulfilling his or her responsibilities under paragraph 4 of AS 1201; or (6) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*.

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed on Anna Hrabova.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Anna Hrabova shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Anna Hrabova as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Anna Hrabova shall pay pursuant to this Order, Anna Hrabova shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source

including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Anna Hrabova's payment of the civil money penalty pursuant to this Order, in any private action brought against Anna Hrabova based on substantially the same facts as set out in the findings in this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

January 23, 2024

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Steven Avis, CPA, and Richard Fleischman, CPA,

Respondents.

PCAOB Release No. 105-2024-003

January 23, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Steven Avis, CPA ("Avis");

(2) barring Avis from being an associated person of a registered public accounting firm;[1]

(3) imposing a $65,000 civil money penalty on Avis;

(4) censuring Richard Fleischman, CPA ("Fleischman");

(5) limiting Fleischman's activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for a period of one year from the date of this Order; and

(6) imposing a $30,000 civil money penalty on Fleischman.

The Board is imposing these sanctions on Avis and Fleischman (collectively, "Respondents") on the basis of its findings that Respondents violated PCAOB rules and standards in connection with the audit by Haynie & Company (the "Firm" or "Haynie") of the financial statements of Investview, Inc. ("Investview") for the fiscal year ended March 31, 2019 ("2019 Investview Audit").

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

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[2]

III.

On the basis of Respondents' Offers, the Board finds that:[3]

A. Respondents

1. **Steven Avis** was, at all relevant times, a certified public accountant licensed by the state of Utah (license no. 363384-2601). Avis is a partner in the Salt Lake City, Utah office of Haynie. Avis served as the engagement partner for the 2019 Investview Audit. At all relevant times, Avis was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

2. **Richard Fleischman** was, at all relevant times, a certified public accountant licensed by the state of Colorado (license no. 21292). Fleischman was, until July 2019, a partner

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

[3] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

in the Littleton, Colorado office of Haynie. Fleischman served as the engagement quality review ("EQR") partner for the 2019 Investview Audit. At all relevant times, Fleischman was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities

3. **Haynie & Company** is a professional corporation organized under the laws of Utah and headquartered in Salt Lake City, Utah. Haynie is licensed to practice public accounting by the Utah Board of Accountancy (license nos. 13292009-2603 and 103735-2603), among other state boards. Haynie is, and at all relevant times was, registered with the Board, and is a "registered public accounting firm" as that term is defined in Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i).

4. **Investview, Inc.** was, at all relevant times, a Nevada corporation headquartered in Salt Lake City, Utah.[4] Investview's public filings disclose that it provides access to financial education, market research, and technology on certain financial subjects including equities, options, binary options, and cryptocurrency. Investview is, and at all relevant times was, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the 2019 Investview Audit. As detailed below, Avis failed to obtain sufficient appropriate audit evidence concerning: (1) Investview's accounting for its acquisition of United Games, LLC and United League, LLC (collectively, "United Games"); (2) Investview's cryptocurrency mining revenue; and (3) a license agreement that Investview recorded at a value of approximately $2 million, even though Investview's accounting staff orally told the Firm the license agreement was worthless.

6. Additionally, Fleischman violated AS 1220, *Engagement Quality Review,* by providing his concurring approval of issuance of the 2019 Investview Audit without performing the required EQR with due professional care.

D. Avis Violated PCAOB Rules and Standards on the 2019 Investview Audit

7. In connection with the preparation and issuance of an audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with all

[4] Investview's corporate headquarters is now located in Haverford, Pennsylvania.

applicable auditing and related professional standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements when the auditor conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[6]

8. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit.[7] Due professional care requires that the auditor exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[8]

9. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion.[9] In addition, an auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.[10]

10. While an auditor may use inquiry of management to obtain information, "[i]nquiry alone does not provide sufficient appropriate evidence to support a conclusion about a relevant assertion."[11] Management representations "are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[12]

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5 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

6 *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

7 *See* AS 1015.01, *Due Professional Care in the Performance of Work*.

8 *See* AS 1015.07; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*.

9 *See* AS 1105.04, *Audit Evidence*.

10 *See* AS 2401.12, *Consideration of Fraud in a Financial Statement Audit*.

11 AS 2301.39; *see also* AS 1105.17, Note ("Inquiry of company personnel, by itself, does not provide sufficient audit evidence to reduce audit risk to an appropriately low level for a relevant assertion. . . .").

12 AS 2805.02, *Management Representations*.

11. In addition, if audit evidence obtained from one source is inconsistent with audit evidence obtained from another source, "the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit."[13] Likewise, if management's responses to an auditor's inquiries appear to be "inconsistent with other audit evidence, imprecise, or not at a sufficient level of detail to be useful, the auditor should perform procedures to address the matter."[14] "If a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made," and, based on the circumstances, "consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified."[15]

12. On June 28, 2019, Haynie issued an audit report containing an unqualified opinion on Investview's March 31, 2019 financial statements, with an explanatory paragraph describing substantial doubt about the company's ability to continue as a going concern. The report was included with Investview's Form 10-K filed with the Securities and Exchange Commission ("Commission") on June 28, 2019.

i. Avis Failed to Appropriately Audit Investview's Accounting for its Acquisition of United Games

13. On July 20, 2018, Investview entered into a purchase agreement with United Games Marketing LLC to purchase United Games in exchange for 50,000,000 shares of Investview common stock.

14. Investview disclosed in its public filings that it accounted for its acquisition of United Games as a business combination pursuant to FASB ASC 805, *Business Combinations* ("ASC 805"), and recognized it as a "bargain purchase," meaning that, according to Investview's accounting, the United Games assets were acquired for less than their fair market value.[16]

15. Avis and the engagement team identified a significant risk related to the accounting for the United Games acquisition, and assessed the control risk as "High" for all assertions.

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13 AS 1105.29.

14 AS 2810.08, *Evaluating Audit Results*.

15 AS 2805.04.

16 *See* ASC 805-30-25-2.

16. PCAOB standards required Avis and the engagement team to design and perform audit procedures in a manner that addressed Avis's identification of the accounting for the United Games acquisition as a significant risk,[17] and to evaluate whether the acquisition was presented in the financial statements fairly, in all material respects, in conformity with the applicable financial reporting framework.[18]

17. As described below, Avis failed to obtain sufficient appropriate audit evidence related to Investview's accounting for the United Games acquisition, because Avis and the engagement team failed to appropriately evaluate (1) Investview's valuation of the intangible assets acquired and shares used as consideration in the United Games acquisition; and (2) whether Investview's acquisition of United Games, including Investview's recognition of a bargain purchase gain, was presented in conformity with ASC 805.

a. Avis Failed to Appropriately Evaluate Valuation Estimates Related to the United Games Acquisition

18. According to its public filings, Investview estimated the valuation of the intangible assets it acquired from United Games at approximately $1.8 million, and the Investview shares used as consideration at approximately $800,000, resulting in a one-time gain of approximately $971,000 recorded in earnings in 2019. Investview used a third-party valuation firm (the "Third-Party Specialist"), to support these fair value estimates.

19. PCAOB standards require auditors to evaluate the reasonableness of accounting estimates made by management, and to obtain sufficient appropriate evidential matter to provide reasonable assurance that all accounting estimates that could be material to the financial statements have been developed, are reasonable in the circumstances, and are presented in conformity with applicable accounting principles and properly disclosed.[19]

20. In evaluating the reasonableness of an accounting estimate, PCAOB standards require the auditor to obtain an understanding of how management developed the estimate. Based on that understanding, the auditor should use one or a combination of the following approaches: (a) review and test the process used by management to develop the estimate; (b) develop an independent expectation of the estimate to corroborate the reasonableness of

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17 *See* AS 2301.03, .08-.09.

18 *See* AS 2810.30-.31.

19 *See* AS 2501.07, *Auditing Accounting Estimates*.

management's estimate; and (c) review subsequent events or transactions occurring prior to the date of the auditor's report.[20]

21. PCAOB standards further require auditors who use the work of a company's specialist as evidential matter in performing an audit to, among other things, "make appropriate tests of data provided to the specialist, taking into account the auditor's assessment of control risk."[21]

22. Avis and the engagement team understood that Investview relied on the valuation reports prepared by the Third-Party Specialist to account for the United Games acquisition. The valuation reports prepared by the Third-Party Specialist relied on data and assumptions provided by Investview, including projected rates of United Games' revenue growth and royalty rates from United Games' technology, as well as Investview's revenue growth rates, as key assumptions in calculating the fair value of the acquired intangible assets and of the shares used as consideration. The Third-Party Specialist did not perform any procedures to evaluate the reasonableness of this information Investview provided.

23. Avis and the engagement team used the Third-Party Specialist's reports as evidential matter in the 2019 Investview Audit to evaluate Investview's accounting for the United Games acquisition. Avis and the engagement team reviewed the Third-Party Specialist's valuation reports, and made high-level inquiries of management. They understood that the Third-Party Specialist relied on Investview-provided projections. With respect to the revenue projections for Investview, Avis and the engagement team documented that Investview's revenue projections were "fairly aggressive."

24. Despite this, and though they had assessed the control risk related to the United Games acquisition accounting as "High," Avis and the engagement team failed to test the projections that Investview provided to the Third-Party Specialist.[22] Likewise, Avis and the engagement team failed to perform procedures to (a) sufficiently review, or perform any procedures to test, the process used to develop the estimated valuation of United Games' intangible assets, the Investview shares used as consideration, or the underlying projections; (b)

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20 *See* AS 2501.10.

21 AS 1210.03(a), .12, *Using the Work of a Specialist*.

22 *See* AS 1210.12.

develop an independent expectation of those estimates; or (c) review subsequent events or transactions to evaluate the reasonableness of those estimates.[23]

25. In addition, with respect to the approximately $1.8 million valuation of United Games' intangible assets, Avis and the engagement team received a representation from Investview management that the estimate included the value of a software system that was not reflected on United Games' books. Avis and the engagement team understood generally that the intangible assets also included proprietary technology, customer contacts, and trade names. Avis and the engagement team took no steps, however, to gain an understanding of the software system or other intangible assets, or to evaluate whether Investview's valuation estimate for the intangible assets was reasonable in the circumstances.

26. As such, Avis and the engagement team failed to obtain sufficient appropriate evidential matter to evaluate the valuation of United Games' assets acquired by Investview or the Investview shares used as consideration,[24] and failed to make appropriate tests of the projections provided by Investview to the Third-Party Specialist.[25]

b. Avis Failed to Appropriately Evaluate Whether Investview's Recognition of a Bargain Purchase Gain was Presented in Conformity With the Applicable Financial Reporting Framework

27. Avis and the engagement team also failed to appropriately evaluate whether Investview's recognition of a bargain purchase gain in connection with the acquisition was presented in conformity with ASC 805.

28. ASC 805 recognizes that a bargain purchase may happen "[o]ccasionally," and provides the example of "a forced sale in which the seller is acting under compulsion." ASC 805 also requires that an issuer recognizing a gain in connection with a bargain purchase disclose a "description of the reasons why the transaction resulted in a gain."[26]

29. Avis and the engagement team received no indication that United Games was a "forced" sale. Investview management represented to Avis and the engagement team that United Games' management wanted to leave the industry. Avis and the engagement team took no steps to follow up on that representation or gain an understanding of why United Games'

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23 *See* AS 2501.10.

24 *See* AS 2501.07.

25 *See* AS 1210.12.

26 ASC 805-30-25, 805-30-50-1(f)(2).

management might be willing to sell its subsidiaries for less than fair market value, or whether other circumstances might warrant the unusual recognition of a gain from an acquisition.

30. Nor did Avis and the engagement team identify that Investview's 2019 Form 10-K failed to disclose a "description of the reasons why the transaction resulted in a gain" as required by ASC 805.[27]

31. Therefore, Avis and the engagement team failed to evaluate whether the United Games acquisition was presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[28]

32. Based on this failure, together with the failure described above to appropriately evaluate Investview's estimates of the valuation of United Games intangible assets and the Investview shares used as consideration in the acquisition, Avis and the engagement team failed to design and perform audit procedures in a manner that addressed Avis's identification of the accounting for the United Games acquisition as a significant risk,[29] and failed to obtain sufficient appropriate audit evidence with respect to Investview's accounting for the United Games acquisition.[30]

ii. Avis Failed to Appropriately Audit Investview's Cryptocurrency Mining Revenue

33. Investview reported net cryptocurrency mining revenue of approximately $1.94 million for the fiscal year ended March 31, 2019. Avis identified improper revenue recognition as a significant risk and a fraud risk.

34. PCAOB standards required Avis and the engagement team to design and perform audit procedures in a manner that addressed Avis's identification of improper revenue recognition as a significant risk and a fraud risk,[31] and to evaluate whether Investview's revenue

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27 *See* ASC 805-30-50-1(f)(2).

28 *See* AS 2810.30-31.

29 *See* AS 2301.08; *see also* AS 2301.03, .09, .11.

30 *See* AS 1105.04.

31 *See* AS 2301.03, .08-.09.

was presented in the financial statements fairly, in all material respects, in conformity with the applicable financial reporting framework.[32]

35. As described below, Avis failed to obtain sufficient appropriate audit evidence related to Investview's cryptocurrency mining revenue, because Avis and the engagement team (1) failed to evaluate whether Investview's cryptocurrency mining revenue was presented in conformity with FASB ASC 606, *Revenue from Contracts with Customers* ("ASC 606"), which Investview adopted at the beginning of the 2019 fiscal year; and (2) failed to perform detailed testing of a $3.83 million component of cryptocurrency mining net revenue representing the amounts Investview paid to its cryptocurrency mining supplier.

a. Avis Failed to Evaluate Whether Investview's Cryptocurrency Mining Revenue was Presented in Conformity With the Applicable Financial Reporting Framework

36. Investview's public filings disclosed that it generated revenue from the sale of cryptocurrency mining services through an arrangement with a third-party supplier ("Supplier"). Investview leased cryptocurrency mining services from the Supplier, and subleased those services to Investview customers. To execute this arrangement, Investview engaged in separate agreements with (1) its customers; and (2) the Supplier.

37. Investview reported that it recognized revenue generated through this arrangement on a net basis, at the time the customer purchased the cryptocurrency mining services (*i.e.*, before the cryptocurrency mining services were provided by the Supplier).

38. Avis and the engagement team failed to perform sufficient procedures during the 2019 Investview Audit to assess the reasonableness under ASC 606 of Investview's cryptocurrency mining revenue recognition approach. Instead, Avis and the engagement team simply relied on the information in a work paper titled "Mining Revenue Treatment Memo" from the Firm's audit of Investview's financial statements for the prior fiscal year ended March 31, 2018 (the "2018 Investview Audit").

39. Investview had prepared the Mining Revenue Treatment Memo during the 2018 fiscal year to document the company's conclusion that its cryptocurrency mining revenue recognition approach was reasonable, applying the indicators set forth in FASB ASC 605, *Revenue Recognition* ("ASC 605"), regarding whether revenue in connection with a transaction

[32] *See* AS 2810.30-.31.

should be recognized on a gross basis or a net basis (the "ASC 605 Indicators").[33] During the 2018 Investview Audit, Avis and the engagement team reviewed the Mining Revenue Treatment Memo, added notations including excerpts from ASC 605 regarding each of the ASC 605 Indicators, and added the annotated Mining Revenue Treatment Memo to the corresponding work papers.

40. In relying on the Mining Revenue Treatment Memo copied from the 2018 Investview Audit file during the following year 2019 Investview Audit, Avis and the engagement team failed to consider that Investview had adopted a new accounting standard for revenue, ASC 606, at the beginning of the 2019 fiscal year. ASC 606 required consideration of a different model for determining whether to recognize revenue in connection with a transaction on a gross basis or a net basis, based upon whether the entity recognizing revenue exercised control over the specified goods or services before they were transferred to the customer. As a result, the ASC 605 Indicators, which were the basis for the Mining Revenue Treatment Memo's analysis and conclusion, were no longer applicable during the 2019 fiscal year.[34]

41. Avis and the engagement team did not request an updated analysis from Investview applying ASC 606 during the 2019 Investview Audit, or conduct any procedures to evaluate whether it was reasonable under ASC 606 for Investview to recognize cryptocurrency mining revenue on a net basis at the time the customer purchased the cryptocurrency mining services.

42. Therefore, Avis failed to evaluate whether the cryptocurrency mining revenue recognized in Investview's 2019 financial statements was presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[35]

b. Avis Failed to Test the "Amounts Paid to Supplier" Component of Investview's Cryptocurrency Mining Revenue

43. Investview reported that it had $1.94 million in net cryptocurrency mining revenue for the 2019 fiscal year which consisted of: (1) approximately $5.77 million in "gross billings," which represented sublease payments from customers to Investview; and (2) approximately $3.83 million in "amounts paid to supplier," which represented payments from Investview to the Supplier.

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33 *See* ASC 605-45-45-10.

34 *Compare* ASC 605-45-45-10 *with* ASC 606-10-55-39.

35 *See* AS 2810.30-.31.

44. Because Avis had identified improper revenue recognition as a significant risk and a fraud risk, PCAOB standards required Avis and the engagement team to perform substantive procedures, including tests of details, specifically responsive to the assessed risk.[36]

45. Avis and the engagement team failed to test the $3.83 million "amounts paid to supplier" component of Investview's net cryptocurrency mining revenue. Avis understood that Investview had agreed to provide 60% of the amounts collected from each cryptocurrency mining customer to the Supplier, and that Investview would keep the remaining 40% as its commission. Based on this agreement, Investview should have paid the supplier 60% of the $5.77 million that the company reported in gross billings, which would have resulted in approximately $3.46 million in "amounts paid to supplier." Investview, however, reported approximately $370,000 more in "amounts paid to supplier."

46. Avis and the engagement team did not identify this inconsistency during the 2019 Investview Audit, nor did they perform any testing, detailed or otherwise, of the overall "amounts paid to supplier."

47. Therefore, Avis failed to perform substantive procedures, including tests of details, specifically responsive to Avis's identification of improper revenue recognition as a significant risk and fraud risk.[37]

48. In addition, by failing both to evaluate whether Investview's cryptocurrency mining revenue recognition approach was in conformity with ASC 606, and to test the "amounts paid to supplier" component, Avis failed to design and perform audit procedures in a manner that addressed Avis's identification of improper revenue recognition as a significant risk and a fraud risk,[38] and failed to obtain sufficient appropriate audit evidence that Investview's cryptocurrency mining revenue was properly valued.[39]

iii. Avis Failed to Appropriately Audit an Investview License Agreement

49. In June 2017, Investview purchased a long-term, fifteen-year license agreement (the "License Agreement"). As of March 31, 2019, Investview recorded a net carrying value for

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36 *See* AS 2301.11.

37 *See id*.

38 *See* AS 2301.03, .08-.09.

39 *See* AS 1105.04.

the License Agreement of approximately $2 million. Avis and the engagement team did not identify a significant risk related to the License Agreement during the 2019 Investview Audit.

50. Based on an oral representation from Investview's accounting staff, Avis and the engagement team noted in a planning work paper that "the license agreement is no longer of value to the company as the service and license has failed due to issues with the brokerage platform." Avis and the engagement team later received a management representation from Investview's Director of Finance indicating that the License Agreement was not impaired.

51. Avis and the engagement team failed to take any steps to resolve the inconsistent representations from Investview management regarding the License Agreement.[40] They also failed to take any steps to evaluate whether indicators may have been present that would have required Investview to perform an impairment analysis to assess whether the value of the License Agreement should have been impaired in accordance with FASB ASC 350, *Intangibles—Goodwill and Other*.[41] Indeed, Avis and the engagement team did not ask Investview management whether the License Agreement had been evaluated for impairment.

52. Accordingly, Avis and the engagement team failed to perform audit procedures necessary to resolve inconsistent audit evidence.[42] They also failed to perform sufficient audit procedures and obtain sufficient appropriate audit evidence that the License Agreement was properly valued.[43]

53. In addition, for all of the reasons described above, Avis failed to exercise due professional care and professional skepticism in serving as engagement partner on the 2019 Investview Audit.[44]

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40 *See* AS 1105.29 (requiring auditors to perform procedures to resolve inconsistent audit evidence and to determine the effect, if any, on other aspects of the audit).

41 *See* ASC 350-30-35-14.

42 *See* AS 1105.29.

43 *See* AS 1105.04.

44 *See* AS 1015.01, .07.

E. Fleischman Failed to Appropriately Perform the EQR on the 2019 Investview Audit

54. PCAOB standards require that an EQR be performed on all audit engagements conducted pursuant to PCAOB standards.[45] In conducting the EQR, the EQR partner should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[46]

55. PCAOB standards also require the EQR partner to evaluate the assessment of, and audit responses to, among other things, significant risks identified by the engagement team, including fraud risks.[47] In addition, the EQR partner is required to evaluate whether the engagement documentation that he or she reviewed in connection with the EQR indicates that the engagement team responded appropriately to significant risks, and supports the conclusions reached by the engagement team with respect to the matters reviewed.[48]

56. The EQR partner may provide concurring approval of issuance of an audit report only if, after performing the EQR with due professional care, he or she is not aware of a significant engagement deficiency.[49] Among other things, a significant engagement deficiency in an audit exists when the engagement team failed to obtain sufficient appropriate audit evidence in accordance with PCAOB standards.[50]

57. Fleischman served as the EQR partner on the 2019 Investview Audit and provided his concurring approval of issuance of the 2019 Investview Audit report.

58. During his EQR of the 2019 Investview Audit, Fleischman was aware that Avis and the engagement team identified the United Games acquisition as a significant risk. He reviewed the acquisition work papers, and was aware during the 2019 Investview Audit that

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45 *See* AS 1220.01.

46 *See* AS 1220.09.

47 *See* AS 1220.10.

48 *See* AS 1220.11.

49 *See* AS 1220.12; *see also* AS 1015.07 ("[d]ue professional care requires the auditor to exercise professional skepticism," which is "an attitude that includes a questioning mind and a critical assessment of audit evidence").

50 *See* AS 1220.12, Note.

Investview was accounting for the acquisition as a bargain purchase. He also reviewed the Third-Party Specialist's reports and the engagement team's related documentation which, as described above, did not reflect sufficient procedures performed by Avis and the engagement team to test the data and assumptions provided by Investview to the Third-Party Specialist.

59. Fleischman was also aware that Avis and the engagement team identified Investview's revenue as a significant risk. He reviewed the Mining Revenue Treatment Memo documenting that Investview had evaluated its cryptocurrency mining revenue recognition approach under ASC 605 rather than ASC 606 during the 2018 Investview Audit, and that Avis and the engagement team had relied on that work paper during the 2019 Investview Audit. He also reviewed the engagement team's revenue testing documentation, which reflected no testing related to the $3.83 million "amounts paid to supplier" component of Investview's cryptocurrency mining revenue.

60. Fleischman failed to conduct the EQR in accordance with PCAOB standards by failing to properly: (1) evaluate the significant judgments Avis and the engagement team made with respect to the United Games acquisition and cryptocurrency mining revenue, and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report;[51] (2) evaluate Avis and the engagement team's assessment of, and audit responses to, the significant risks they identified, in the areas of the United Games acquisition and cryptocurrency mining revenue;[52] and (3) evaluate whether the engagement documentation that Fleischman reviewed indicated that Avis and the engagement team responded properly to significant risks and supported the conclusions Avis and the engagement team reached with respect to the matters reviewed related to the United Games acquisition and cryptocurrency mining revenue.[53]

61. An EQR partner performing an EQR with due professional care, in compliance with AS 1220, should have detected the significant engagement deficiencies described above. Because Fleischman did not identify the significant engagement deficiencies, he failed to exercise due professional care and perform his EQR in accordance with AS 1220, and he inappropriately provided his concurring approval of issuance, in violation of PCAOB rules and standards.[54]

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51 *See* AS 1220.09.

52 *See* AS 1220.10.

53 *See* AS 1220.11.

54 *See* AS 1220.09-.12, AS 1015.01.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Steven Avis is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[55]

C. Pursuant to PCAOB Rule 5302(b), Steven Avis may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $65,000 is imposed on Steven Avis.

   1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

   2. Steven Avis shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check

[55] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Avis. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

(i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Steven Avis as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Steven Avis understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

5. With respect to any civil money penalty amounts that Steven Avis shall pay pursuant to this Order, Steven Avis shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Steven Avis's payment of the civil money penalty pursuant to this Order, in any private action brought against Steven Avis based on substantially the same facts as set out in the findings in this Order.

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

F. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date of this Order, Richard Fleischman's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Fleischman shall not (1) serve, or

supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) assist the engagement partner in fulfilling his or her responsibilities under paragraph 4 of AS 1201; or (6) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*.

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed on Richard Fleischman.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Richard Fleischman shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Richard Fleischman as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Richard Fleischman shall pay pursuant to this Order, Richard Fleischman shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Richard Fleischman's payment of the civil money penalty pursuant to this Order, in any private action brought against Richard Fleischman based on substantially the same facts as set out in the findings in this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

January 23, 2024

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Jack Shama and Jack Shama, CPA,

Respondents.

PCAOB Release No. 105-2024-004

January 23, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Jack Shama ("Firm") and Jack Shama, CPA ("Shama") (collectively, "Respondents");

(2) permanently revoking the Firm's registration; and

(3) permanently barring Shama from being an associated person of a registered public accounting firm.

The Board is imposing these sanctions on the basis of its findings that: (a) Respondents violated PCAOB rules and standards in connection with the audits of the financial statements of six issuer clients; (b) the Firm violated PCAOB standards concerning engagement quality reviews in connection with those audits; (c) the Firm violated PCAOB quality control standards; and (d) Shama directly and substantially contributed to the Firm's violations of PCAOB rules and standards.[1]

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit

[1] The Board determined to accept Respondents' offers of settlement, which do not require them to pay a civil money penalty, after considering their financial resources. Based on Respondents' conduct, the Board would have imposed a joint and several civil money penalty of $50,000 on them in this settlement, if it had not taken their financial resources into consideration.

reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings, and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[2]

III.

On the basis of Respondents' Offers, the Board finds that:[3]

A. Respondents

1. **Jack Shama** is a sole proprietorship located in Brooklyn, New York. The Firm registered with the Board on February 5, 2019. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Jack Shama, CPA** is a certified public accountant licensed by the state of New York (license no. 050909). At all relevant times, Shama was the sole owner of the Firm and an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Shama was the engagement partner for each of the audits discussed below.

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

[3] The Board finds that the Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Issuers

3. **Cyber Apps World Inc.** ("Cyber Apps") was, at all relevant times, incorporated under the laws of Nevada and headquartered in Las Vegas, Nevada. Cyber Apps' public filings disclose that, at the time of the relevant audits, the company was involved in the development of mobile software applications. At all relevant times, Cyber Apps was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. **Limitless Projects Inc.** ("Limitless") was, at all relevant times, incorporated under the laws of Wyoming and headquartered in Las Vegas, Nevada. Limitless' public filings disclose that, at the time of the relevant audits, the company was involved in the development of computer software systems and mobile device applications for commercial and consumer use. At all relevant times, Limitless was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. **WarpSpeed Taxi Inc.** ("WarpSpeed") was, at all relevant times, incorporated under the laws of the state of Wyoming and headquartered in Las Vegas, Nevada. WarpSpeed's public filings disclose that, at the time of the relevant audits, the company was engaged in the development of a ride-hailing and food delivery application. At all relevant times, WarpSpeed was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).[4]

6. **DongFang City Holding Group Company Limited** ("DongFang") was, at all relevant times, incorporated under the laws of the state of Delaware and headquartered in New York, New York. DongFang's public filings disclose that, at the time of the relevant audits, DongFang was a development stage company that was not conducting business operations. At all relevant times, DongFang was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).[5]

7. **Galaxy Enterprises Inc.** ("Galaxy") was, at all relevant times, incorporated under the laws of Wyoming and headquartered in Las Vegas, Nevada. Galaxy's public filings disclose that, at the time of the relevant audits, the company was focused on raising capital to fund its

[4] WarpSpeed was a consolidated subsidiary of Cyber Apps as of the end of the fiscal year ended July 31, 2021, and became a consolidated subsidiary of Limitless during the fiscal year ended July 31, 2022.

[5] The U.S. Securities and Exchange Commission ("Commission") revoked DongFang's registration on October 24, 2023.

business plan of offering real estate management services. At all relevant times, Galaxy was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

8. **Privacy and Value Inc.** ("Privacy and Value") was, at all relevant times, incorporated under the laws of Wyoming and headquartered in Las Vegas, Nevada. Privacy and Value's public filings disclose that, at the time of the relevant audits, the company was involved in the development of computer monitoring software. At all relevant times, Privacy and Value was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).[6]

C. Summary

9. This matter concerns Respondents' numerous and repeated violations of PCAOB rules and standards in connection with the Firm's audits of the financial statements of Cyber Apps for the fiscal years ended July 31, 2021 and 2022, Limitless for the fiscal years ended July 31, 2021 and 2022, WarpSpeed for the fiscal years ended July 31, 2021 and 2022, DongFang for the fiscal year ended October 31, 2020, Galaxy for the fiscal year ended July 31, 2021, and Privacy and Value for the fiscal year ended July 31, 2021 (collectively, "Issuer Audits").

10. The Firm issued audit reports for the Issuer Audits that contained unqualified audit opinions on the companies' financial statements for the relevant periods. Shama served as engagement partner on the Issuer Audits and authorized the issuance of the Firm's audit report for each of those audits.

11. As detailed below, in performing the Issuer Audits, Respondents failed to exercise due professional care and professional skepticism, failed to obtain sufficient appropriate audit evidence to support the opinions, and failed to properly assemble and retain audit documentation.

12. In addition, the Firm violated PCAOB standards by failing to have an engagement quality review performed for any of the Issuer Audits. The Firm also violated PCAOB quality control standards by failing to properly design and implement adequate quality control policies and procedures, including with respect to performing audits under PCAOB rules and standards, technical training and proficiency, and client acceptance and continuance.

[6] Privacy and Value was a consolidated subsidiary of Limitless as of the end of the fiscal years ended July 31, 2021 and July 31, 2022.

13. Finally, Shama violated PCAOB rules by knowingly or recklessly, and directly and substantially, contributing to the Firm's violations of PCAOB standards related to engagement quality reviews and quality control.

D. Respondents Violated PCAOB Rules and Auditing Standards

14. In connection with the preparation or issuance of any audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor conducted an audit in accordance with PCAOB standards and "concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework."[8] PCAOB standards require an auditor to exercise due professional care and professional skepticism, obtain sufficient appropriate audit evidence to support the auditor's opinion, and properly document the audit.[9]

15. As described below, Respondents failed to comply with PCAOB rules and standards in performing the Issuer Audits.

i. Respondents Failed to Plan and Perform the Issuer Audits to Obtain Sufficient Appropriate Audit Evidence and Failed to Exercise Due Professional Care

16. Under PCAOB standards, the auditor should properly plan the audit.[10] Proper planning includes "establishing the overall audit strategy for the engagement and developing an audit plan," which includes, in particular, "planned risk assessment procedures and planned responses to the risks of material misstatement."[11] PCAOB standards also require the auditor to consider materiality in planning and performing the audit.[12] The auditor should "establish a

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[7] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[8] AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

[9] *See* AS 1015.01, .07, *Due Professional Care in the Performance of Work*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 1105.04, *Audit Evidence*; AS 1215.04, *Audit Documentation*.

[10] *See* AS 2101.04, *Audit Planning*.

[11] *Id.* at .05.

[12] *See* AS 2105, *Consideration of Materiality in Planning and Performing an Audit.*

materiality level for the financial statements as a whole that is appropriate in light of the particular circumstances"[13] and "determine the amount or amounts of tolerable misstatement for purposes of assessing risks of material misstatement and planning and performing audit procedures at the account or disclosure level."[14] PCAOB standards further require that the auditor perform "risk assessment procedures that are sufficient to provide a reasonable basis for identifying and assessing the risks of material misstatement, whether due to error or fraud, and designing further audit procedures."[15]

17. The auditor must "plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis" for the auditor's opinion.[16] To be appropriate, audit evidence must be both relevant and reliable.[17] When using information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information.[18]

18. "The auditor should perform substantive procedures for each relevant assertion of each significant account and disclosure, regardless of the assessed level of control risk."[19] Furthermore, "[i]f the auditor has not obtained sufficient appropriate audit evidence about a relevant assertion or has substantial doubt about a relevant assertion, the auditor should perform procedures to obtain further audit evidence to address the matter."[20]

19. In addition, PCAOB standards require "[d]ue professional care . . . to be exercised in the planning and performance of the audit and the preparation of the report."[21] Due

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13 *Id.* at .06.

14 *Id.* at .08.

15 AS 2110.04, *Identifying and Assessing Risks of Material Misstatement.*

16 AS 1105.04; *see also* AS 2810.33, *Evaluating Audit Results* ("As part of evaluating audit results, the auditor must conclude on whether sufficient appropriate audit evidence has been obtained to support his or her opinion on the financial statements.").

17 AS 1105.06.

18 *See id.* at .10.

19 AS 2301.36.

20 AS 2810.35.

21 AS 1015.01.

professional care "requires the auditor to exercise professional skepticism[,]" which is an "attitude that includes a questioning mind and a critical assessment of audit evidence."[22]

20. In connection with each of the Issuer Audits, Respondents failed to: (1) establish an overall audit strategy for the engagements and develop an audit plan; (2) consider materiality in planning and performing the audits, including establishing a materiality level and determining a tolerable misstatement amount; or (3) perform any risk assessment procedures to identify and assess the risks of material misstatement.

21. In performing the Issuer Audits, Respondents also failed to obtain sufficient appropriate audit evidence. Other than obtaining certain bank statements, agreements, invoices, and issuer-prepared documents, Respondents performed limited or no procedures concerning accounts and transactions that were significant to each issuer's financial statements, as illustrated by the following examples from the audits of Cyber Apps, Limitless, and WarpSpeed.

22. During the fiscal year 2021 Cyber Apps audit, Respondents failed to perform any procedures to test whether goodwill, which represented 53% of the issuer's total assets at year end, was properly valued, despite the issuer's history of poor financial performance, including no revenue and negative earnings.[23] In fiscal year 2022, Cyber Apps wrote off the entire goodwill balance and recorded an impairment loss that was 64% of the net loss recognized during the year. Respondents failed to perform any procedures to test the impairment loss, including evaluating whether the write-off should have been recorded in a prior period.

23. During the fiscal year 2021 Limitless audit, Respondents failed to perform any audit procedures relating to deferred revenue, which represented 81% of total liabilities at year end, or notes receivable, which represented 66% of total assets at year end. In addition, Respondents failed to perform any audit procedures with respect to two software sale transactions completed by Limitless with Cyber Apps and WarpSpeed, a subsidiary of Cyber Apps, that accounted for 100% of the revenue reported by Limitless for the fiscal year ended 2021.

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[22] *Id.* at .07.

[23] An issuer is required to periodically test goodwill for impairment—the condition that exists when the carrying amount of goodwill on a company's books exceeds its implied fair value. *See* FASB ASC 350, *Intangibles – Goodwill and Other*. Such testing must occur annually, or more frequently if there is an indication of impairment. If the testing results in an impairment, the carrying amount of the goodwill must be reduced by the amount of the impairment. *See id.*

24. During fiscal year 2022, Limitless capitalized certain software development costs, which represented 89% of the issuer's total assets at year end. Other than obtaining invoices related to the costs capitalized during the year, Respondents failed to perform any procedures to determine whether the capitalized costs met the criteria for capitalization and whether the capitalized costs were recoverable at year end.[24] In addition, other than obtaining an issuer-prepared accounts payable aging summary report, Respondents failed to perform any audit procedures with respect to accounts payable even though they represented 100% of the issuer's total liabilities at year end.

25. During the fiscal year 2021 WarpSpeed audit, Respondents failed to perform any audit procedures with respect to capitalized software, which represented 85% of the issuer's total assets at year end, and notes payable, which represented 75% of the issuer's total liabilities at year end.

26. Finally, Respondents failed to test the accuracy and completeness, or test the controls over the accuracy and completeness, of most of the issuer-prepared information obtained during each of the Issuer Audits, as required by PCAOB standards.[25]

27. Accordingly, Respondents failed to properly plan and perform the Issuer Audits in violation of AS 2101, AS 2105, AS 2110, and AS 2301; failed to exercise due professional care and professional skepticism during the Issuer Audits in violation of AS 1015; and failed to obtain sufficient appropriate audit evidence to support the Firm's audit opinions in violation of AS 1105 and AS 2810.

ii. Respondents Violated PCAOB Standards Related to the Assembly and Retention of Audit Documentation

28. PCAOB standards require that an auditor prepare and retain audit documentation in connection with each engagement. AS 1215 provides that "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[26] Further, although "[c]ircumstances may require additions to audit documentation after the report release date,"

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[24] *See* FASB ASC 350-40, *Intangibles – Goodwill and Other – Internal-Use Software*

[25] *See* AS 1105.10.

[26] *See* AS 1215.15.

any documentation added "must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[27]

29. In connection with the fiscal year 2021 audits of Cyber Apps, Limitless, WarpSpeed, and Privacy and Value, Respondents failed to assemble a complete and final set of audit documentation by the documentation completion dates.[28] In addition, Shama continued to make additions to the audit documentation of each of those audits several months after the relevant documentation completion dates without documenting when and why the documentation was added.[29]

30. Accordingly, Respondents violated AS 1215.

E. The Firm Violated PCAOB Standards Related to Engagement Quality Reviews

31. PCAOB standards require that an engagement quality review be performed on all audit engagements.[30] A firm may grant permission to a client to use the audit report only after an engagement quality reviewer provides concurring approval of issuance of the report.[31]

32. The Firm failed to obtain engagement quality reviews for the Issuer Audits. The Firm also improperly permitted Cyber Apps, Limitless, WarpSpeed, DongFang, Galaxy, and Privacy and Value to use its audit reports for the Issuer Audits without having obtained a concurring approval of issuance from an engagement quality reviewer.

33. Accordingly, the Firm violated AS 1220.

F. The Firm Violated PCAOB Quality Control Standards

34. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[32] These standards require that a

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27 *Id.* at .16.

28 *See id.* at .15.

29 *See id.* at .16.

30 *See* AS 1220.01, *Engagement Quality Review.*

31 *See id.* at .13.

32 *See* PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

registered firm have a system of quality control for its accounting and auditing practice.[33] "A system of quality control is broadly defined as a process to provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality."[34] The Firm violated PCAOB quality control standards in multiple ways.

35. First, PCAOB quality control standards require firms to establish policies and procedures sufficient to provide it with "reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[35] The Firm did not maintain any policies, procedures, or guidance materials related to performing audits under PCAOB rules and standards. As illustrated by Respondents' multiple audit violations in connection with the Issuer Audits, the Firm's system of quality control failed to provide reasonable assurance that the Firm would comply with PCAOB rules and standards, including those involving the planning and performance of audits, the performance of engagement quality reviews, and the assembly and retention of audit documentation.

36. Second, policies and procedures should be established to provide the firm with reasonable assurance that work is "assigned to personnel having the degree of technical training and proficiency required" to audit an issuer in accordance with PCAOB rules and standards.[36] At all relevant times, the Firm failed to maintain effective policies and procedures to provide it with reasonable assurance that work was assigned to personnel with the required technical training and proficiency, or that personnel assigned to the engagement would develop appropriate proficiency in relevant matters. During the relevant times, Shama also failed to receive training in performing audits in accordance with PCAOB rules and standards, and, as evident from the violations of numerous PCAOB rules and standards, lacked the proficiency to perform audits under PCAOB standards.

37. Third, PCAOB quality control standards require that a firm establish policies and procedures "for deciding whether to accept or continue a client relationship and whether to perform a specific engagement for that client."[37] Those policies and procedures should also provide reasonable assurance that the firm "[u]ndertakes only those engagements that the firm can reasonably expect to be completed with professional competence" and "[a]ppropriately

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33 *See* QC 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

34 *Id.* at .03.

35 *Id.* at .17.

36 *Id.* at .13.

37 *Id.* at .14.

considers the risks associated with providing professional services in the particular circumstances."[38] At all relevant times, the Firm failed to maintain policies and procedures related to the acceptance or continuance of client engagements, including policies and procedures that provided reasonable assurance concerning competence and proficiency in client engagements. The Firm's lack of such policies and procedures contributed to its acceptance of engagements that were not completed with professional competence.

38. As a result, the Firm violated QC § 20.

G. Shama Directly and Substantially Contributed to the Firm's Engagement Quality Review and Quality Control Violations

39. A person associated with a registered public accounting firm shall not take or omit to take an action "knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[39]

40. As described above, Shama was, at all relevant times, a sole proprietor and the Firm's sole partner, and served as the engagement partner for all the Issuer Audits. Accordingly, Shama was responsible for ensuring that the Firm complied with PCAOB standards related to obtaining engagement quality reviews. He was also responsible for developing and maintaining quality control policies and procedures applicable to the Firm's auditing practice.

41. Shama, however, repeatedly disregarded those responsibilities and knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of AS 1220 and QC § 20 described above. As a result, Shama violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determined it appropriate to impose the sanctions agreed to in Respondents' Offers.

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[38] *Id.* at .15.

[39] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Respondents are censured.

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of the Firm is permanently revoked.

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Shama is permanently barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[40]

D. Respondents acknowledge that the determination to accept Respondents' Offers, without imposing a civil money penalty, is contingent upon the accuracy and completeness of Respondents' financial information provided to the Division of Enforcement and Investigations (the "Division"). Respondents also acknowledge that, if at any time following this settlement, the Division obtains information indicating that any financial information provided by Respondents—including, but not limited to, any information concerning assets, income, liabilities, or net worth—was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such information was provided, then at any time following entry of this Order (1) the Board may institute a disciplinary proceeding for noncooperation with an investigation under PCAOB Rule 5110 and/or (2) the Division may petition the Board to (a) reopen this matter to consider whether Respondents provided accurate and complete financial information at the time such information was provided to the Division; and (b) seek an order directing payment of the maximum civil money penalty allowable under the law or any lesser amount determined to be appropriate. No other issue shall be considered in connection with this petition other than whether the financial information provided by Respondents was fraudulent, misleading, inaccurate, or incomplete in any material respect; and, if so, whether a civil

[40] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Shama. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

money penalty should be ordered up to the maximum civil money penalty allowable under the law. Respondents may not, by way of defense to any such petition: (i) contest the findings in this Order; (ii) assert that payment of a civil money penalty should not be ordered; (iii) contend that the amount of the civil money penalty to be ordered should be less than $50,000, which is specified herein as the amount the penalty would have been, based on Respondents' conduct and without consideration of Respondents' financial resources; or (iv) put forward any other contention or assert any defense to liability or remedy, including, but not limited to, any defense based on statute of limitations or any other time-related defense, other than to contend (a) that Respondents did not provide financial information that was fraudulent, misleading, inaccurate, or incomplete in any material respect, or (b) that a civil money penalty should not be ordered in an amount higher than $50,000.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

January 23, 2024

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Marcelo de los Santos Anaya and Martín Rodríguez Martínez,

Respondents.

PCAOB Release No. 105-2024-005

February 6, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) barring Marcelo de los Santos Anaya ("de los Santos") from being an associated person of a registered public accounting firm[1] and imposing on de los Santos a $125,000 civil money penalty;

(2) barring Martín Rodríguez Martínez ("Rodríguez" and, collectively with de los Santos, "Respondents") from being an associated person of a registered public accounting firm[2] and imposing on Rodríguez a $40,000 civil money penalty; and

(3) requiring Respondents to each complete 40 hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license, before filing any petition for Board consent to associate with a registered public accounting firm.

The Board is imposing these sanctions on the basis of its findings that Respondents violated PCAOB rules and auditing standards in connection with two audits of an issuer.

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[1] De los Santos may file a petition for Board consent to associate with a registered public accounting firm after five years from the date of this Order.

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

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **Marcelo de los Santos Anaya** is, and at all relevant times was, the managing partner and one of three co-owners of Marcelo de los Santos y Cía, S.C. ("MSC" or "Firm"), a member firm of Moore Global Network Limited ("Moore Global"). De los Santos is, and at all relevant times was, an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). He is a registered public accountant licensed under the laws of Mexico (license no. 1649173) and has served for several years as the chair of Moore Mexico, a regional association of Moore Global member firms. He also served as the engagement partner on MSC's integrated audits of the financial statements

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

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

and the internal control over financial reporting ("ICFR") of Grupo Simec, S.A.B. de C.V. ("Simec") as of and for the fiscal years ended December 31, 2018 and 2019 ("2018 Audit" and "2019 Audit," respectively, and collectively, the "Audits" or the "2018 and 2019 Audits").

2. **Martín Rodríguez Martínez** is, and at all relevant times was, a partner of MSC and an associated person of a "registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Rodríguez is a registered public accountant licensed under the laws of Mexico (license no. 1064659). Rodríguez performed an engagement quality review ("EQR") for each of the 2018 and 2019 Audits.

B. Issuer and Other Relevant Entities

3. **Grupo Simec, S.A.B. de C.V.** is a Mexican corporation headquartered in Jalisco, Mexico. Simec is, and at all relevant times was, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). According to its public filings, Simec has operations in Mexico, the United States, and Brazil, and its business focuses on processing and distributing special bar quality steel and structural steel products.

4. **Marcelo de los Santos y Cía, S.C.** is a civil corporation organized under the laws of Mexico and headquartered in San Luis Potosí, Mexico. MSC is licensed under the laws of Mexico. MSC is and, at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. In connection with the 2018 Audit, MSC issued audit reports dated July 30, 2019, that contained an unqualified opinion on Simec's 2018 financial statements and an adverse opinion on the effectiveness of Simec's ICFR. In connection with the 2019 Audit, MSC issued audit reports dated May 27, 2020, that contained unqualified opinions on Simec's financial statements and ICFR. The Firm also engaged, and relied on the work of, two other audit firms in connection with each of the 2018 and 2019 Audits: one in Brazil to audit Simec's primary Brazilian subsidiary (the "Brazilian Component Auditor"), and one in the United States to audit Simec's American subsidiaries (the "U.S. Component Auditor").[5]

C. Summary

5. In both planning and executing the 2018 and 2019 Audits, de los Santos violated numerous PCAOB rules and auditing standards. In both Audits, de los Santos failed to exercise due professional care and failed to obtain sufficient appropriate evidence to support MSC's opinion on Simec's financial statements and its opinion on the effectiveness of Simec's ICFR.

6. With respect to Simec's financial statements, de los Santos failed during the Audits to obtain sufficient appropriate audit evidence concerning the appropriateness of the

[5] MSC's audit reports for the 2018 and 2019 Audits did not make reference to other auditors.

presentation of Simec's financial statements, the consolidation of the operations of Simec's subsidiaries into its consolidated financial statements, and the accuracy and completeness of company-prepared reports that de los Santos relied on as audit evidence.

7. With respect to Simec's ICFR, de los Santos failed during the Audits to conduct fundamental procedures, including failing to test controls over numerous significant accounts and failing to evaluate the severity of identified control deficiencies.

8. Despite significant deficiencies in the 2018 and 2019 Audits, including crucial omitted procedures in portions of the Audits that Rodríguez was obligated to review in his role as the EQR partner, Rodríguez gave concurring approval of issuance for both Audits, in violation of PCAOB standards.

D. De los Santos Violated PCAOB Rules and Auditing Standards in Connection With the 2018 and 2019 Audits

9. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] PCAOB standards require an auditor to exercise due professional care and professional skepticism, and to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[7] When evaluating audit results, the auditor is required to conclude on whether sufficient appropriate audit evidence has been obtained to support his or her opinion on the financial statements.[8] Because a company's internal control cannot be considered effective if one or more material weaknesses exist, PCAOB standards require that the auditor plan and perform an integrated audit to obtain appropriate evidence that is sufficient to obtain reasonable assurance about whether material weaknesses exist as of the date specified in management's assessment.[9]

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[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the Audits.

[7] *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*.

[8] *See* AS 2810.33, *Evaluating Audit Results*.

[9] *See* AS 2201.03, *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements*.

10. As described below, de los Santos violated these and other PCAOB standards in connection with the 2018 and 2019 Audits.

i. Violations Concerning Planning of the 2018 and 2019 Audits

a. Failure to Determine Compliance with Independence Requirements

11. "The engagement partner is responsible for the engagement and its performance. Accordingly, the engagement partner is responsible for planning the audit . . . ."[10] Among the activities that PCAOB standards require an auditor to perform at the beginning of an audit is determining compliance with independence requirements.[11]

12. In turn, PCAOB rules specify that a "registered public accounting firm and its associated persons must be independent of the firm's audit client throughout the audit and professional engagement period."[12] "[A] registered public accounting firm or associated person's independence obligation with respect to an audit client encompasses not only an obligation to satisfy the independence criteria applicable to the engagement set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the [Securities and Exchange Commission ('SEC')] under the federal securities laws."[13]

13. In the 2018 and 2019 Audits, de los Santos determined that the MSC engagement team was independent of Simec based on certain independence representations signed by members of the engagement team. However, those representations stated that the engagement team members were independent in accordance with certain provisions of the professional ethics code of the Instituto Mexicano de Contadores Públicos (Mexican Institute of Public Accountants). Neither those representations nor any other audit documentation for the 2018 and 2019 Audits referenced compliance with, nor reflected any consideration by de los Santos of, PCAOB or SEC independence requirements.

14. Similarly, de los Santos determined that the Brazilian Component Auditor and the U.S. Component Auditor were independent of Simec for the 2018 and 2019 Audits based on a representation obtained from each component audit firm for each audit. However, that representation stated in each instance that the component audit firm had not provided any

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10 AS 2101.03, *Audit Planning*.

11 *Id.* at .06b.

12 PCAOB Rule 3520, *Auditor Independence*.

13 *Id.* at Note 1.

non-audit services prohibited by certain provisions of International Standards on Auditing ("ISA") and had no business relationships or arrangements "of common commercial interest with the audit client or its directors/officers/senior client management." Neither those representations nor any other audit documentation for the 2018 and 2019 Audits addressed, or reflected any consideration by de los Santos of, PCAOB or SEC independence requirements or aspects of auditor independence other than those concerning prohibited non-audit services or common interests.

15. Accordingly, de los Santos violated AS 2101 during the Audits by failing to appropriately determine compliance with applicable independence requirements.

b. Communication of Engagement Terms to Audit Committee

16. Among the activities that an auditor should perform at the beginning of an audit is establishing "an understanding of the terms of the audit engagement with the audit committee in accordance with AS 1301, *Communications with Audit Committees*."[14] Under AS 1301, the auditor "should record the understanding of the terms of the audit engagement in an engagement letter and provide the engagement letter to the audit committee annually."[15] The engagement letter should include a description of the objective of the audit which, in the case of an integrated audit, is the expression of an opinion on both the financial statements and effectiveness of ICFR.[16] It should also state that the auditor is responsible for conducting the audit in accordance with PCAOB standards and include a summary of what those standards require.[17]

17. The engagement letters for the 2018 and 2019 Audits failed to state, or otherwise communicate to Simec's audit committee, that the objective of MSC's audit was to express an opinion on the effectiveness of Simec's ICFR. To the contrary, both engagement letters stated that MSC would perform a study and evaluation of Simec's ICFR, but would not provide assurance as to the adequate functioning of the company's internal control. The letters also included a list of reports to be issued by MSC each year, but did not mention an ICFR audit report.

18. In addition, neither engagement letter stated, or otherwise communicated to Simec's audit committee, that MSC was responsible for conducting the audit in accordance with

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14 AS 2101.06.c.

15 AS 1301.06.

16 *Id.* at .C1.

17 *Id.*

PCAOB standards or that PCAOB standards imposed on MSC certain requirements concerning the planning and performance of an integrated audit. To the contrary, the engagement letters for both audits stated that they would be performed under ISA.

19. Accordingly, de los Santos violated AS 2101 and AS 1301 during the Audits.

ii. Violations During the 2018 and 2019 Audits Concerning Simec's Financial Statements and ICFR

a. Failure to Conduct the Audits in Accordance with PCAOB Standards

20. "In connection with the preparation or issuance of any audit report, a registered public accounting firm and its associated persons shall comply with all applicable auditing standards adopted by the Board and approved by the SEC."[18] "The auditor is in a position to express an unqualified opinion on the financial statements when the auditor conducted an audit in accordance with the standards of the [PCAOB]."[19] In addition, "[t]he audit of [ICFR] should be integrated with the audit of the financial statements . . . and the auditor must plan and perform the work to achieve the objectives of both audits."[20]

21. Despite being required to do so, de los Santos did not plan and perform the 2018 and 2019 Audits in accordance with PCAOB auditing standards. Like the engagement letters discussed above, the audit strategy memorandum and the engagement completion document in both Audits also stated that the audit was conducted pursuant to ISA. None of these documents referenced the planning or performance of the audit under PCAOB standards. Moreover, as de los Santos was aware, there is no ISA standard with requirements equivalent to those in AS 2201, and thus, to comply with PCAOB auditing standards, the integrated Audits of Simec required procedures beyond the scope of an ISA audit. However, as described below, de los Santos failed in multiple instances to perform procedures required by AS 2201.

22. Accordingly, de los Santos violated PCAOB Rule 3200, AS 3101, and AS 2201.

b. Failure to Adequately Address Fraud Risks

23. Under PCAOB standards, an auditor "should perform risk assessment procedures that are sufficient to provide a reasonable basis for identifying and assessing the risks of material misstatement, whether due to error or fraud, and designing further audit

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18 PCAOB Rule 3200.

19 AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

20 AS 2201.06.

procedures."[21] "The auditor's identification of fraud risks should include the risk of management override of controls."[22] "When the auditor has determined that a significant risk, including a fraud risk, exists, the auditor should evaluate the design of the company's controls that are intended to address fraud risks and other significant risks and determine whether those controls have been implemented, if the auditor has not already done so when obtaining an understanding of internal control."[23]

24. The auditor should also "inquire of the audit committee . . . , the internal audit function, and others within the company who might reasonably be expected to have information that is important to the identification and assessment of risks of material misstatement."[24] Those inquires "should include inquiries regarding fraud risks."[25] "The auditor should presume that there is a fraud risk involving improper revenue recognition and evaluate which types of revenue, revenue transactions, or assertions may give rise to such risks."[26]

25. "When planning and performing the audit of internal control over financial reporting, the auditor should take into account the results of his or her fraud risk assessment."[27] "[T]he auditor should evaluate whether the company's controls sufficiently address identified risks of material misstatement due to fraud and controls intended to address the risk of management override of other controls."[28]

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21 AS 2110.04, *Identifying and Assessing Risks of Material Misstatement*; *see also* AS 2201.10 ("Risk assessment underlies the entire audit process described by this standard, including the determination of significant accounts and disclosures and relevant assertions, the selection of controls to test, and the determination of the evidence necessary for a given control.").

22 AS 2110.69.

23 *Id.* at .72.

24 *Id.* at .54.

25 *Id.* at .54, Note; *see also id.* at .56.b.

26 *Id.* at .68.

27 AS 2201.14.

28 *Id.*

26. Despite those requirements, de los Santos failed in the 2018 and 2019 Audits to:

- consider the risk of management override of controls as a fraud risk and respond appropriately;[29]
- make required inquiries of Simec's audit committee regarding the risk of fraud;
- identify which of Simec´s controls, if any, addressed the fraud risks de los Santos had identified; and
- evaluate whether Simec´s controls were sufficiently designed to address the identified fraud risks.

27. Additionally, in the 2018 Audit, de los Santos failed to presume that there was a fraud risk involving improper revenue recognition or evaluate whether there was a basis to overcome the presumption.

28. Accordingly, de los Santos violated AS 2110 and AS 2201 during the Audits.

c. Failure to Adequately Test Simec's Journal Entries for Evidence of Possible Material Misstatement Due to Fraud

29. PCAOB standards provide that an auditor "should design procedures to test the appropriateness of journal entries recorded in the general ledger and other adjustments . . . made in the preparation of the financial statements."[30] Among other things, the auditor should "[o]btain an understanding of the entity's financial reporting process and the controls over journal entries and other adjustments" and should "[i]dentify and select journal entries and other adjustments for testing."[31]

30. In the 2018 and 2019 Audits, de los Santos failed to obtain an understanding of Simec's journal entry process, failed to identify controls over journal entries and other

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[29] This failure was particularly acute in connection with the 2019 Audit given the findings of an internal inspection that Moore Global conducted, which included a review of the 2018 Audit (the "Moore Global Inspection"). Those findings, issued in December 2019, identified MSC's failure to document its consideration of the risk of management override of controls and respond appropriately as a deficiency in the 2018 Audit. However, de los Santos did not take steps to address that failure, and substantially replicated that deficiency, in planning and performing the 2019 Audit.

[30] AS 2401.58, *Consideration of Fraud in a Financial Statement Audit*.

[31] *Id.*

adjustments, and failed to identify and select journal entries and other adjustments for testing with respect to Simec's Mexican subsidiaries. These subsidiaries held more than 75% of Simec´s total assets and generated more than 50% of its total revenue in each year.

31. The findings from the Moore Global Inspection identified a lack of evidence of journal entry testing in the audit documentation for the 2018 Audit. However, de los Santos failed to address that deficiency or otherwise improve MSC's journal entry testing during the 2019 Audit.

32. Accordingly, de los Santos violated AS 2401 during the Audits.

iii. Violations During the 2018 and 2019 Audits Concerning Simec's Financial Statements

a. Failure to Obtain Sufficient Appropriate Audit Evidence to Evaluate Whether Simec's Consolidated Financial Statements Were Presented Fairly, in all Material Respects, in Conformity with International Financial Reporting Standards

33. PCAOB standards require an auditor to "evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework."[32] "To form an appropriate basis for expressing an opinion on the financial statements, the auditor must plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement due to error or fraud."[33]

34. Simec's consolidated financial statements for 2018 and 2019 were presented in accordance with International Financial Reporting Standards ("IFRS"). However, the financial statements of Simec's primary U.S. subsidiary, which constituted approximately 20% of Simec's total assets and generated approximately 20% of Simec's total revenue, were prepared in accordance with U.S. generally accepted accounting principles ("GAAP"). De los Santos was aware that the U.S. Component Auditor did not audit the schedule of accounting entries proposed by Simec management to convert that subsidiary's financial statements from U.S. GAAP to IFRS ("Conversion Schedule"). For its part, the MSC engagement team verified the arithmetic of Simec's Conversion Schedule and—in the 2018 Audit—compared the starting U.S. GAAP amounts on the Conversion Schedule obtained from management to the corresponding U.S. GAAP amounts audited by the U.S. Component Auditor. But de los Santos failed to perform

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32 AS 2810.30.

33 AS 1101.03, *Audit Risk*.

any other audit procedures concerning the appropriateness of the U.S. GAAP-to-IFRS conversion for the 2018 and 2019 Audits.

35. Accordingly, de los Santos violated AS 2810 and AS 1101 during the Audits.

b. Failure to Obtain, Review or Retain Sufficient Information to Reconcile Financial Information for Simec's Subsidiaries to its Consolidated Financial Statements

36. PCAOB standards provide that, "[w]hen using information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to:

- Test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information; and

- Evaluate whether the information is sufficiently precise and detailed for purposes of the audit."[34]

37. Further, when an issuer's financial statements consolidate the results of a subsidiary audited by a separate auditor, the principal auditor of the issuer must "obtain, and review and retain . . . from the other auditor . . . [s]ufficient information to enable the office issuing the auditor's report to agree or reconcile the financial statement amounts audited by the other firm to the information underlying the consolidated financial statements."[35]

38. During the 2018 and 2019 Audits, Simec manually created and populated an Excel spreadsheet that aggregated the financial information of Simec's subsidiaries and that served as the basis for the consolidated financial statements ("Manual Consolidation Spreadsheet"). De los Santos relied upon the Manual Consolidation Spreadsheet as audit evidence because it showed that the total of the subsidiary-level balances, which were purportedly subject to audit, agreed to the amounts reported in the consolidated financial statements. However, de los Santos failed to test the accuracy and completeness of the

34 AS 1105.10.

35 AS 1205.12.e, *Part of the Audit Performed by Other Independent Auditors*.

amounts presented in this spreadsheet, even though he was aware of deficiencies in Simec's ICFR related to the consolidation process.[36]

39. In addition, de los Santos failed in the 2019 Audit to obtain sufficient information and perform sufficient procedures to determine whether the U.S. subsidiary-level balances included in the Manual Consolidation Spreadsheet were, in fact, the same underlying balances that were subject to audit by the U.S. Component Auditor.

40. Accordingly, de los Santos violated AS 1105 during the Audits and also violated AS 1205 during the 2019 Audit.

iv. Violations During the 2018 and 2019 Audits Concerning Simec's ICFR

41. At the time of the 2018 and 2019 Audits, de los Santos was aware that Simec had a history of material weaknesses in its ICFR that the company had failed to remediate. He also knew that: (a) the SEC had issued a cease and desist order in January 2019 that addressed material weaknesses in Simec's ICFR from 2008 through 2017;[37] (b) Simec had a history of failing to remediate those material weaknesses; and (c) Simec's management had failed to perform its required assessment of ICFR in 2015 and 2016.

a. Failure to Obtain ICFR-Related Management Representations

42. PCAOB standards list a number of specific representations that an auditor conducting an audit of ICFR should obtain in writing from company management.[38] Those representations include an acknowledgement of management's responsibility for establishing and maintaining effective ICFR, a statement that management has evaluated and assessed the effectiveness of the company's ICFR, and a representation that management has disclosed to the auditor all deficiencies in the design or operation of ICFR identified during management's evaluation.[39]

43. In each of the 2018 and 2019 Audits, MSC obtained a management representation letter from Simec containing management representations concerning Simec's financial statements, as well as a representation that acknowledged management's

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[36] De los Santos's failure to ensure that MSC tested the completeness and accuracy of this information produced by the company in connection with the 2019 Audit was particularly acute given that the same issue was identified as a deficiency in the 2018 Audit by the Moore Global Inspection.

[37] *See Grupo Simec S.A.B. de C.V.*, Exchange Act Rel. No. 84996, 2019 WL 364618 (Jan. 29, 2019).

[38] AS 2201.75.

[39] *Id.*

responsibility for establishing and maintaining effective ICFR. However, the letter in each of the Audits omitted—and de los Santos did not otherwise obtain—the required representations that management had evaluated and assessed ICFR effectiveness and had disclosed to MSC all ICFR deficiencies it had identified.

44. Accordingly, de los Santos violated AS 2201.

b. Failure to Test Controls Concerning Fourteen Significant Accounts

45. PCAOB standards provide that an auditor "should test those controls that are important to the auditor's conclusion about whether the company's controls sufficiently address the assessed risk of misstatement to each relevant assertion."[40]

46. For the 2019 Audit, de los Santos performed a risk assessment that identified Simec's significant accounts and the relevant assertion(s) for each. Despite identifying those accounts and assertions, de los Santos failed to evaluate whether Simec had designed or implemented any internal controls to address them.

47. Indeed, de los Santos failed to test any controls that addressed his assessed risk of material misstatement for any of the relevant assertions of the following accounts: (1) Cash and equivalents, (2) Related party accounts receivable, (3) Recoverable taxes, (4) Other receivables, (5) Prepaid expenses, (6) Property, plant, and equipment, (7) Intangibles, (8) Accounts payable, (9) Related party accounts payable, (10) Taxes and contributions payable, (11) Other accounts payable, (12) Income taxes payable, (13) Deferred income taxes, and (14) Stockholders' equity. Five of those accounts—Cash and equivalents, Related party accounts receivable, Property, plant and equipment, Intangibles, and Related party accounts payable—were assessed as having one or more significant risks during the 2019 Audit. Another five accounts were assessed as being higher-risk audit areas.

48. Accordingly, in this manner too, de los Santos violated AS 2201 during the 2019 Audit.

c. Failure to Evaluate the Severity of Control Deficiencies Identified by Component Auditors

49. PCAOB standards require an auditor to "evaluate the severity of each control deficiency that comes to his or her attention to determine whether the deficiencies, individually or in combination, are material weaknesses as of the date of management's assessment."[41] The

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40 AS 2201.39.

41 *Id.* at .62.

auditor should evaluate the effect of compensating controls when determining whether a control deficiency, or combination of deficiencies, is a material weakness.[42] The auditor should also consider whether any deficiencies, alone or in combination, identified during the audit are significant deficiencies and, if so, communicate them in writing to the audit committee.[43]

50. With respect to the 2018 Audit, the Brazilian Component Auditor provided MSC with a reporting package concerning its audit of Simec's Brazilian subsidiary. The Brazilian Component Auditor identified in that reporting package four deficiencies that it believed constituted material weaknesses in the ICFR of the Brazilian subsidiary. The U.S. Component Auditor also identified and communicated to MSC four deficiencies that it believed constituted material weaknesses in the ICFR at Simec's U.S. subsidiaries. Each of the deficiencies identified by the component auditors related to a significant risk that MSC had identified, specifically, the risk that Simec's financial statements could be materially misstated due to improper conversion and consolidation of subsidiary financial information. Nonetheless, de los Santos failed to evaluate the severity of the deficiencies the component auditors had identified.

51. Similarly, with respect to the 2019 Audit, the Brazilian Component Auditor's reporting package to MSC identified five deficiencies in the ICFR of Simec's Brazilian subsidiary, and the U.S. Component Auditor reported three deficiencies in the ICFR of Simec's U.S. subsidiaries. The component auditors believed that the deficiencies they identified constituted material weaknesses. Again, all of those deficiencies related to the identified significant risk that Simec's financial statements could be materially misstated due to improper conversion and consolidation of subsidiary financial information. However, once again, de los Santos failed to evaluate the severity of the deficiencies reported by the component auditors.

52. For these reasons too, de los Santos violated AS 2201 during the Audits.

d. Failure to Evaluate Whether Control Deficiencies Identified in Previous Years as Material Weaknesses Had Been Remediated

53. PCAOB standards require the auditor to evaluate whether control deficiencies previously communicated to the audit committee are important to the company's financial statements and ICFR and, if so, how they will affect the auditor's procedures.[44] Moreover, if audit evidence obtained from one source is inconsistent with that obtained from another, the

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42 *Id.* at .68.

43 *Id.* at .80.

44 AS 2201.09.

auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit.[45]

54. Simec management disclosed in its 2018 Form 20-F that the company's ICFR was ineffective as of December 31, 2018. This conclusion was based on material weaknesses identified in management's ICFR assessment for the 2018 annual period as well as material weaknesses identified in each of management's four preceding annual assessments, from 2014 through 2017. However, MSC's ICFR audit report for 2018 made references to only material weaknesses Simec had identified as of year-end 2018. De los Santos failed to evaluate whether the material weaknesses identified by management from 2014 through 2017 had, in fact, been remediated as of December 31, 2018, or alternatively, whether these previously deficient controls had been superseded by new controls that achieved the related control objectives.

55. In planning the 2019 Audit, de los Santos noted that Simec had a number of material weaknesses in prior audit years and was subject to investigation by the SEC for failure to remediate those material weaknesses. De los Santos also knew that Simec had engaged a third-party consultant who assisted management in taking corrective actions in response to the previously disclosed material weaknesses and that management thereafter concluded that it had fully remediated the previously disclosed material weaknesses by year-end 2019. Despite obtaining evidence during the 2019 Audit that several of those material weaknesses had not been remediated, de los Santos failed to perform any procedures to resolve these inconsistencies. Further, de los Santos nevertheless authorized the issuance of MSC's unqualified ICFR audit report for 2019.

56. Accordingly, de los Santos committed these additional violations of AS 1105 and AS 2201 in the Audits.

E. De los Santos Failed to Make Required Audit Committee Communications

57. PCAOB standards and other provisions of the securities laws provide that auditors should communicate certain information to an issuer's audit committee. In violation of those provisions, de los Santos failed to communicate the following matters to Simec's audit committee in connection with the 2018 and 2019 Audits:

- all significant risks identified during risk assessment procedures;[46]

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45 AS 1105.29.

46 *See* AS 1301.09.

- the extent to which MSC's engagement team planned to use the work of internal auditors;[47]
- Simec's critical accounting policies, practices, and accounting estimates;[48]
- uncorrected and corrected misstatements;[49] and
- other material written communications between the engagement team and management, such as the management representation letter.[50]

58. Accordingly, de los Santos violated AS 1301, AS 2805, Exchange Act § 10A(k), and Rule 2-07(a) of SEC Regulation S-X in connection with the Audits.

F. Rodríguez Violated PCAOB Auditing Standards in Connection with His EQRs of the 2018 and 2019 Audits

59. PCAOB standards provide that, "[i]n an audit engagement, the engagement quality reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report."[51] As is the case with members of the engagement team, an engagement quality reviewer should exercise due professional care and professional skepticism.[52]

60. An engagement quality reviewer should evaluate the "engagement team's assessment of, and audit responses to . . . [s]ignificant risks identified by the engagement team, including fraud risks."[53] In the 2018 and 2019 Audits, Rodríguez knew that Simec had disclosed

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47 *See id.* at .10.

48 *See id.* at .12.b, .12.c; Securities Exchange Act of 1934 ("Exchange Act") § 10A(k)(1), 15 U.S.C. § 78j-1(k)(1); Rule 2-07(a)(1) of SEC Regulation S-X, 17 C.F.R. § 210.2-07(a)(1).

49 *See* AS 1301.18-.19.

50 *See id.* at .20; AS 2805.05, *Management Representations* ("The auditor should provide a copy of the representation letter to the audit committee if management has not already provided the representation letter to the audit committee."); Exchange Act § 10A(k)(3), 15 U.S.C. § 78j-1(k)(3); Rule 2-07(a)(3) of SEC Regulation S-X, 17 C.F.R. § 210.2-07(a)(3).

51 AS 1220.09, *Engagement Quality Review*.

52 *See* AS 1015.02.

53 AS 1220.10.b.

various material weaknesses in its ICFR in the most recent Form 20-Fs it filed with the SEC and that the engagement team planned to evaluate the adequacy of any remedial actions taken by Simec during the subsequent year. He also knew that certain prior-year material weaknesses—including with respect to Simec's process for preparing consolidated financial statements—had been identified as significant risks and/or fraud risks by the engagement teams in the 2018 and 2019 Audits. However, during both Audits, Rodríguez failed to evaluate the engagement teams' assessment of and response to these significant and/or fraud risks with due professional care.

61. An engagement quality reviewer should also evaluate the "significant judgments made about . . . the severity and disposition of identified control deficiencies."[54] As part of his EQRs for the 2018 and 2019 Audits, Rodríguez represented that he had reviewed the engagement teams' evaluation of internal control and the relevant work papers to evaluate the engagement teams' critical judgments and that, based on his review, all pending matters were resolved before the audit reports were signed. However, as discussed above, the engagement teams for the 2018 and 2019 Audits failed to evaluate the severity of identified ICFR deficiencies.

62. PCAOB standards also require an engagement quality reviewer to review "the engagement team's evaluation of the firm's independence in relation to the engagement."[55] The engagement teams for the 2018 and 2019 Audits failed to evaluate their (and the component auditors') independence in accordance with PCAOB and/or SEC requirements and, instead, supplied and obtained independence representations that solely referenced ISA and Mexican requirements. Rodríguez failed to review the engagement team's evaluation of its independence with due professional care and, consequently, failed to identify that deficiency.

63. As discussed above, de los Santos in the 2018 and 2019 Audits failed to make a number of required communications to Simec's audit committee. An engagement quality reviewer should evaluate "whether appropriate matters have been communicated, or identified for communication, to the audit committee."[56] Rodríguez failed to perform that evaluation with due professional care. Specifically, despite indicating in each of the Audits that he had reviewed all relevant communications with Simec's audit committee as part of his EQR, Rodríguez failed to identify that those communications omitted numerous required communications.

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54 *Id.* at .10.c.

55 *Id.* at .10.d.

56 *Id.* at .10.i.

64. An engagement quality reviewer should also determine whether the audit documentation he or she reviews indicates "that the engagement team responded appropriately to significant risks" and supports "the conclusions reached by the engagement team with respect to the matters reviewed."[57] In the 2019 Audit, Rodríguez provided concurring approval of issuance of MSC's audit report expressing an unqualified ICFR opinion despite reviewing audit documentation indicating that the engagement team (a) had not appropriately evaluated whether Simec had remediated certain material weaknesses disclosed by Simec in its 2018 Form 20-F; and (b) had not evaluated the severity of identified ICFR deficiencies.

65. Accordingly, Rodríguez violated AS 1015 and AS 1220.

IV.

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

A. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Marcelo de los Santos Anaya is barred from being an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[58]

B. After five years from the date of this Order, Marcelo de los Santos Anaya may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm;

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Martín Rodríguez Martínez is barred from being an "associated person of a registered

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57 *Id.* at .11.

58 As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to de los Santos. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[59]

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

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4): (i) a civil money penalty in the amount of $125,000 is imposed on Marcelo de los Santos Anaya; and (ii) a civil money penalty in the amount of $40,000 is imposed on Martín Rodríguez Martínez.

1. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act.

2. Each Respondent shall pay his civil money penalty within ten days of the issuance of this Order by: (1) wire transfer in accordance with instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the individual as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. Respondents understand that their failure to pay the civil money penalties imposed upon them may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b).

[59] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act, discussed in footnote 58, above, will also apply with respect to Rodríguez.

4. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondents' payment of the civil money penalties pursuant to this Order, in any private action brought against one or both Respondents based on substantially the same facts as set out in the findings in this Order.

F. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Marcelo de los Santos Anaya and Martín Rodríguez Martínez are each required to complete, prior to filing any petition to terminate his bar and for Board consent to reassociate with a registered public accounting firm, 40 hours of continuing professional education and training relating to PCAOB auditing standards (such hours shall be in addition to, and shall not be counted in, the continuing professional education each Respondent is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 6, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Baker Tilly US, LLP,

Respondent.

PCAOB Release No. 105-2024-006

February 20, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Baker Tilly US, LLP ("Baker Tilly," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $80,000 upon the Firm; and

(3) requiring the Firm to comply with its policies and procedures directed toward ensuring compliance with PCAOB standards for communications with audit committees and the documentation of those communications.

The Board is imposing these sanctions on the basis of its findings that the Firm (a) failed to document pre-approval of services by two issuer clients' audit committees, in violation of AS 1215, *Audit Documentation*; and (b) failed to make certain required communications to the audit committees of two issuer audit clients, in violation of AS 1301, *Communications with Audit Committees*.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Baker Tilly has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Baker Tilly US, LLP** is a limited liability partnership headquartered in Chicago, Illinois and is a member of the Baker Tilly International network of firms ("BTI"). It is licensed to practice public accounting in multiple jurisdictions, including with the Department of Financial and Professional Regulation of the State of Illinois (license no. 066-004260). At all relevant times, Baker Tilly was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for more than 70 issuer clients and more than 30 broker-dealer clients.

B. Issuers

2. **Genius Brands International, Inc.** ("Genius Brands") is a corporation headquartered in Beverly Hills, California. Its public filings disclose that it is a global content and brand management company that creates and licenses multimedia content. Baker Tilly issued an audit report that Genius Brands included in its Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") for the fiscal year ended December 31, 2020 (the "2020 Genius Brands Audit").

3. **Nortech Systems, Inc.** ("Nortech") is a corporation headquartered in Maple Grove, Minnesota. Its public filings disclose that it is a provider of design and manufacturing solutions for complex electromedical devices, electromechanical systems, assemblies, and

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

components. Baker Tilly issued an audit report that Nortech included in its Form 10-K filed with the Commission for the fiscal year ended December 31, 2020 (the "2020 Nortech Audit").

4. **Northern Technologies International Corporation** ("Northern Technologies") is a corporation headquartered in Circle Pines, Minnesota. Its public filings disclose that it develops and markets corrosion prevention and polymer resin compounds and products. Baker Tilly issued an audit report that Northern Technologies included in its Form 10-K filed with the Commission for the fiscal year ended August 31, 2021 (the "2021 Northern Technologies Audit").

5. At all relevant times, each of the companies listed in paragraphs 2 through 4 was an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Other Relevant Entities

6. **Baker Tilly 4Partners Auditores Independentes S.S.** ("BT Brazil") is headquartered in Sao Paolo, Brazil, and a member of BTI. At all relevant times, BT Brazil was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. BT Brazil performed a statutory audit for a subsidiary of Northern Technologies.

7. **Baker Tilly China Certified Public Accountants** ("BT China") is headquartered in Beijing, China and a member of BTI. At all relevant times, BT China was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. BT China performed a statutory audit for a subsidiary of Northern Technologies.

8. **Baker Tilly Mexico, S.C.** ("BT Mexico") is headquartered in Mexico City, Mexico and a member of BTI. At all relevant times, BT Mexico was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. BT Mexico performed a statutory audit for a subsidiary of Nortech.

9. **Baker Tilly Hong Kong Limited** ("BT Hong Kong") is headquartered in Hong Kong, Special Administrative Region of the People's Republic of China, and a member of BTI. BT Hong Kong is a "public accounting firm," as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii). BT Hong Kong is not now, and was not at the relevant time, registered with the Board. BT Hong Kong performed a statutory audit for a subsidiary of Nortech.

10. **Haribhakti & Co. LLP** ("BT India") is headquartered in Mumbai, India and a member of BTI. BT India is a "public accounting firm," as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii). BT India is not now, and was not at the

relevant time, registered with the Board. BT India performed a statutory audit for a subsidiary of Northern Technologies.

11. **Suzhou Wanlong Yongding Certified Public Accountants Co., Ltd.** ("SWY") headquartered in Suzhou, Jiangsu, People's Republic of China. SWY is a "public accounting firm," as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii). SWY is not now, and never has been, registered with the Board. SWY was an other accounting firm that performed audit procedures on the 2020 Nortech Audit.

D. Baker Tilly Failed to Document Audit Committee Pre-Approval of Statutory Audit Services, in Violation of AS 1215

12. PCAOB standards require that audit documentation should demonstrate that the engagement complied with the standards of the PCAOB.[2] Audit documentation is the written record of the basis of the auditor's conclusions and provides the support for the auditor's representations in the audit report,[3] including the representation that an audit was conducted in accordance with PCAOB standards.[4]

13. Thus, documentation of an audit must support that the auditor complied with PCAOB and SEC independence requirements. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client, including by satisfying the independence criteria set out in the Commission's rules and regulations under the federal securities laws.[5] One such criterion is set out in Rule 2-01(c)(7)(i) of Commission Regulation S-X, which provides that "[a]n accountant is not independent of an issuer" unless, "[b]efore the accountant is engaged by the issuer…to render audit or non-audit services, the engagement is approved by the issuer's…audit committee."[6]

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2 *See* AS 1215.05(a).

3 AS 1215.02.

4 *See* AS 3101.09, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion* (describing the elements that must be included in the section of the audit report containing the basis for the auditor's opinion).

5 *See* PCAOB Rule 3520, Note 1, *Auditor Independence*; AS 1005.05-.06, *Independence*.

6 17 C.F.R. § 210.2-01(c)(7). The definition of accountant includes "any accounting firm with which the certified public accountant . . . is affiliated." 17 C.F.R. § 210.2-01(f)(1).

i. Services for Nortech and Its Subsidiaries

14. Nortech retained Baker Tilly to perform the 2020 Nortech Audit.

15. During the 2020 Nortech Audit, two of Baker Tilly's affiliates, BT Mexico and BT Hong Kong, performed statutory audit services for subsidiaries of Nortech.

16. Nortech's audit committee pre-approved these statutory audit services, but Baker Tilly failed to document that pre-approval.

17. Accordingly, Baker Tilly violated AS 1215 with respect to the 2020 Nortech Audit.

ii. Services for Northern Technologies and Its Subsidiaries

18. Northern Technologies retained Baker Tilly to perform the 2021 Northern Technologies Audit.

19. During the 2021 Northern Technologies Audit, three of Baker Tilly's affiliates, BT Brazil, BT China, and BT India, performed statutory audit services for subsidiaries of Northern Technologies.

20. Northern Technologies's audit committee pre-approved these statutory audit services, but Baker Tilly failed to document that pre-approval.

21. Accordingly, Baker Tilly violated AS 1215 with respect to the 2021 Northern Technologies Audit.

E. Baker Tilly Failed to Make Required Audit Committee Communications in Violation of AS 1301

22. Pursuant to PCAOB auditing standards, an auditor must communicate with a client's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[7] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment.[8]

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7 AS 1301.01, *Communications with Audit Committees*.

8 *Id.* at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301) ("AS 1301 Adopting Release"), the Board indicated that "[c]ommunications between the auditor and the

23. PCAOB standards specify that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms[9] or other persons, who were not employed by the auditor, that performed audit procedures in the current period audit.[10]

24. The auditor also should communicate to the audit committee: (a) significant accounting policies and practices; (b) critical accounting policies and practices; (c) critical accounting estimates; and (d) significant unusual transactions.[11]

25. Baker Tilly informed Nortech's audit committee that certain targeted audit procedures would be performed in China during the 2020 Nortech Audit, but failed to inform Nortech's audit committee of the name and planned responsibilities of SWY, an other independent public accounting firm in China, not employed by Baker Tilly, that performed audit procedures in the 2020 Nortech Audit.

26. Accordingly, Baker Tilly violated AS 1301.10d in connection with the 2020 Nortech Audit.

27. In connection with the 2020 Genius Brands Audit, Baker Tilly informed Genius Brands's audit committee of eight critical accounting policies and estimates, but it failed to

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audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See* Auditing Standard No. 16—*Communications With Audit Committees; Related Amendments to PCAOB Standards;* and *Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (August 15, 2012).

[9] The term "other independent public accounting firms" includes "firms that perform audit procedures in the current period audit regardless of whether they otherwise have any relationship with the auditor." AS 1301.10d.

[10] *Id.* In the AS 1301 Adopting Release, the Board explained the rationale for identifying other independent public accounting firms for the audit committee as follows: "The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators." AS 1301 Adopting Release at Appendix 4, p. A4-15.

[11] AS 1301.12a-.12d.

inform the audit committee about two other critical accounting estimates, related to share-based compensation and income taxes, including deferred income tax assets and liabilities.

28. Accordingly, Baker Tilly violated AS 1301.12c in connection with the 2020 Genius Brands Audit.

IV.

29. Baker Tilly has represented to the Board that it has established and implemented the following changes to its policies and procedures for the purpose of providing it with reasonable assurance of compliance with PCAOB standards for communications with audit committees and the documentation of those communications:

a. Baker Tilly implemented new template work papers for documenting pre-approval of services by audit committees;

b. Baker Tilly communicated requirements related to documenting pre-approval of services by audit committees to all personnel working on issuer audits through an updated policy and guidance;

c. Baker Tilly required senior audit professionals to attend webinars concerning, among other things, PCAOB and SEC independence requirements and related documentation requirements;

d. Baker Tilly updated an internal publication and template audit work paper checklist related to audit committee communications; and

e. Baker Tilly required senior audit professionals to attend webinars concerning, among other things, required audit committee communications.

V.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $80,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to

Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required to comply with its revised policies and procedures, including those intended to provide reasonable assurance that Firm personnel will comply with PCAOB standards for communications with audit committees and the documentation of those communications.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 20, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Grant Thornton Bharat LLP,

Respondent.

PCAOB Release No. 105-2024-007

February 20, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Grant Thornton Bharat LLP ("GT India," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $40,000 upon the Firm; and

(3) requiring the Firm to comply with its policies and procedures directed toward ensuring compliance with PCAOB standards for communications with audit committees.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to make certain required communications to the audit committee of an issuer client, in violation of AS 1301, *Communications with Audit Committees*, and failed to make, or obtain evidence management made, other required audit committee communications, in violation of AS 2805, *Management Representations*, and AS 1301, all in connection with the audits of WNS Holdings Limited ("WNS").

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, GT India has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Grant Thornton Bharat LLP** is a limited liability partnership headquartered in New Delhi, India, and is a member of the Grant Thornton global network of firms ("GT International"). At all relevant times, GT India was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the time period covered by this Order, the Firm annually served as the principal auditor for one issuer client.

B. Issuer

2. **WNS Holdings Limited** is a limited company headquartered in Mumbai, India. At all relevant times, WNS was an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). On May 14, 2021, GT India issued an audit report on WNS's financial statements that WNS included in its Form 20-F Annual Report filed with the U.S. Securities and Exchange Commission for the fiscal year ended March 31, 2021 (the "Audit").

C. Other Relevant Entities

3. **Walker Chandiok & Co. LLP** ("Walker Chandiok") is a limited liability partnership headquartered in New Delhi, India. At all relevant times, Walker Chandiok was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. GT India supervised individuals affiliated with Walker Chandiok who performed certain audit procedures in connection with the Audit.

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

4. **Grant Thornton Limited** ("GT Channel Islands") is a limited liability corporation headquartered in Saint Helier, Isle of Jersey, and a member of GT International. At all relevant times, GT Channel Islands was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. GT Channel Islands performed certain audit procedures in connection with the Audit.

5. **SizweNtsalubaGobodo Grant Thornton Inc.** ("GT South Africa") is a limited liability partnership headquartered in Johannesburg, South Africa, and a member of GT International. At all relevant times, GT South Africa was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. GT South Africa performed certain audit procedures in connection with the Audit.

6. **Grant Thornton UK LLP** ("GT UK") is a limited liability partnership headquartered in London, United Kingdom, and a member of GT International. At all relevant times, GT UK was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. GT UK performed certain audit procedures in connection with the Audit.

7. The entities described in paragraphs 3 through 6 are "public accounting firms," as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii).

D. GT India Failed to Communicate to WNS's Audit Committee Information About Other Independent Public Accounting Firms that Performed Audit Procedures in the Audit, in Violation of AS 1301

8. Pursuant to PCAOB auditing standards, an auditor must communicate with a client's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[2] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment.[3]

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[2] AS 1301.01, *Communications with Audit Committees*.

[3] *Id.* at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301) ("AS 1301 Adopting Release"), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See Auditing Standard No. 16—Communications With Audit Committees; Related Amendments to PCAOB Standards;* and *Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (August 15, 2012).

9. PCAOB standards specify that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms[4] or other persons, who were not employed by the auditor, that performed audit procedures in the current period audit.[5]

10. In connection with the Audit, GT India failed to inform WNS's audit committee of the name, location, and planned responsibilities of the following independent public accounting firms that were not employed by GT India that performed audit procedures in the Audit: GT Channel Islands, GT South Africa, and GT UK. GT India also failed to inform WNS's audit committee of the name, location, and planned responsibilities of the individuals affiliated with Walker Chandiok.

11. Accordingly, GT India violated AS 1301.10d in connection with the Audit.

E. GT India Failed to Ensure that WNS's Audit Committee Had Received a Copy of Management's Representation Letter, in Violation of AS 2805 and 1301

12. PCAOB standards provide that the auditor should obtain written representations from management "for all financial statements and periods covered by the auditor's report."[6] PCAOB standards also specify that the auditor should provide a copy of the representation letter to the audit committee if management has not already done so.[7] PCAOB

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[4] The term "other independent public accounting firms" includes "firms that perform audit procedures in the current period audit regardless of whether they otherwise have any relationship with the auditor." AS 1301.10d, Note.

[5] *Id.* In the AS 1301 Adopting Release, the Board explained the rationale for identifying other independent public accounting firms for the audit committee as follows: "The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators." AS 1301 Adopting Release at Appendix 4, p. A4-15.

[6] AS 2805.05, *Management Representations*.

[7] *Id.*

standards further specify that the auditor should communicate to the audit committee any other material written communications between the auditor and management.[8]

13. In connection with the Audit, GT India failed to provide a copy of management's representation letter to WNS's audit committee or otherwise to obtain evidence that WNS's management had itself provided a copy of the representation letter to the audit committee.

14. Accordingly, GT India violated AS 2805.05 and 1301.20 in connection with the Audit.

IV.

15. GT India has represented to the Board that, since these deficiencies were identified by the PCAOB during its 2022 inspection, it has established and implemented the following changes to its policies and procedures for the purpose of providing GT India with reasonable assurance of compliance with PCAOB standards for communications with audit committees:

a. GT India has implemented updated audit planning guidance for communicating the names, locations, and planned responsibilities of other independent public accounting firms performing audit procedures in an audit; and

b. GT India has communicated this updated guidance through training materials to relevant assurance personnel; and

c. GT India has provided training to its assurance partners on compliance with PCAOB standards concerning the provision of management representation letters.

V.

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

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[8] AS 1301.20.

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $40,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private

action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), GT India is required to comply with its audit committee communications policies and procedures, including:

1. those intended to provide reasonable assurance that, as part of communicating its overall audit strategy, GT India communicates with the audit committee or functional equivalent the names, locations, and planned responsibilities of other independent public accounting firms or other persons, who were not employed by the auditor, that performed audit procedures in the audit; and

2. those intended to provide reasonable assurance that GT India obtains written representations from management for all financial statements and periods covered by its audit report, and to provide a copy of the representation letter to the audit committee if management has not already done so.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 20, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Mazars USA LLP,

Respondent.

PCAOB Release No. 105-2024-008

February 20, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Mazars USA LLP ("Mazars," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $60,000 upon the Firm; and

(3) requiring the Firm to comply with its policies and procedures directed toward ensuring compliance with PCAOB standards for communications with audit committees.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to make certain required communications to the audit committee of its issuer audit clients, Inter Parfums, Inc. ("Inter Parfums") and Medallion Financial Corp. ("Medallion"), in violation of AS 1301, *Communications with Audit Committees*.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Mazars has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Mazars USA LLP** is a limited liability partnership headquartered in New York, New York. At all relevant times, Mazars was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm issued audit reports for fifteen issuer clients.

B. Issuers

2. **Inter Parfums, Inc.** is a corporation incorporated in Delaware with principal executive offices in New York, New York. Its public filings disclose that it manufactures, markets, and distributes fragrances and fragrance related products. At all relevant times, Inter Parfums was an "issuer," as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). On March 1, 2021, Mazars issued an audit report on Inter Parfums' financial statements that Inter Parfums included in its Form 10-K filed with the U.S. Securities and Exchange Commission (the "Commission") for fiscal year ending December 31, 2020 (the "Inter Parfums Audit").

3. **Medallion Financial Corp.** is a corporation incorporated in Delaware with principal executive offices in New York, New York. Its public filings disclose that it is a finance company that operates through Medallion Bank, which originates consumer loans. At all relevant times, Medallion was an "issuer," as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). On March 15, 2021, Mazars issued an audit report on Medallion's

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

financial statements that Medallion included in its Form 10-K filed with the Commission for fiscal year ending December 31, 2020 (the "Medallion Audit").

C. Other Relevant Entities

4. **GreerWalker LLP** ("GreerWalker") is a limited liability partnership headquartered in Charlotte, North Carolina. GreerWalker is a "public accounting firm," as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii). At all relevant times, GreerWalker was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. GreerWalker performed audit procedures for the Medallion Audit.

5. **Mazars Advisory LLP** ("Mazars Advisory") is a limited liability partnership headquartered in India that contracted with Mazars to provide staffing and services. Mazars Advisory provided a professional to work on each of the Inter Parfums Audit and the Medallion Audit under the supervision of Mazars.

D. Mazars Failed to Make Required Audit Committee Communications in Violation of AS 1301

6. Pursuant to PCAOB auditing standards, an auditor must communicate with a client's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[2] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment procedures.[3]

7. As part of communicating the overall audit strategy, an auditor should also communicate:

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[2] AS 1301.01, *Communications with Audit Committees*.

[3] *Id.* at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301) ("AS 1301 Adopting Release"), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See* Auditing Standard No. 16, *Communications With Audit Committees; Related Amendments to PCAOB Standards;* and *Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (August 15, 2012).

- the nature and extent of specialized skill or knowledge needed to perform the planned audit procedures or evaluate the audit results related to significant risks;[4]

- the extent to which the auditor plans to use the work of internal auditors, company personnel (in addition to internal auditors), and third parties working under the direction of management or the audit committee when performing an audit of internal control over financial reporting;[5] and

- the names, locations, and planned responsibilities of other independent public accounting firms[6] or other persons, who were not employed by the auditor, that performed audit procedures in the current period audit.[7]

8. In addition, PCAOB auditing standards require an auditor to communicate certain matters related to the results of the audit to the issuer's audit committee.[8] The matters to be communicated include the auditor's evaluation of the quality of the issuer's financial reporting related to qualitative aspects of significant accounting policies and practices; the auditor's assessment of critical accounting policies and practices; and the auditor's conclusions regarding critical accounting estimates.[9]

9. In connection with the Inter Parfums Audit, Mazars failed to inform Inter Parfums' audit committee of the significant risks identified during its risk assessment procedures related to inventory, accounts payable, and other liabilities for entities affiliated with Inter Parfums. In addition, Mazars failed to inform Inter Parfums' audit committee of the name, location, and planned responsibilities of a person employed by Mazars Advisory and not employed by Mazars that performed audit procedures for the Inter Parfums Audit.

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4 AS 1301.10a.

5 *Id.* at .10c.

6 The term "other independent public accounting firms" includes "firms that perform audit procedures in the current period audit regardless of whether they otherwise have any relationship with the auditor." *Id.* at .10d. Note.

7 *Id.* at .10d.

8 *Id.* at .13.

9 *Id.* at .13a- c.

10. Accordingly, Mazars violated AS 1301.09 and .10d in connection with the Inter Parfums Audit.

11. In connection with the Medallion Audit, Mazars failed to communicate the following to Medallion's audit committee:

- the significant risk identified during Mazars' risk assessment procedures related to management override of controls;

- the nature and extent of specialized skill or knowledge needed to perform the planned audit procedures or evaluate the results of the procedures related to the impairment valuation analysis of goodwill and intangible assets, which were areas of significant risks;

- the extent to which the engagement team planned to use the work of internal auditors when performing its audit of internal control over financial reporting;

- the names, locations, and planned responsibilities of (a) an other independent public accounting firm (GreerWalker) and (b) an other person, who was not employed by Mazars (the Mazars Advisory professional), each of which performed audit procedures for the Medallion Audit; and

- the final results of the Medallion Audit, including Mazars' evaluation of the quality of Medallion's financial reporting related to qualitative aspects of significant accounting policies and practices, its assessment of critical accounting policies and practices, and its conclusions regarding critical accounting estimates.

12. Accordingly, Mazars violated AS 1301.09, .10a, .10c, .10d, and .13a-c in connection with the Medallion Audit.

IV.

13. Mazars has represented to the Board that, since this deficiency was identified by the PCAOB during its 2021 inspection, it has established and implemented the following changes to its policies and procedures for the purpose of providing it with reasonable assurance of compliance with PCAOB standards for communications with audit committees:

a. Mazars has implemented an updated audit committee communications template to assist engagement teams with appropriately capturing all required audit committee communications;

b. Mazars has communicated the updated template to personnel, and has communicated that the template is mandatory; and

c. Mazars engaged an external consultant to develop and deliver training on AS 1301, and Mazars required relevant personnel to complete the training.

V.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $60,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Mazars is required to comply with its audit committee communications policies and procedures, including those intended to provide reasonable assurance that Mazars communicates to the audit committee the information required by AS 1301.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 20, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of SW Audit,

Respondent.

PCAOB Release No. 105-2024-009

February 20, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring SW Audit ("SW Audit," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $60,000 upon the Firm; and

(3) requiring the Firm to comply with its policies and procedures directed toward ensuring compliance with PCAOB and SEC independence requirements, PCAOB standards for communications with audit committees, and PCAOB standards for timely assembly and retention of audit documentation.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules relating to independence in connection with the audits of an issuer audit client, Prime Global Capital Group Incorporated ("Prime Global"); failed to make certain required audit committee communications with respect to another issuer audit client, Kibush Capital Corp. ("Kibush"), and failed to establish and implement a system of quality control that provided reasonable assurance that its personnel comply with applicable PCAOB rules and standards.[1]

[1] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits and reviews discussed herein.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, SW Audit has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **SW Audit** (f/k/a ShineWing Australia) is an unincorporated partnership headquartered in Melbourne, Australia. It is a member of the ShineWing International Ltd. network of firms ("ShineWing International"). At all relevant times, SW Audit was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for approximately three issuer clients.

B. Issuers

2. **Prime Global Capital Group Incorporated** is a corporation headquartered in Kuala Lumpur, Malaysia. Its public filings disclose that it operates palm and durian plantations as well as a real estate business in Malaysia. At all relevant times, Prime Global was an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). On January 29,

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

2019, SW Audit issued an audit report on Prime Global's financial statements that Prime Global included in its Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") for the fiscal year ended October 31, 2018 (the "2018 Prime Global Audit").

3. **Kibush Capital Corp.** is a corporation headquartered in Las Vegas, Nevada. Its public filings disclose that it is a mineral and natural resources exploration company. At all relevant times, Kibush was an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). On August 31, 2021, SW Audit issued an audit report on Kibush's financial statements that Kibush included in its Form 10-K filed with the Commission for the fiscal year ended September 30, 2020 (the "2020 Kibush Audit").

C. Other Relevant Entity

4. **ShineWing TY Teoh PLT** ("ShineWing Malaysia") is headquartered in Petaling Jaya, Malaysia and is a member of ShineWing International. At all relevant times, ShineWing Malaysia was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. ShineWing Malaysia performed audit procedures on the 2018 Prime Global Audit and performed statutory audits and tax compliance services for Prime Global subsidiaries.

D. SW Audit Failed to Satisfy Independence Requirements in Violation of PCAOB Rules 3520 and 3524

5. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[3] That requirement includes an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB and all other independence criteria set out in the Commission's rules and regulations under the federal securities laws.[4]

i. SW Audit Failed to Obtain Audit Committee Pre-Approval of Tax Compliance and Other Services

6. Rule 3524, *Audit Committee Pre-approval of Certain Tax Services*, provides that, in connection with seeking audit committee pre-approval to perform for an issuer audit client any permissible tax service, a registered public accounting firm shall describe, in writing, to the audit committee of the issuer, among other things, the scope of the service, the fee structure of

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3 *See* PCAOB Rule 3520, *Auditor Independence.*

4 *See* PCAOB Rule 3520, Note 1.

the engagement, and any side letter or other amendment to the engagement letter, or any other agreement between the firm and the audit client relating to the service.

7. Rule 2-01(c)(7) of Commission Regulation S-X provides that "[a]n accountant is not independent of an issuer" unless, "[b]efore the accountant is engaged by the issuer…to render audit or non-audit services, the engagement is approved by the issuer's…audit committee."[5]

8. SW Audit served as Prime Global's auditor for the 2018 Prime Global Audit.

9. At the same time SW Audit performed the 2018 Prime Global Audit, its affiliate, ShineWing Malaysia, provided statutory audit and tax compliance services for subsidiaries of Prime Global.

10. SW Audit failed, however, to obtain pre-approval from Prime Global's audit committee for ShineWing Malaysia to provide these services.

11. Accordingly, SW Audit violated Rule 3520 and Rule 3524 by not fulfilling the requirements of Rule 2-01(c)(7)(i) of Commission Regulation S-X, and thus was not independent of Prime Global.

ii. SW Audit Failed to Satisfy Independence Rules by Seeking to Limit Its Liability Through Its Agreement with an Issuer Client

12. Rule 2-01(b) of Commission Regulation S-X provides that "[t]he Commission will not recognize an accountant as independent, with respect to an audit client, if the accountant is not, or a reasonable investor with knowledge of all relevant facts and circumstances would conclude that the accountant is not, capable of exercising objective and impartial judgment on all issues encompassed within the accountant's engagement. In determining whether an accountant is independent, the Commission will consider all relevant circumstances, including all relationships between the accountant and the audit client, and not just those relating to reports filed with the Commission."[6]

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[5] 17 C.F.R. § 210.2-01(c)(7). The definition of accountant includes "any accounting firm with which the certified public accountant . . . is affiliated." 17 C.F.R. § 210.2-01(f)(1).

[6] 17 C.F.R. § 210.2-01(b).

13. Under relevant independence criteria, entering into an indemnity agreement with a client impairs an auditor's independence.[7]

14. The executed audit engagement letter between SW Audit and Prime Global for the 2018 Prime Global Audit included the following language indemnifying SW Audit against a variety of claims and damages arising from SW Audit's provision of audit services to Prime Global:

> 18. Exclusions and limitations of liability: You indemnify ShineWing Australia for any claims, demands, causes of action, losses and damages (including potential losses), business interruptions, loss of data, failure to realise anticipated savings or benefits whatsoever incurred by or awarded against you, . . . liabilities, costs (including legal costs on an indemnity basis) or expenses . . . that may be suffered or incurred by us as a result of any breach by you of a term of this Contract.[8]

15. Accordingly, SW Audit violated Rule 3520 by not fulfilling the requirements of Rule 2-01(b) of Commission Regulation S-X, and thus was not independent of Prime Global.

E. SW Audit Failed to Make Required Audit Committee Communications in Violation of AS 1301 and AS 1305

16. Pursuant to PCAOB auditing standards, an auditor must communicate with a client's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[9] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the

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[7] *See id.*; *see also* Section A, Question 1 of the Commission's Frequently Asked Questions on Auditor Independence (issued Dec. 13, 2004), https://www.sec.gov/info/accountants/ocafaqaudind080607 (updated June 27, 2019) ("When an accountant and the audit client, directly or through an affiliate, enter into an agreement of indemnity which seeks to provide the accountant immunity from liability for their own negligent acts, whether of omission or commission, the accountant is not independent. Further, including in engagement letters a clause that an issuer would release, indemnify or hold harmless from any liability and costs resulting from knowing misrepresentations by management would also impair the firm's independence.").

[8] The audit engagement letter defined "we" as SW Audit and "you" as Prime Global.

[9] AS 1301.01, *Communications with Audit Committees*.

timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment.[10]

17. PCAOB standards specify that auditors should communicate to the audit committee "[a]ll critical accounting policies and practices to be used, including (1) The reasons certain policies and practices are considered critical; and (2) How current and anticipated future events might affect the determination of whether certain policies and practices are considered critical."[11]

18. An auditor should also communicate to the audit committee (1) the auditor's evaluation of certain matters relevant to the quality of the issuer's financial reporting;[12] (2) the auditor's responsibility under PCAOB rules and standards with respect to other information presented in documents containing audited financial statements, any related procedures performed, and the results of such procedures;[13] and (3) any significant difficulties encountered during the audit.[14]

19. An auditor must also communicate in writing to the audit committee all significant deficiencies and material weaknesses identified during the audit.[15]

20. In connection with the 2020 Kibush Audit, SW Audit communicated with Kibush's audit committee concerning certain matters related to independence, going concern, internal controls, misstatements, and areas of audit focus. But the Firm failed to inform Kibush's audit committee of the following, as required by PCAOB standards: (i) critical accounting policies and practices, including the reasons certain policies and practices were considered critical, and how current and anticipated future events might affect the determination of whether certain

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10 *Id.* at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301) ("AS 1301 Adopting Release"), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See* Auditing Standard No. 16—*Communications With Audit Committees; Related Amendments to PCAOB Standards;* and *Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (August 15, 2012).

11 AS 1301.12b.

12 *Id*. at .13.

13 *Id*. at .14.

14 *Id*. at .23.

15 AS 1305.04, *Communications About Control Deficiencies in an Audit of Financial Statements*

policies and practices were considered critical; (ii) SW Audit's evaluation of matters relevant to the quality of an issuer's financial reporting; (iii) SW Audit's responsibility under PCAOB rules and standards with respect to other information presented in documents containing audited financial statements, any related procedures performed, and the results of such procedures; and (iv) any significant difficulties encountered in performing the audit.

21. SW Audit also failed to inform Kibush's audit committee in writing about the material weaknesses included in Kibush's Form 10-K filed with the Commission for the fiscal year ended September 30, 2020.

22. Accordingly, SW Audit violated AS 1301.12b, .13, .14, .23, and AS 1305.04 in connection with the 2020 Kibush Audit.

F. SW Audit's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Compliance with PCAOB Rules and Standards

23. PCAOB rules require a registered public accounting firm and its associated persons to comply with PCAOB quality control standards.[16] These standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice.[17] A firm's system of quality control provides a critical foundation and infrastructure for a firm's audit quality as it should "ensure that services are competently delivered and adequately supervised."[18] "A system of quality control is broadly defined as a process to provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality."[19]

24. As described below, the Firm failed to establish policies and procedures sufficient to provide reasonable assurance that its personnel complied with applicable professional standards and regulatory requirements.

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16 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

17 *See* QC 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

18 QC § 20.02.

19 QC § 20.03.

i. The Firm's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Independence

25. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that "personnel maintain independence (in fact and in appearance) in all required circumstances."[20]

26. At all relevant times, the Firm failed to maintain effective policies and procedures to provide it with reasonable assurance that personnel would maintain their independence. While the Firm required engagement team members to sign independence confirmations in connection with issuer audits, these confirmations did not specifically address the independence of engagement team members with respect to an issuer and its affiliates in accordance with PCAOB and SEC independence requirements.

27. Accordingly, the Firm violated QC § 20.09.

ii. The Firm's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Assembly of Audit Documentation for Retention

28. A firm's quality control policies and procedures should also address the documentation of each engagement in accordance with applicable professional standards.[21] One of these standards is AS 1215, *Audit Documentation*, which provides that "[t]he auditor must prepare audit documentation in connection with each engagement conducted pursuant to the standards of the PCAOB."[22] "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[23]

29. At all relevant times, the Firm failed to maintain effective policies and procedures to provide it with reasonable assurance that it would comply with AS 1215's requirements regarding audit documentation. Rather, the Firm had a policy requiring that audit documentation be assembled for retention not more than *60 days* after the report release date, which was inconsistent with AS 1215's 45-day requirement.

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20 QC § 20.09.

21 QC §§ 20.03, .17, .18.

22 AS 1215.04.

23 AS 1215.15.

30. Accordingly, the Firm violated QC §§ 20.17 and .18.

IV.

31. SW Audit has represented to the Board that it has established and implemented the following changes to its policies and procedures for the purpose of providing it with reasonable assurance of compliance with PCAOB and SEC independence requirements, PCAOB standards for communications with audit committees, and PCAOB standards for timely retention of audit documentation:

a. SW Audit implemented templates for group audit engagements to facilitate pre-approval of services from issuer audit committees;

b. SW Audit implemented engagement letter templates for issuer audit engagements that omit any indemnification clause;

c. SW Audit revised its independence confirmations for issuer audit engagements to include individuals' independence pursuant to PCAOB and SEC requirements;

d. SW Audit required relevant personnel to complete training concerning, *inter alia*, PCAOB and SEC independence requirements, documentation assembly and retention requirements, and required audit committee communications; and

e. SW Audit engaged an external quality advisor and hired an audit technical director to improve the Firm's system of quality control.

V.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $60,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required to comply with its revised policies and procedures, including those intended to provide reasonable assurance that Firm personnel (1) comply with PCAOB and SEC independence requirements; (2) communicate to the audit committee required information; and (3) prepare, assemble, and retain audit documentation in connection with each engagement conducted pursuant to the standards of the PCAOB.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 20, 2024

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of WithumSmith+Brown, PC,

Respondent.

PCAOB Release No. 105-2024-010

February 20, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring WithumSmith+Brown, PC ("Withum," "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $2 million on the Firm;

(3) requiring Withum to engage an independent consultant who will review and make recommendations concerning Withum's quality control policies and procedures;

(4) requiring Withum to implement all recommendations of the independent consultant; and

(5) requiring Withum to conduct certain training for all audit staff.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and quality control standards by failing to take sufficient steps to ensure that its system of quality control provided reasonable assurance that: (1) the Firm would comply with the requirements regarding the acceptance of issuer clients and engagements, and (2) its personnel would comply with applicable professional standards and regulatory requirements.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent

pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **WithumSmith+Brown, PC** is a professional corporation headquartered in Princeton, New Jersey. Withum is licensed by the New Jersey State Board of Accountancy (License No. 20CB00149600) and several other states. Withum is, and at all relevant times was, registered with the PCAOB, pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns the Firm's failure to comply with PCAOB rules and quality control standards during the time period from January 2020 through April 2022. The Firm's system of quality control failed to provide reasonable assurance that the Firm would: (a) undertake only those issuer engagements that the Firm could reasonably expect to be completed with professional competence and appropriately consider the risks associated with

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

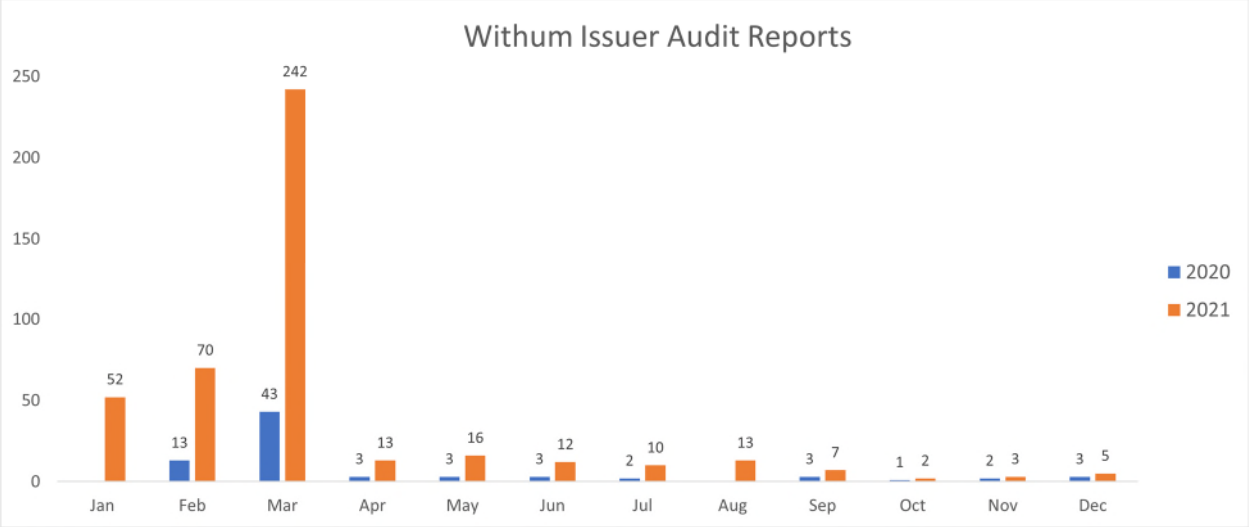
[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

providing professional services in the particular circumstances; (b) ensure that partner workloads were manageable to allow sufficient time for engagement partners to discharge their responsibilities with professional competence and due care; (c) ensure that personnel were consulting with individuals within or outside the Firm, when appropriate, when dealing with complex issues; (d) perform sufficient procedures to test estimates, including sufficiently evaluating the reasonableness of certain significant assumptions underlying the estimate; (e) make all required communications to issuer audit committees; (f) perform sufficient procedures to determine whether certain matters were critical audit matters ("CAMs"); (g) perform sufficient procedures to test journal entries; and (h) timely file Form APs.

C. Background

3. From January 2020 through December 2021, Withum accepted a substantial number of issuer audit clients, including hundreds of special purpose acquisition companies ("SPACs"), resulting in a significant increase in its issuer audit practice. The Firm added 273 new issuer clients in 2020 and another 157 new issuer clients in 2021. A substantial portion of these client additions occurred during the six months from September 2020 to February 2021, with the largest monthly increase of 98 new issuer clients occurring in December 2020.

4. During 2021, there was a corresponding spike in issuer audit reports Withum issued in comparison with the prior year. Overall, in 2021, Withum issued 445 issuer audit reports, an increase of 369 (or 486%) over the 76 audit reports issued in 2020, as shown in the below chart.



5. Despite the 486% increase in issuer audit reports issued in 2021, the number of engagement partners responsible for these issuer audit reports increased from 15 in 2020 to

only 23 in 2021, an increase of 8 (or 53%). This relatively small increase in engagement partners, when compared to the corresponding increase in issuer audits, led to a large number of issuer engagements being assigned to certain partners. For example, during 2021, there were five engagement partners who were each responsible for 40 or more issuer audits. In fact, these five engagement partners issued 275 audit reports constituting 62% of Withum's total issuer audit reports in 2021. This led to significant workloads for these partners.

6. As shown in the chart below, during Withum's 2021 busy season, from January through March 2021, the average billable utilization for the group of five engagement partners responsible for 40 or more issuer audits was 141%, 148%, and 178%, for each month, respectively.[3] In addition to the billable hours worked, these five partners also averaged 15 hours per week on non-billable work over the same period, which further added to the workload for these partners.[4] Engagement Partner 1, who had the highest number of assigned issuer audits, also had the highest monthly utilization during the period of 220% in March 2021. Moreover, for two weeks during March 2021, Engagement Partner 1 was working approximately 100 hours per week.

Utilization Summary

Engagement Partner	Number of audit reports issued in 2021	Utilization - January 2021 (%)	Utilization - February 2021 (%)	Utilization - March 2021 (%)
Engagement Partner 1	73	184%	165%	220%
Engagement Partner 2	62	138%	154%	197%
Engagement Partner 3	52	132%	162%	168%
Engagement Partner 4	44	137%	153%	155%
Engagement Partner 5	44	114%	104%	150%
Average	55	141%	148%	178%

[3] Utilization rate measures workload and productivity, and the rate is calculated by dividing client billable hours worked in the period by the number of available work hours for the partners in the period based on a forty-hour work week.

[4] Non-billable work included, among other things, time spent on business development, proposals, client acceptance, and practice management.

D. The Firm Violated PCAOB Rules and Quality Control Standards

7. PCAOB rules require a registered public accounting firm and its associated persons to comply with PCAOB quality control standards.[5] These standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice.[6] A firm's system of quality control provides a critical foundation and infrastructure for a firm's audit quality, as it should "ensure that services are competently delivered and adequately supervised."[7] "A system of quality control is broadly defined as a process to provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality."[8]

8. As described below, Withum failed to establish policies and procedures sufficient to provide reasonable assurance that its personnel complied with applicable professional standards and regulatory requirements.

i. Withum's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Acceptance of Issuer Clients and Partner Workload

9. PCAOB quality control standards require that a registered public accounting firm establish quality control policies and procedures for deciding whether to accept or continue a client relationship and whether to perform a specific engagement for that client.[9] Such policies and procedures should provide reasonable assurance that the firm undertakes only those engagements that the firm can reasonably expect to be completed with professional competence, and appropriately considers the risks associated with providing professional services in the particular circumstances.[10] In addition, policies and procedures should be

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5 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

6 *See* Quality Control Standard 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20").

7 QC § 20.02.

8 QC § 20.03.

9 QC § 20.14.

10 QC § 20.15.

established to provide the firm with reasonable assurance that work is assigned to personnel having the degree of proficiency required under the circumstances.[11]

10. In accepting hundreds of new SPAC issuer clients, Withum failed to properly consider whether it could complete the new engagements with professional competence, given the competing time demands on the Firm's partners assigned to lead and execute the audits and perform the engagement quality reviews for all of its issuer clients. Withum also failed to timely implement sufficient policies and procedures as to client acceptance to manage the large influx of new SPAC audit clients.

11. The Firm, therefore, violated QC § 20 by failing to have adequate policies and procedures related to: (a) client acceptance and continuance sufficient to provide reasonable assurance that it undertook only those engagements that it could reasonably expect to be completed with professional competence; (b) appropriately considering the risks associated with providing professional services in particular circumstances; and (c) assigning work to personnel having the requisite proficiency required in the circumstances, specifically taking into consideration competing time demands on the Firm's personnel when assigning individuals to lead issuer audits. These failures resulted in, or contributed to, the Firm's acceptance of hundreds of new issuer audit clients without appropriate processes in place for determining whether it had sufficient capacity to accept such clients and ensuring that partner workloads were manageable so that engagement partners and engagement quality reviewers could discharge their responsibilities with professional competence.[12]

ii. Withum's System of Quality Control Failed to Provide Reasonable Assurance that Personnel Would Consult With Others When Dealing with Complex Issues

12. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that the work performed by engagement personnel complies with applicable professional standards and regulatory requirements.[13]

13. A registered public accounting firm should also establish quality control policies and procedures to provide reasonable assurance that personnel refer to authoritative literature

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11 QC § 20.13.

12 QC §§ 20.13-.15.

13 QC §§ 20.03, .17.

or other sources and consult, on a timely basis, with individuals within or outside the firm, when appropriate (for example, when dealing with complex, unusual, or unfamiliar issues).[14]

14. During the relevant time period, 143 of Withum's SPAC and former SPAC audit clients restated their financial statements for incorrect accounting related to the classification of warrants in accordance with ASC Topic 815, *Derivatives and Hedging*, and the classification of redeemable shares in accordance with ASC Topic 480, *Distinguishing Liabilities from Equity*. Although the Firm's policies required a consultation for "complex debt and equity transactions," "restatement issues," or "complex SEC issues," Withum's engagement teams did not consult with individuals within or outside the Firm in connection with the audits of most SPAC restatements.

15. Similarly, the Firm's policies required a consultation for "Mergers / acquisitions and business combinations," yet Withum's engagement teams did not consult with individuals within or outside the Firm for most audits involving business combinations during the relevant period.

16. As a result, the Firm violated QC § 20 by failing to establish policies and procedures sufficient to provide it with reasonable assurance that Firm personnel consulted with individuals within or outside the Firm, when appropriate.

iii. Withum's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Testing Estimates

17. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that the work performed by engagement personnel complies with applicable professional standards and regulatory requirements.[15] AS 2501, *Auditing Accounting Estimates, Including Fair Value Measurements*, establishes requirements for auditing accounting estimates in significant accounts and disclosures in financial statements, including that an auditor "identify which of the assumptions used by the company are significant assumptions to the accounting estimate, that is, the assumptions that are important to the recognition or measurement of the accounting estimate in the financial statements."[16] AS 2501 further states that an "auditor should evaluate the reasonableness of the significant assumptions used by the company to develop the [accounting] estimate, both

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14 QC § 20.19.

15 QC §§ 20.03, .17.

16 AS 2501.15.

individually and in combination."[17] That includes evaluating whether "[t]he company has a reasonable basis for the significant assumptions used and, when applicable, for its selection of assumptions from a range of potential assumptions," and that the significant assumptions are consistent with "relevant industry, regulatory, and other external factors."[18] Moreover, when a significant assumption is based on a company's intent and ability to carry out a particular course of action, the auditor should take into account certain relevant factors in evaluating the reasonableness of the assumption.[19]

18. When a specialist employed or engaged by the company assists the company in developing an accounting estimate, the auditor should follow the requirements in Appendix A of AS 1105, *Audit Evidence*, when using the work of a company's specialist as audit evidence.[20] AS 1105 states that an auditor should test the accuracy and completeness of company-produced data used by the specialist and evaluate the relevance and reliability of data from sources external to the company that are used by the specialist, evaluate whether the significant assumptions used by the specialist are reasonable, and evaluate whether the methods used by the specialist are appropriate under the circumstances, taking into account the requirements of the applicable financial reporting framework.[21]

19. When the engagement team uses an auditor-employed specialist, AS 1201, *Supervision of the Audit Engagement*, states that the engagement partner and, as applicable, other engagement team members performing supervisory activities should "evaluate whether the specialist's work provides sufficient appropriate evidence."[22]

20. In connection with certain audits performed during the relevant period, Withum failed to test accounting estimates in accordance with these PCAOB standards. For example, in connection with the audits of several of the SPAC restatements noted above, Withum failed to perform sufficient procedures to test the valuation of the restated warrant liabilities. During these audits, Withum failed to sufficiently evaluate the reasonableness of certain significant assumptions used by the company or the company's specialist in determining an estimate of the fair value of the warrant liability and, in instances where Withum used an auditor-employed

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17 *Id.* at .16.

18 *Id.*

19 *Id.* at .17.

20 *Id.* at .19.

21 AS 1105.A8.

22 AS 1201.C6.

specialist, failed to identify that the auditor-employed specialist's work did not provide sufficient appropriate evidence.

21. In addition, during several audits involving business combinations, Withum failed to sufficiently evaluate the reasonableness of certain significant assumptions used by the company and/or the company's specialist in determining an estimate of the fair value of certain acquired assets. In another audit, Withum failed to sufficiently evaluate the reasonableness of company-prepared revenue forecasts that were used by the company's specialist in a cash-flow model to estimate the fair value of intangible assets in connection with its impairment analysis.

22. These failures illustrate that Withum violated QC § 20 by failing to establish policies and procedures sufficient to provide it with reasonable assurance that the work performed by Firm personnel with respect to testing accounting estimates met the requirements of AS 1105, AS 1201, and AS 2501.

iv. Withum's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Audit Committee Communications

23. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that the work performed by engagement personnel complies with applicable professional standards and regulatory requirements.[23] AS 1301, *Communications with Audit Committees*, requires an auditor to communicate with a company's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[24] AS 1301 states that each auditor, as part of communicating the overall audit strategy, should communicate to the audit committee the names, locations, and planned responsibilities of other independent public accounting firms or other persons, who were not employed by the auditor, that performed audit procedures in the current period audit.[25]

24. In order to manage the increased workload from the significant increase in SPAC audit clients, from January 1, 2021, through April 30, 2022, Withum engaged individuals from Staffing Accountants LLC d/b/a SAPRO to perform audit procedures on approximately 477 audits. For 471 of those audits, Withum failed to communicate the names, locations, and planned responsibilities of these individuals or SAPRO to the respective audit committees.

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23 QC §§ 20.03, .17.

24 AS 1301.01.

25 AS 1301.10d.

25. In addition, to assist with completing the large number of SPAC restatements in 2021, from January 1, 2021, through June 30, 2021, Withum engaged specialists, who were not employed by Withum, to perform audit procedures on approximately 38 audits. For 27 of those audits, Withum failed to communicate the names, locations, and planned responsibilities of these specialists to the respective audit committees.

26. These failures illustrate that Withum violated QC § 20 by failing to establish policies and procedures sufficient to provide it with reasonable assurance that it would comply with AS 1301.

v. Withum's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Determining Critical Audit Matters

27. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that the work performed by engagement personnel complies with applicable professional standards and regulatory requirements.[26] AS 3101, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*, "establishes requirements regarding the content of the auditor's written report when the auditor expresses an unqualified opinion on the financial statements."[27] Among other things, "[t]he auditor must determine whether there are any critical audit matters in the audit of the current period's financial statements."[28] A CAM is "any matter arising from the audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved especially challenging, subjective, or complex auditor judgment."[29] The requirement to evaluate CAMs took effect for audits of large accelerated filers for fiscal years ending on or after June 30, 2019, and on or after December 15, 2020, for audits of all other required companies.

28. In developing its audit programs for the evaluation of CAMs, Withum failed to develop sufficient guidance to reasonably assure that engagement teams properly evaluated the complete population of potential CAMs.[30] As a result, Withum failed to properly evaluate in

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[26] QC §§ 20.03, .17.

[27] AS 3101.01.

[28] AS 3101.11.

[29] *Id.*

[30] Prior to October 2021, Withum lacked any practice aid or work program to document CAM identification and evaluation procedures.

certain issuer audits whether one or more matters were CAMs. Although such matters were required to be communicated to audit committees under AS 1301, and related to accounts or disclosures that were material to the financial statements, Withum failed to properly evaluate whether the matters involved especially challenging, subjective, or complex auditor judgment.

29. Withum therefore violated QC § 20 by failing to establish policies and procedures sufficient to provide the Firm with reasonable assurance that it would comply with AS 3101.

vi. Withum's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Journal Entry Testing

30. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that the work performed by engagement personnel complies with applicable professional standards and regulatory requirements.[31] AS 2401, *Consideration of Fraud in a Financial Statement Audit*, specifies that "[m]aterial misstatements of financial statements due to fraud often involve the manipulation of the financial reporting process by (a) recording inappropriate or unauthorized journal entries throughout the year or at period end, or (b) making adjustments to amounts reported in the financial statements that are not reflected in formal journal entries[.]"[32] Accordingly, auditors are instructed to "[i]dentify and select journal entries and other adjustments for testing."[33] Among other things, "even though controls [over the preparation and posting of journal entries and adjustments] might be implemented and operating effectively, the auditor's substantive procedures for testing journal entries and other adjustments should include the identification and substantive testing of specific items."[34] "[T]he auditor's procedures should include selecting from the general ledger journal entries to be tested and examining support for those items."[35]

31. AS 2401 also specifies that "management is in a unique position to perpetuate fraud because of its ability to directly or indirectly manipulate accounting records and prepare fraudulent financial statements by overriding established controls . . . ."[36] Accordingly, auditors

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31 QC §§ 20.03, .17.

32 AS 2401.58.

33 *Id.*

34 *Id.* at .61.

35 *Id.*

36 *Id.* at .57.

should perform procedures to specifically address the risk of management override of controls.[37]

32. In certain audits during the relevant period, Withum failed to perform sufficient procedures to test journal entries in accordance with AS 2401. Specifically, in response to an identified fraud risk concerning management override of controls, Firm personnel determined risk characteristics for selecting journal entries and obtained a listing of all journal entries that met the risk characteristics. However, Firm personnel did not perform sufficient procedures to test those journal entries because the engagement teams examined the underlying support for only certain journal entries from the listing of entries that met the established risk characteristics, without having an appropriate rationale for limiting testing to only those journal entries.

33. For example, during one audit, Firm personnel identified thousands of journal entries that met their established risk characteristics. However, the engagement team examined the underlying support for only three of the journal entries, without having an appropriate rationale for limiting its testing to those journal entries. In another audit, Firm personnel did not examine the underlying support for any of the journal entries that met the engagement team's established risk characteristics and instead limited their procedures to evaluating journal entry descriptions and/or relying on its understanding of the journal entries obtained from other audit procedures.

34. These failures illustrate that Withum violated QC § 20 by failing to establish policies and procedures sufficient to provide it with reasonable assurance that the work performed by Firm personnel with respect to testing journal entries met the requirements of AS 2401.

vii. Withum's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Auditor Reporting of Certain Audit Participants

35. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that the work performed by engagement personnel complies with applicable professional standards and regulatory requirements.[38] PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*, requires registered public accounting firms to report information about engagement partners and other accounting firms that participated in the audits of issuers by filing a Form AP for each audit report issued by the

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37 *Id.*

38 QC §§ 20.03, .17.

firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission ("Commission"),[39] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement under the Securities Act of 1933 filed with the Commission.[40]

36. Due to the sizable increase in issuer clients in late 2020 and early 2021, and the expected increase in the number of audit reports that would be issued in that period, Withum's policies and procedures related to Form AP were insufficient to manage the increased volume of Form AP reporting obligations.

37. From January 1, 2021, through December 31, 2021, the Firm failed to timely file Form APs with respect to 64 audit reports for 56 issuers.

38. These failures illustrate that the Firm violated QC § 20 by failing to maintain effective policies and procedures to provide it with reasonable assurance that it would comply with the requirements of PCAOB Rule 3211.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $2 million on Withum.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by

[39] PCAOB Rule 3211(b)(1).

[40] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. PCAOB Rule 3211(b)(2).

PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Sections 105(c)(4)(C) and (G) of the Act and PCAOB Rules 5300(a)(3), (8) and (9), the Board orders that:

1. Self-Assessment

    a. Withum shall undertake a self-assessment of its system of quality control, including its Quality Control Manual, to ensure its current policies and procedures are compliant with PCAOB quality control standards.

2. Independent Consultant

    a. Withum shall retain and pay for an independent consultant not unacceptable to the PCAOB staff who has the experience with, and is knowledgeable concerning, PCAOB quality control and auditing standards ("Independent Consultant") to review Withum's system of quality control applicable to audits and reviews conducted pursuant to PCAOB standards. Within thirty days after the entry of this Order, Withum shall submit to the PCAOB staff a proposal setting forth the identity, qualifications, and proposed terms of retention of the Independent Consultant.

    b. To ensure the independence of the Independent Consultant, Withum: (i) shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the PCAOB staff; and (ii) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

    c. Withum shall cooperate fully with the Independent Consultant and shall provide reasonable access to its personnel, information, and records as the Independent Consultant may reasonably request for the Independent Consultant's review, evaluation, and reports.

    d. If Withum, despite its best, good faith efforts, is unable to identify an Independent Consultant candidate that meets all of the above-listed criteria, it may seek approval from the PCAOB staff of alternative candidates or alternative terms that Withum believes to be otherwise suitable.

e. Within 90 days of this Order, Withum will review, evaluate, and implement, under the supervision of the Independent Consultant, any necessary enhancements to Withum's quality control policies and procedures applicable to audits and reviews conducted pursuant to PCAOB standards. If, as a result of that review and evaluation, it appears to the Independent Consultant that any further enhancements to the system of quality control are necessary, the Independent Consultant shall recommend such enhancements to Withum.

f. Within 180 days of this Order, Withum shall (i) implement any recommendations received from the Independent Consultant, pursuant to Section IV.C.2.e, and (ii) require the Independent Consultant to review a sample of the Firm's most recent issuer audits for compliance with PCAOB auditing standards.

3. Firm Certification

a. Within 270 days of the date of this Order, Withum shall certify in writing to the Director of the Division of Enforcement and Investigations, PCAOB, 1666 K Street N.W., Washington, DC 20006, the Firm's compliance with the above paragraphs ("Final Certification"). The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The certification shall include a description of the specific enhancements implemented to Withum's system of quality control since the time of the conduct described in this Order. If Withum does not implement recommendations received from the Independent Consultant pursuant to Section IV.C.2.e, the certification shall identify the recommendations of the Independent Consultant Withum did not implement and explain the reasons for not doing so. Withum shall also submit additional information as the staff of the Division of Enforcement and Investigations may reasonably request.

b. For good cause shown, the PCAOB staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Withum is required, as of the date of the Final Certification, to have conducted training related to changes to the Firm's policies and procedures that resulted from the review of Withum's quality control policies and procedures conducted by Withum or the Independent Consultant pursuant to Section IV.C.2.e-.f

E. The Firm understands that the failure to satisfy these undertakings and conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 20, 2024

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Gries & Associates, LLC, and Blaze Gries, CPA,

Respondents.

PCAOB Release No. 105-2024-011

March 5, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) Censuring Gries & Associates, LLC (the "Firm"), and Blaze Gries, CPA ("Gries") (collectively, "Respondents");

(2) Revoking the Firm's registration;[1]

(3) Barring Gries from being an associated person of a registered public accounting firm;[2]

(4) Imposing a civil money penalty in the amount of $65,000 jointly and severally upon the Firm and Gries; and

(5) Before reassociating with a registered public accounting firm, requiring that Gries complete twenty-four hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license.

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[1] The Firm may reapply for registration after one year from the date of this Order.

[2] Gries may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

The Board is imposing these sanctions on the basis of its findings that Respondents violated PCAOB rules and standards in connection with the Firm's audit of the fiscal year 2021 financial statements of Tingo, Inc. (the "Audit").

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **Gries & Associates, LLC,** a Colorado limited liability company, is a public accounting firm headquartered in Denver, Colorado, and is registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm's license with the Colorado Division of

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

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

Professions and Occupations (license no. FRM.5000533) expired on August 31, 2023. The Firm served as the auditor of Tingo, Inc. for fiscal years 2021 and 2022.

2. **Blaze Gries** was, at all relevant times, a certified public accountant licensed by the state of Colorado (license no. CPA.9035290). He is the sole partner and owner of the Firm, and an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). He served as the engagement partner for the Audit.

B. Relevant Entity

3. **Tingo, Inc. ("Tingo")** was, at all relevant times, a Nevada corporation with principal executive offices in New York, New York. The company's filings described it as an agri-fintech company offering a platform service through the use of smartphones – "device as a service" – to facilitate a marketplace where subscribers/farmers within and outside of the agricultural sector can sell their crops to market participants. Tingo disclosed that, in 2021, its operations in Nigeria generated the substantial majority of the company's revenue. At all relevant times, Tingo's common stock was registered under Section 12(g) of the Securities Exchange Act of 1934. At all relevant times, Tingo was an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Effective May 2023, Tingo changed its name to Agri-Fintech Holdings, Inc.

C. Summary

4. This matter concerns Respondents' violations of PCAOB rules and auditing standards in connection with the Firm's Audit of the financial statements of Tingo for fiscal year ended December 31, 2021. *First*, Respondents failed to perform procedures to evaluate the basis of accounting for the business combination that resulted in Tingo. In 2021, Tingo Mobile, PLC ("Tingo Mobile") merged with a company called IWEB, Inc. ("IWEB"), which changed its name to Tingo, Inc. (*i.e.*, "Tingo") as part of the transaction. Tingo's public filings disclose that it accounted for the transaction as an acquisition, as opposed to a reverse acquisition, identifying itself as the acquiring company and Tingo Mobile as the acquired company. Under this basis of accounting, Tingo reported approximately $3.6 billion of goodwill. Four months after the release of Respondents' Audit report, Tingo restated its 2021 financial statements to reflect a reverse acquisition, resulting in removal of the roughly $3.6 billion of goodwill from the company's previously reported total assets of $6.5 billion, a 56% reduction in assets. Respondents failed to evaluate the basis of accounting for the merger, and also failed to resolve several red flags indicating that the transaction should have been accounted for as a reverse acquisition.

5. *Second*, during the Audit, Respondents failed to obtain sufficient appropriate audit evidence with respect to Tingo's accounting for its issuance of Tingo stock as compensation. Tingo's Form 10-K for the year ended December 31, 2021, filed with the Securities and Exchange Commission ("SEC" or "Commission") on March 31, 2022 (the "Tingo Form 10-K") disclosed that: the company issued stock compensation awards to company insiders and consultants; the majority of the awards vested over a two-year period; and Tingo accounted for share-based compensation under the fair value method, which calls for the compensation expense to be amortized over the course of the award's vesting period. Despite these public disclosures, Tingo's Form 10-K also stated that the company issued $220 million in stock compensation in 2021 and reported this entire amount as an expense in fiscal year 2021, without amortizing any of the expense over the two-year vesting period. Respondents failed to obtain sufficient appropriate audit evidence supporting this reported expense, and they also failed to resolve red flags indicating that a material portion of the expense should have been amortized over two years. Eight months after the release of Respondents' Audit report, Tingo again restated its 2021 financial statements, which included the deferral of $66 million in stock compensation expense from 2021 to future years.

6. *Third*, the Firm failed to timely file Form APs, *Auditor Reporting of Certain Audit Participants*, due in 2022 for ten audit reports associated with eight issuer audit clients, one of which was Tingo.

7. As detailed below, Respondents violated PCAOB rules and standards, including standards requiring them to exercise due professional care and professional skepticism and to obtain sufficient appropriate audit evidence to support the Firm's audit report containing an unqualified opinion on Tingo's 2021 financial statements.

D. Background

8. IWEB's Form 10-Q for the second quarter of 2021, filed with the Commission on August 23, 2021, disclosed that, as of June 30, 2021, the company's total assets were $6,121, revenue was $0, and total stockholder's equity was negative $207,915. The Form 10-Q also disclosed that, on July 29, 2021, IWEB entered into an agreement to acquire Tingo Mobile, a Nigerian telecommunications company, and to change IWEB's name to Tingo, Inc. prior to closing the agreement.

9. In the Tingo Form 10-K, Tingo disclosed that it had acquired Tingo Mobile in a share exchange with Tingo Mobile's sole shareholder effective August 15, 2021 (the "Acquisition"). The combined entity reported that, as of December 31, 2021, its total assets were $6.5 billion, revenue was $651 million, and total stockholder's equity was $4.4 billion. Tingo also reported that it had approximately 9.3 million subscribers using its mobile phones and payment platform.

10. By July 22, 2022, Tingo had restated its 2021 financial statements, correcting its accounting treatment to reflect the Acquisition as a reverse acquisition of Tingo by Tingo Mobile, instead of as a forward acquisition of Tingo Mobile by Tingo, as was previously presented in Tingo's original Form 10-K for 2021.

11. At the time of the Audit, U.S. Generally Accepted Accounting Principles ("GAAP") provided that one of the combining entities in a business combination transaction must be identified as the acquirer, defined as the entity that obtains control over the acquiree.[5] GAAP also provided that, in a business combination effected primarily through a share exchange (like the Acquisition), various facts should be considered when identifying the acquirer for accounting purposes. These facts include (a) the acquirer usually is the combining entity whose owners as a group retain or receive the largest portion of the voting rights in the combined entity; (b) the acquirer usually is the combining entity whose former management dominates the management of the combined entity; and (c) the acquirer usually is the combining entity whose relative size (measured in, for example, assets or revenues) is significantly larger than that of the other combining entity.[6] Generally, the combined entity's financial reporting should reflect the accounting from the perspective of the acquirer.[7]

12. In Tingo's case, its initial 2021 Form 10-K reflected the accounting from the perspective of Tingo (as the purported acquirer), reporting that the Acquisition resulted in $3.6 billion in goodwill for Tingo. However, a Form 10-K/A filed by Tingo with the Commission on July 22, 2022, corrected the company's accounting to reflect it from the perspective of Tingo Mobile (as the true acquirer), resulting in, among other things, the $3.6 billion in goodwill being removed from Tingo's balance sheet. Total assets were reduced by 56% as a result of the corrections made to goodwill in the amended Form 10-K/A filing.

E. Respondents Violated PCAOB Rules and Auditing Standards During the Audit

i. Relevant PCAOB Auditing Standards

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

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5 *See* ASC 805-10-25-4, *Business Combinations*.

6 *See* ASC 805-10-55-12 & -13.

7 An exception is that, in a reverse acquisition, capital will be retroactively adjusted to reflect the capital of the acquiree. *See* ASC 805-40-45-1.

PCAOB's auditing and related professional standards.[8] An auditor is in a position to express an unqualified opinion on an issuer's financial statements when the auditor has conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[9]

14. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit and in the preparation of the report.[10] Due professional care requires that the auditor exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[11] Professional skepticism requires "an ongoing questioning of whether the information and evidence obtained suggests that a material misstatement due to fraud has occurred."[12]

15. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report, including obtaining reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud.[13]

16. When identifying and assessing the risks of material misstatement, the auditor should obtain an understanding of the company's selection and application of accounting principles, including related disclosures.[14] As part of obtaining this understanding, the auditor should evaluate whether the company's selection and application of accounting principles are

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[8] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the Audit.

[9] *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*; *see also* AS 2810.30-.31, *Evaluating Audit Results* (requiring auditors to evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework, including whether the financial statements contain the information essential for a fair presentation).

[10] *See* AS 1015.01, *Due Professional Care in the Performance of Work*.

[11] *See id*. at .07; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 2401.13, *Consideration of Fraud in a Financial Statement Audit*.

[12] AS 2401.13.

[13] *See* AS 1105.04, *Audit Evidence*; AS 2401.12; AS 2810.02.

[14] AS 2110.07(c), *Identifying and Assessing Risks of Material Misstatement*.

appropriate for its business and consistent with the applicable financial reporting framework and accounting principles used in the relevant industry.[15]

17. When the auditor evaluates results of the audit, he or she must conclude on whether sufficient appropriate audit evidence has been obtained to support his or her opinion on the financial statements.[16] To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based.[17]

18. PCAOB standards provide that management representations "are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit."[18] Inquiry of company personnel, by itself, does not provide sufficient audit evidence to reduce audit risk to an appropriately low level for a relevant assertion.[19]

19. If audit evidence obtained from one source is inconsistent with that obtained from another, or if the auditor has doubts about the reliability of information to be used as audit evidence, the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit.[20] Similarly, if a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made.[21] Based on the circumstances, the auditor should consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified.[22] If the auditor has not obtained sufficient appropriate audit evidence about a relevant assertion or has substantial doubt about a relevant assertion, the auditor should perform procedures to obtain further audit evidence to address the matter.[23]

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15 AS 2110.12.

16 AS 2810.33.

17 AS 1105.06.

18 AS 2805.02, *Management Representations*.

19 *See* AS 1105.17, Note; *see also* AS 2301.39.

20 *See* AS 1105.29.

21 *See* AS 2805.04.

22 *Id.*

23 AS 2810.35.

20. As described below, Respondents violated these and other standards in performing the Audit.

ii. Respondents Failed to Evaluate the Basis of Accounting for the Acquisition

21. During the Audit, Respondents violated PCAOB standards by failing to perform any audit procedures to determine the appropriate basis of accounting for the Acquisition. Specifically, Respondents failed to perform any procedures to evaluate Tingo's determination that it was the acquirer for accounting purposes and should have accounted for the Acquisition as an acquisition, rather than as a reverse acquisition.

22. Respondents failed to perform such procedures despite being aware during the Audit of multiple red flags indicating that the Acquisition was actually a reverse acquisition, which would make Tingo Mobile the acquirer for accounting purposes. *First*, Respondents were aware that Tingo, Inc. (formerly IWEB) filed a Form 8-K/A with the Commission dated September 13, 2021, that stated the Acquisition was a "reverse merger."

23. *Second*, Respondents were aware of a December 2021 slide deck that Tingo management presented to investors, which mentioned the August 2021 "reverse merger."

24. *Third*, Respondents received two March 2022 emails in which the Tingo CFO stated that the Acquisition was a "reverse acquisition."

25. *Fourth*, Respondents were aware that eight out of Tingo's 10 directors were appointed by Tingo Mobile, and that the Acquisition agreement provided that the existing CEO, CFO, and Secretary of Tingo Mobile would hold the same positions in Tingo after the Acquisition. These circumstances signaled that Tingo Mobile's former management would dominate the management of the combined entity, Tingo, and were indicative of Tingo Mobile being the acquirer in the Acquisition.[24]

26. *Fifth*, Respondents were aware that, out of Tingo's total 1,250 million class A shares, the former Tingo Mobile shareholders would receive 928 million class A shares (74%), providing them the largest portion of voting rights in Tingo. Again, this was indicative of Tingo Mobile being the acquirer in the Acquisition.[25]

27. *Sixth*, Respondents knew, or should have known, that Tingo Mobile's total assets, revenue, and stockholder's equity were significantly larger than that of IWEB/Tingo

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24 *See* ASC 805-10-55-12.

25 *Id*.

before the Acquisition, which was indicative of Tingo Mobile being the likely acquirer in the Acquisition.[26]

28. Instead of performing procedures to evaluate Tingo management's identification of Tingo as the accounting acquirer, Respondents assumed that Tingo was required to record goodwill under acquisition accounting, rather than as a reverse acquisition, and simply checked the math on Tingo's goodwill calculation for reasonableness. Respondents failed to evaluate management's selection and application of the requisite GAAP to determine if the substance of the transaction dictated that it should be recorded as a reverse acquisition.

29. As a result, Respondents' failure to evaluate whether Tingo's accounting for the acquisition was presented fairly, in all material respects, in conformity with U.S. GAAP and to perform sufficient procedures and respond appropriately to resolve the multiple instances of evidence inconsistent with their audit conclusions about the Acquisition constituted violations of PCAOB rules and standards, including AS 1015, AS 1105, AS 2110, AS 2301, AS 2805, and AS 2810.

iii. Respondents Failed to Obtain Sufficient Appropriate Audit Evidence Supporting Tingo's Stock Compensation Expense

30. During the Audit, Respondents also failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for their audit conclusion that Tingo properly accounted for the $220 million in stock compensation it awarded in 2021. Specifically, Respondents failed to obtain sufficient appropriate evidence that Tingo actually issued the stock compensation awards. Respondents simply inquired of management about the vesting period of the issued stock, without obtaining other audit evidence to support those management representations that the vesting period was just one year. Respondents received summary documents from Tingo management about the stock awards, such as a list of the stock that was issued, but these documents did not disclose the vesting period. When Respondents asked Tingo management to provide signed stock award contracts, and management said they were not finalized, Respondents failed to follow up to obtain signed contracts or other sufficient appropriate evidence of a binding agreement and related vesting period before issuing the Audit report in late March.

31. Despite being aware during the Audit of red flags warning that the vesting period for at least some of the stock was greater than one year, which would require Tingo to amortize the expense beyond 2021, Respondents failed to perform sufficient procedures. *First*, Respondents were aware during the Audit that Tingo management planned to disclose in the Form 10-K that the majority of the awards vested over a two-year period, and that, "as

[26] *See* ASC 805-10-55-13.

prescribed by ASC 718, *Compensation—Stock Compensation*, . . . we amortize the fair value of the awards as share-based compensation expense over the requisite service period, which is generally the vesting term."

32. *Second*, although Tingo's Board of Directors had approved the stock awards in October 2021, and the stock purportedly was awarded by December 31, 2021, management told Respondents in mid-March 2022 that it could not provide Respondents the signed stock award contracts because they had not been finalized. This significant delay in memorializing the transactions should have caused Respondents to exercise heightened skepticism and pursue further evidence of the vesting terms of the stock awards, but they failed to do so.

33. Respondents' failure to obtain sufficient appropriate audit evidence, and to respond appropriately to resolve evidence inconsistent with their audit conclusions, concerning Tingo's stock compensation expense constituted violations of PCAOB rules and standards, including AS 1015, AS 1105, AS 2301, AS 2805, and AS 2810.

iv. The Firm Repeatedly Failed to Timely File Form APs in Violation of PCAOB Rule 3211

34. PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*, took effect for issuer audit reports issued on or after January 31, 2017, and provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the SEC,[27] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[28]

35. Specifically, the Firm audited the financial statements of eight clients in the following ten audits, but failed to timely file Form APs in connection with the related audit reports.[29] For Excellerant, Inc.'s 2021 financial statements, the Firm issued an audit report dated December 10, 2021, which was included in the issuer's Form 10-K filed with the SEC on

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[27] *See* PCAOB Rule 3211(b)(1).

[28] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* PCAOB Rule 3211(b)(2).

[29] At all relevant times, these audit clients were issuers as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

December 10, 2021. The Firm belatedly filed a Form AP for that audit report on November 2, 2023.

36. For 808 Renewable Energy Corp.'s 2021 financial statements, the Firm issued an audit report dated April 15, 2022, which was included in the issuer's Form 10-K filed with the SEC on April 15, 2022. The Firm belatedly filed a Form AP for that audit report on November 2, 2023.

37. For Industrial Technical Holdings Corp.'s 2021 financial statements, the Firm issued an audit report dated May 19, 2022, which was included in the issuer's Form 20-F filed with the SEC on May 23, 2022. The Firm belatedly filed a Form AP for that audit report on June 12, 2023.

38. The Firm audited the financial statements of Power Americas Resource Group Ltd. ("Power America")[30] as of and for the years ended May 31, 2018, 2019, and 2020. For Power America's 2018 financial statements, the Firm issued an audit report dated May 25, 2022, which was included in the issuer's Form 10-K filed with the SEC on July 29, 2022. The Firm belatedly filed a Form AP for that audit report on November 15, 2023. For Power America's 2019 financial statements, the Firm issued an audit report dated May 25, 2022, which was included in the issuer's Form 10-K filed with the SEC on May 26, 2022. The Firm belatedly filed a Form AP for that audit report on January 26, 2023. For Power America's 2020 financial statements, the Firm issued an audit report dated June 17, 2022, which was included in the issuer's Form 10-K filed with the SEC on June 21, 2022. The Firm belatedly filed a Form AP for that audit report on February 6, 2023.

39. For Alterola Biotech, Inc.'s 2022 financial statements, the Firm issued an audit report dated June 10, 2021,[31] which was included in the issuer's Form 10-K filed with the SEC on June 10, 2022. The Firm belatedly filed a Form AP for the audit report on February 6, 2023.

40. For Marquie Group, Inc.'s 2022 financial statements, the Firm issued an audit report dated June 28, 2022, which was included in the issuer's Form 10-K filed with the SEC on August 30, 2022. The Firm belatedly filed a Form AP for that audit report on November 2, 2023.

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[30] On March 16, 2022, Brisset Beer International, Inc. changed its name to Power Americas Resource Group Ltd. The Firm later filed the noted Form APs for this issuer under the name Brisset Beer International, Inc.

[31] The Firm mistakenly dated the audit report with the year 2021, rather than 2022. This error was corrected and disclosed in a Form 10-K/A filed by the issuer on September 14, 2022.

41. For Tingo, Inc.'s 2021 financial statements, the Firm issued an audit report dated July 18, 2022, which was included in the issuer's Form 10-K/A filed with the SEC on July 22, 2022. The Firm belatedly filed a Form AP for that audit report on November 2, 2023.

42. For Linktory Inc.'s 2022 financial statements, the Firm issued an audit report dated July 20, 2022, which was included in the issuer's Form 10-K filed with the SEC on July 22, 2022. The Firm belatedly filed a Form AP for that audit report on November 2, 2023.

43. The Firm failed to timely file Form APs for the above SEC filings by the 35th day after the date the audit reports were first included with the filings made with the SEC, in violation of PCAOB Rule 3211.

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Gries & Associates, LLC, and Blaze Gries, CPA, are hereby censured;

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Gries & Associates, LLC, is revoked.

C. Pursuant to PCAOB Rules 2101 and 5302(a), after one year from the date of this Order, Gries & Associates, LLC, may reapply for registration.

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Blaze Gries, CPA, is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[32]

[32] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Gries. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

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

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $65,000 is imposed jointly and severally upon Gries & Associates, LLC, and Blaze Gries, CPA.

1. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act.

2. Respondents shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by PCAOB staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. By consenting to this Order, Gries & Associates, LLC acknowledges that the failure to pay the civil money penalty imposed upon it may alone be grounds to deny any application, pursuant to PCAOB Rule 2106, for registration with the Board.

4. By consenting to this Order, Blaze Gries, CPA, acknowledges that the failure to pay the civil money penalty imposed upon him may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b).

5. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

6. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondents' payment of the civil money penalty pursuant to this Order, in any private action brought against Respondents based on substantially the same facts as set out in the findings in this Order.

G. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Blaze Gries, CPA is required to complete, prior to filing any petition to terminate his bar and for Board consent to reassociate with a registered public accounting firm, twenty-four hours of continuing professional education and training relating to PCAOB auditing standards, PCAOB reporting requirements, and U.S. GAAP update training (such hours shall be in addition to, and shall not be counted in, the continuing professional education he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 5, 2024

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Halperin Ilanit CPA and Ilanit Halperin,

Respondents.

PCAOB Release No. 105-2024-012

March 19, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Halperin Ilanit CPA ("Firm") and Ilanit Halperin ("Halperin") (collectively, "Respondents");

(2) revoking the Firm's registration;[1]

(3) barring Halperin from being an associated person of a registered public accounting firm;[2]

(4) imposing a civil money penalty in the amount of $200,000, jointly and severally, on the Firm and Halperin;

(5) requiring the Firm to undertake certain remedial actions concerning quality control directed toward satisfying requirements applicable to audits and reviews of issuers before filing, and to provide evidence of such measures with, any future registration application; and

(6) requiring Halperin to complete 40 hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional

[1] The Firm may reapply for registration after three years from the date of this Order.

[2] Halperin may file a petition for Board consent to associate with a registered public accounting firm after three years from the date of this Order.

license, before filing any petition for Board consent to associate with a registered public accounting firm.

The Board is imposing these sanctions on the basis of its findings that: (a) Respondents violated PCAOB rules and standards in connection with the audits of the financial statements of three issuer clients; (b) the Firm violated PCAOB standards by failing to obtain engagement quality reviews in connection with those audits; (c) the Firm failed to file timely and accurate forms required by PCAOB rules; (d) the Firm violated PCAOB quality control standards; and (e) Halperin directly and substantially contributed to the Firm's violations of PCAOB rules and engagement quality review and quality control standards.[3]

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement (the "Offers") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds that:[5]

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[3] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

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

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be

A. Respondents

1. **Halperin Ilanit CPA** is a sole proprietorship organized under the laws of Israel and located in Tel Aviv, Israel. The Firm is licensed by the Auditors' Council of the Israeli Ministry of Justice ("Israeli Auditors' Council"). The Firm is, and at all relevant times was, registered with the PCAOB pursuant to Section 102 of the Act and PCAOB rules.

2. **Ilanit Halperin** is the owner of the Firm and a certified public accountant licensed by the Israeli Auditors' Council. At all relevant times, she was the sole partner of the Firm and served as the engagement partner on all issuer audits it conducted, including those discussed below. Halperin is, and at all relevant times was, an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuers

3. **Cuentas Inc.** ("Cuentas") is, and at all relevant times was, a Florida corporation headquartered in Miami Beach, Florida. Cuentas's public filings disclose that its business focuses on providing mobile and e-commerce services to clients with limited access to bank accounts. At all relevant times, Cuentas was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), including when the Firm audited Cuentas's financial statements for the fiscal years ended December 31, 2020 and 2021 (the "2020 Cuentas Audit" and "2021 Cuentas Audit," respectively).

4. **Enigma MPC, Inc.** ("Enigma") was, at all relevant times, a Delaware corporation headquartered in San Francisco, California. Enigma's public filings disclose that its business focused on developing and implementing blockchain technology. At all relevant times, Enigma was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), including when the Firm audited Enigma's financial statements for the fiscal year ended February 28, 2021 ("2021 Enigma Audit").[6]

5. **SuperCom Ltd.** ("SuperCom") is, and at all relevant times was, an Israeli corporation headquartered in Tel Aviv, Israel. SuperCom's public filings disclose that its business focuses on providing digital identification, tracking, monitoring, and cybersecurity

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imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[6] The U.S. Securities and Exchange Commission ("Commission") revoked Enigma's registration as of May 31, 2023.

products to governments and other organizations. SuperCom is, and at all relevant times was, an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), including when the Firm audited SuperCom's financial statements for the fiscal years ended December 31, 2020 and 2021 (the "2020 SuperCom Audit" and "2021 SuperCom Audit," respectively, and, collectively with the 2020 Cuentas Audit, 2021 Cuentas Audit, and 2021 Enigma Audit, the "Issuer Audits").

C. Summary

6. The Firm issued audit reports containing an unqualified audit opinion on the financial statements for each of the Issuer Audits. Halperin served as the engagement partner for each of those audits and authorized the issuance of those audit reports.

7. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Issuer Audits. Specifically, Respondents failed to: (1) obtain sufficient appropriate audit evidence in connection with testing the valuation of an intangible asset during the 2021 Cuentas Audit; (2) obtain sufficient appropriate audit evidence in connection with testing the valuation of a provision for claims during the 2021 Enigma Audit; (3) evaluate whether certain matters constituted critical audit matters ("CAMs") during the 2021 Cuentas Audit and the 2021 SuperCom Audit; (4) make certain required audit committee communications during the 2021 Cuentas Audit and the 2021 SuperCom Audit; (5) assemble a complete and final set of audit documentation within 45 days of the report release date for the 2021 SuperCom Audit; and (6) properly document changes made to the work papers after the documentation completion date for the 2021 Cuentas Audit and the 2021 SuperCom Audit.

8. In addition, the Firm violated PCAOB standards by failing to obtain engagement quality reviews for any of the Issuer Audits, and violated PCAOB rules by failing to timely file PCAOB Form 2s and Form APs, some of which included inaccurate information when eventually filed.

9. The Firm also violated PCAOB quality control standards because it failed to establish an appropriate system of quality control to provide it with reasonable assurance that work performed by engagement personnel met applicable professional standards, regulatory requirements, and the Firm's standards of quality. The Firm also failed to establish policies and procedures, including monitoring procedures, to provide it with reasonable assurance that its system of quality control was suitably designed and being effectively applied.

10. Finally, Halperin violated PCAOB rules by knowingly or recklessly, and directly and substantially, contributing to the Firm's violations of PCAOB rules and engagement quality review and quality control standards.

D. Respondents Violated PCAOB Rules and Standards

11. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[8] Among other things, PCAOB standards require an auditor to exercise due professional care in the planning and performance of the audit and the preparation of the report, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[9]

12. PCAOB standards require the auditor to address the risks of material misstatement through appropriate overall audit responses and procedures, and specify that the auditor should design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[10]

13. As described below, Respondents failed to comply with PCAOB rules and standards.

i. Respondents Failed to Obtain Sufficient Appropriate Audit Evidence in Testing the Valuation of an Intangible Asset in the 2021 Cuentas Audit

14. The objective of the auditor when auditing accounting estimates is to obtain sufficient appropriate evidence to determine whether accounting estimates in significant accounts and disclosures are properly accounted for and disclosed in the financial statements.[11] When performing substantive procedures to respond to the identified and assessed risks of

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7 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

8 AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

9 *See* AS 1015.01, .07, *Due Professional Care in the Performance of Work*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 1105.04, *Audit Evidence*.

10 AS 2301.02, .08.

11 AS 2501.03, *Auditing Accounting Estimates, Including Fair Value Measurements*.

material misstatement associated with accounting estimates, the auditor should test an accounting estimate by using one or a combination of the following approaches: (1) test the company's process used to develop the accounting estimate; (2) develop an independent expectation for comparison to the company's estimate; and (3) evaluate audit evidence from events or transactions occurring after the measurement date related to the accounting estimate for comparison to the company's estimate.[12]

15. Developing an independent expectation involves the auditor using some or all of his or her own methods, data, and assumptions to develop an expectation of the estimate for comparison to the company's estimate. In developing the expectation, the auditor should consider the requirements of the applicable financial reporting framework and the auditor's understanding of the company's process.[13] When the auditor independently derives assumptions or uses his or her own method in developing an independent expectation, the auditor should have a reasonable basis for the assumptions and method used.[14]

16. As of December 31, 2021, Cuentas reported an intangible asset—specifically, a perpetual software license acquired in 2019—that accounted for 44% of its total reported assets. Cuentas amortized the license on a straight-line basis over its expected useful life.[15]

17. In its Form 10-K for the fiscal year ended December 31, 2021, Cuentas identified the valuation of intangible assets as a significant estimate and disclosed in the footnotes to its financial statements that "the Company reviews its long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amount of these assets may not be fully recoverable."

18. During the 2021 Cuentas Audit, Respondents understood that the company's management engaged a specialist to prepare an intangible asset impairment analysis. The analysis noted recent events that suggested a potential impairment of the software license, which necessitated a recoverability test.[16] The company's specialist estimated the recoverable

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12 *Id.* at .07.

13 *Id.* at .21.

14 *Id.* at .22.

15 An intangible asset that is subject to amortization shall be reviewed for impairment in accordance with the Impairment or Disposal of Long-Lived Assets Subsections of Subtopic 360-10. *See* FASB Accounting Standards Codification ("ASC") 350-30-35-14, *Intangibles – Goodwill and Other*.

16 *See* FASB ASC 360-10-35-17, *Property, Plant, and Equipment* ("An impairment loss shall be recognized only if the carrying amount of a long-lived asset (asset group) is not recoverable and exceeds

amount of the software license by preparing an undiscounted cash flow analysis based on issuer-prepared financial forecasts and concluded that no impairment of the intangible asset existed at year-end 2021. The issuer-prepared forecasts used by the company's specialist projected a substantial increase in the revenue to be generated from use of the software license in future years. Respondents included a copy of this impairment analysis in the audit documentation for the 2021 Cuentas Audit but did not perform any procedures to evaluate the impairment analysis, including the data and assumptions used.

19. Respondents did not: (1) review and test the process used by management to develop its estimate, which as noted above, included the use of a specialist retained by the company to prepare an impairment analysis; or (2) review events or transactions that occurred prior to the auditor's report date that related to the accounting estimate for comparison to the issuer's estimate.

20. Instead, Respondents' approach to substantively test the intangible asset for impairment was to develop an independent estimate of the fair value of the asset for comparison to the carrying amount. To estimate the fair value, Respondents took Cuentas's market capitalization at December 31, 2021, and subtracted Cuentas's net "Financial Assets."[17] Respondents then treated the resulting difference as an estimate of the fair value of the intangible asset and compared it to the carrying amount of that asset. Because that estimated fair value exceeded the carrying amount, Respondents concluded there was no impairment of the asset.

21. Respondents lacked a reasonable basis for the assumptions and method used in developing their independent expectation and failed to take into account the requirements of the applicable financial reporting framework.[18] Specifically, they failed to appropriately evaluate whether subtracting Cuentas's net "Financial Assets" from its market capitalization was a reasonable method of measuring the fair value of the intangible asset. For example, Respondents failed to sufficiently evaluate whether the market capitalization of Cuentas included value attributable to assets other than the perpetual software license. Moreover, Respondents failed to sufficiently evaluate whether their fair value estimate derived from the market capitalization of Cuentas represented the standalone price that would be received to

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its fair value. The carrying amount of a long-lived asset (asset group) is not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from the use and eventual disposition of the asset (asset group).").

[17] Respondents calculated Cuentas's market capitalization by multiplying the number of shares outstanding by the stock price as of December 31, 2021. Respondents calculated Cuentas's net "Financial Assets" as Cuentas's cash balance less loans payable.

[18] *See* AS 2501.21-.22.

sell the intangible asset in an orderly transaction between market participants at the measurement date.[19]

22. Accordingly, Respondents failed to obtain sufficient appropriate evidence to test the valuation of Cuentas's intangible asset in violation of AS 1105, AS 2301, and AS 2501. Respondents also violated AS 1015 by failing to exercise due professional care, including professional skepticism.

ii. Respondents Failed to Obtain Sufficient Appropriate Audit Evidence in Testing the Valuation of a Provision for Claims in the 2021 Enigma Audit

23. As of the fiscal year ended February 28, 2021, Enigma reported a provision for claims of nearly $25 million, which represented approximately 80% of its total reported liabilities. The provision for claims balance represented the amount the company estimated it would have to pay for claim requests received in connection with a settlement it reached with the Commission in February 2020 concerning an unregistered offering of digital assets conducted by the company.[20] The provision for claims balance did not change from the prior year.

24. In its Form 10-K for the fiscal year ended February 28, 2021, Enigma identified the liability for estimated claims as a critical and significant accounting estimate and disclosed in the footnotes to its financial statements that "based on the ENG Token market the Company knows that some of the $42 million ENG Tokens sold at the [initial coin offering] have since been sold at a profit. Accordingly, in exercising a prudent approach, as of the end of the reporting periods presented herein, the Company has recorded a liability for the estimate[] of claims of $24.9 million . . . ." In the Legal Proceedings section of the same Form 10-K, Enigma also disclosed that "[t]he deadline for ENG Token claimants to submit claims has since passed and we are currently processing the claims."

25. During the 2021 Enigma Audit, other than comparing the current year account balance to the amount Enigma reported in the prior year and obtaining from management a claims status report that included a listing of submitted claims, Respondents—who should have used one or more of the methods for testing accounting estimates discussed above—failed to perform any substantive procedures to test the valuation of the provision for claims. For example, Respondents failed to evaluate whether the assumptions used in the company's

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19 *See* FASB ASC 820, *Fair Value Measurement* (defining fair value as the price that would be received to sell an asset or to transfer a liability in an orderly transaction between market participants at the measurement date).

20 *See Enigma MPC*, Securities Act Rel. No. 10755, at 1 (Feb. 19, 2020).

estimate of its provision for claims in the prior year were still reasonable in the current year or whether the company had obtained any new information during the year that would bear on the appropriateness of the estimate.

26. Respondents also failed to evaluate whether information concerning submitted claims contained in the claims status report it obtained from management and included in the audit documentation contradicted the company's estimate. Notably, the claims status report indicated that, at the conclusion of the claim submission deadline on April 25, 2021 (a date after the measurement date of February 28, 2021, but before the audit report date of June 15, 2021), the company had received claims with an aggregate claim value representing less than 1% of the company's provision for claims estimate of roughly $25 million. Accordingly, Respondents lacked a reasonable basis for concluding that it was appropriate for the current year provision for claims estimate to be the same as the prior year estimate.

27. As a result, Respondents failed to obtain sufficient appropriate evidence to test the valuation of Enigma's provision for claims in violation of AS 1105, AS 2301, and AS 2501. Respondents also violated AS 1015 by failing to exercise due professional care, including professional skepticism.

iii. Respondents Failed to Perform Procedures to Evaluate Whether Certain Matters Were Critical Audit Matters in the 2021 Cuentas Audit and the 2021 SuperCom Audit

28. AS 3101 "establishes requirements regarding the content of the auditor's written report when the auditor expresses an unqualified opinion on the financial statements."[21] Among other things, "[t]he auditor must determine whether there are any critical audit matters in the audit of the current period's financial statements."[22] A CAM is "any matter arising from the audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved especially challenging, subjective, or complex auditor judgment."[23]

29. For the 2021 Cuentas Audit and the 2021 SuperCom Audit, Respondents failed to evaluate as potential CAMs numerous matters that were communicated, or required to be communicated, to the companies' audit committees and that related to accounts or disclosures

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21 AS 3101.01.

22 *Id*. at .11.

23 *Id.*

that were material to the financial statements.[24] For example, in the 2021 Cuentas Audit, Respondents failed to evaluate as potential CAMs certain significant risks and other matters communicated to the audit committee, including those that Respondents had identified concerning revenue recognition, equity, and intangible asset valuation. Similarly, in the 2021 SuperCom Audit, Respondents failed to evaluate as potential CAMs significant risks and other matters communicated to the audit committee, including those that Respondents had identified concerning revenue recognition, equity, and inventories.

30. Accordingly, Respondents failed to evaluate whether certain matters were CAMs and violated AS 3101.

iv. Respondents Failed to Make Required Audit Committee Communications in the 2021 Cuentas Audit and the 2021 SuperCom Audit

31. PCAOB standards require the auditor to communicate certain matters related to the conduct of an audit to the issuer's audit committee.[25] The auditor should communicate to the audit committee the issuer's significant accounting policies and practices, critical accounting policies and practices, critical accounting estimates, and the results of the auditor's evaluation of the quality of the issuer's financial reporting.[26]

32. Additionally, PCAOB standards require the auditor to communicate to the audit committee his or her evaluation of the company's identification of, accounting for, and disclosure of its relationships and transactions with related parties.[27]

33. In connection with the 2021 Cuentas Audit and 2021 SuperCom Audit, Respondents failed to communicate their evaluation of the companies' identification of, accounting for, and disclosure of their relationships and transactions with related parties to the audit committees despite both Cuentas and SuperCom disclosing related party transactions in their Form 10-Ks for the fiscal year ended December 31, 2021.[28]

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[24] *Id.* at .11-.12. The Firm also lacked any practice aid or work program to document procedures to identify or evaluate CAMs. *See* AS 3101.17.

[25] AS 1301.01, *Communications with Audit Committees*.

[26] *Id*. at .12-.13.

[27] AS 2410.19, *Related Parties*.

[28] Cuentas disclosed that "the Company has had extensive dealings with related parties including those in which our Chief Executive Officer holds a significant ownership interest as well as an executive

34. With respect to the 2021 SuperCom Audit, Respondents also failed to make certain required communications to SuperCom's audit committee related to: (1) significant accounting policies and practices; (2) critical accounting policies and practices, (3) critical accounting estimates; and (4) the results of Respondents' evaluation of the quality of the issuer's financial reporting.

35. Accordingly, Respondents violated AS 1301 and AS 2410.

v. Respondents Violated the Audit Documentation Standard in the 2021 Cuentas Audit and the 2021 SuperCom Audit

36. PCAOB standards require that the auditor "prepare audit documentation in connection with each engagement conducted pursuant to the standards of the PCAOB."[29] PCAOB standards further require that "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[30] Further, although "[c]ircumstances may require additions to audit documentation after the report release date[,]" any documentation added "must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[31]

37. The report release dates for the 2021 Cuentas Audit and 2021 SuperCom Audit were April 1, 2022, and April 4, 2022, respectively. Accordingly, Respondents should have assembled a complete and final set of audit documentation for the 2021 Cuentas Audit by May 16, 2022, and for the 2021 SuperCom Audit by May 19, 2022.

38. However, Respondents assembled an incomplete set of audit documentation for the 2021 SuperCom Audit, as they omitted certain relevant work papers from the final set of audit documentation they assembled. In addition, Respondents added information to the work papers for the 2021 Cuentas Audit and 2021 SuperCom Audit after the applicable documentation completion dates without documenting the date the information was added, the name of who prepared the additional documentation, and the reason for adding it to the work papers. As a result, Respondents violated AS 1215.

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position during the years ended December 31, 2021 and 2020" and SuperCom disclosed various transactions involving its chief executive officer.

29 AS 1215.04, *Audit Documentation*.

30 *Id*. at .15.

31 *Id.* at .16.

E. The Firm Violated PCAOB Standards by Failing to Obtain Engagement Quality Reviews for the Issuer Audits

39. PCAOB standards require that an engagement quality review be performed on all audits.[32] A firm may grant permission to a client to use the audit report only after an engagement quality reviewer provides concurring approval of issuance of the report.[33]

40. The Firm failed to obtain engagement quality reviews for any of the Issuer Audits, and improperly permitted Cuentas, Enigma, and SuperCom to use its audit reports for the Issuer Audits without having obtained concurring approval of issuance from an engagement quality reviewer. As a result, the Firm repeatedly violated AS 1220.

F. The Firm Violated PCAOB Reporting Requirements

i. The Firm Violated PCAOB Rules by Failing to File Timely Annual Reports on Form 2

41. PCAOB rules require registered public accounting firms to file annual reports with the Board on Form 2 no later than June 30 of each year, unless a firm's application for registration has been approved by the Board during the period between April 1 and June 30 of the year in which the filing would otherwise be due.[34]

42. The Firm registered with the Board on June 13, 2018. It was therefore required to file an annual report on Form 2 by June 30 each year beginning in 2019. In every year it was required to file a Form 2, the Firm failed to file by the relevant deadline. Specifically, its annual reports were filed on September 5, 2019, July 31, 2020, November 24, 2021, and December 21, 2022.

43. Accordingly, the Firm repeatedly violated PCAOB Rule 2201.

ii. The Firm Violated PCAOB Rules by Failing to File Timely and Accurate Form APs

44. PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*, requires every registered public accounting firm to file a Form AP for each audit report it issues for an issuer, and include the identity of the engagement partner and certain information about the issuer and other accounting firms that participated in the audit.

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32 AS 1220.01, *Engagement Quality Review*.

33 *Id*. at .13.

34 PCAOB Rule 2200, *Annual Report*; PCAOB Rule 2201, *Time for Filing of Annual Report*.

45. A Form AP must be filed by the 35th day after the date a firm's audit report is first included in a document filed with the Commission or, in the case of a registration statement, by the tenth day after the date the audit report is first included in a document filed with the Commission.[35]

46. The Firm filed its Form AP for the 2020 Cuentas Audit 126 days after the date Cuentas's Form 10-K including the Firm's audit report was filed with the Commission. The Firm filed its Form AP for the 2021 Cuentas Audit 80 days after the date Cuentas's Form 10-K including the Firm's audit report was filed with the Commission, and the Firm included an incorrect financial statement date for the financial statements subject to audit in that Form AP.

47. Similarly, the Firm filed its Form AP for the 2020 SuperCom Audit 90 days after the date SuperCom's Form 20-F including the Firm's audit report was filed with the Commission, and the Firm included an incorrect Central Index Key number for SuperCom in that Form AP. The Firm filed its Form AP for the 2021 SuperCom Audit 77 days after the date SuperCom's Form 20-F including the Firm's audit report was filed with the Commission, and the Firm included an incorrect financial statement date for the financial statements subject to audit and an incorrect Central Index Key number for SuperCom in that Form AP.

48. Accordingly, the Firm repeatedly violated PCAOB Rule 3211.

G. The Firm Violated PCAOB Rules and Quality Control Standards

49. PCAOB rules require a registered public accounting firm and its associated persons to comply with PCAOB quality control standards.[36] These standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice.[37] A firm's system of quality control provides a critical foundation and infrastructure for a firm's audit quality as it should "ensure that services are competently delivered and adequately supervised."[38] The quality control system should include policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[39]

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35 PCAOB Rule 3211(b).

36 *See* PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

37 *See* QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

38 *Id.* at .02.

39 *Id.* at .17.

50. As described below, the Firm failed to establish policies and procedures sufficient to provide reasonable assurance that its personnel complied with applicable professional standards and regulatory requirements.

i. The Firm's System of Quality Control Failed to Provide Reasonable Assurance That Audit Work Performed by Firm Personnel Met Professional Standards and Regulatory Requirements

51. Quality control policies and procedures for engagement performance should encompass all phases of the design and execution of an engagement.[40] To the extent appropriate and as required by applicable professional standards, these policies and procedures should cover, among other things, planning, performing, and documenting each engagement.[41]

52. From 2019 to 2022, the Firm's internally developed audit methodology, which the Firm employed for issuer audits, frequently referenced international auditing standards and PCAOB auditing standards that were outdated and had been superseded, rather than the PCAOB standards that governed the Firm's issuer audits. As a result of the Firm's deficient audit methodology and as evidenced by the numerous audit failures described above, the Firm's system of quality control failed to provide it with reasonable assurance that personnel conducting the Firm's audits would comply with applicable professional standards and regulations.

53. Accordingly, the Firm violated QC §§ 20.17 and .18.

ii. The Firm's System of Quality Control Failed to Provide Reasonable Assurance That the Firm Would Obtain Engagement Quality Reviews

54. PCAOB quality control standards require that a firm's system of quality control include policies and procedures that address engagement quality reviews pursuant to AS 1220.[42]

55. Throughout the relevant period, the Firm lacked sufficient policies and procedures to provide reasonable assurance that the work performed by engagement personnel met applicable professional standards with regard to its engagement quality reviews. Specifically, the Firm's policies and procedures failed to provide reasonable assurance that each issuer audit would be subject to an engagement quality review and the Firm would obtain

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40 *Id*. at .18.

41 *Id.*

42 *Id.*

concurring approval from an engagement quality reviewer prior to issuing an audit report, as required by AS 1220.

56. Accordingly, the Firm violated QC §§ 20.17 and .18.

iii. The Firm's System of Quality Control Failed to Provide Reasonable Assurance with Respect to the Assembly of Audit Documentation for Retention

57. A firm's quality control policies and procedures should address the documentation of each engagement in accordance with applicable professional standards.[43] As noted above, AS 1215 requires that auditors assemble for retention a complete and final set of audit documentation not more than 45 days after the report release date.[44]

58. At all relevant times, the Firm failed to maintain effective policies and procedures to provide it with reasonable assurance that it would comply with AS 1215's requirements regarding audit documentation, as evidenced by its failure to assemble a complete and final set of audit documentation for the 2021 SuperCom Audit by the applicable deadline, and its failure to ensure that changes made to the work papers for that audit and for the 2021 Cuentas Audit after the applicable documentation completion dates indicated the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.

59. Accordingly, the Firm violated QC §§ 20.17 and .18.

iv. The Firm's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Monitoring

60. PCAOB quality control standards also provide that policies and procedures, including monitoring procedures, should be established to provide the firm with reasonable assurance that its system of quality control is suitably designed and being effectively applied.[45] Monitoring involves an ongoing consideration and evaluation of: (1) the relevance and adequacy of the firm's policies and procedures; (2) the appropriateness of the firm's guidance materials and any practice aids; (3) the effectiveness of professional development activities; and (4) compliance with the firm's policies and procedures.[46] Monitoring procedures taken as a

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43 *Id.* at .03, .17-.18.

44 AS 1215.15.

45 QC § 20.20; *see* QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

46 QC § 30.02; *see also* QC § 20.20.

whole should enable the firm to obtain reasonable assurance that its system of quality control is effective.[47]

61. At all relevant times, the Firm lacked any process to monitor its quality control system. For example, during the time it conducted issuer audits, the Firm never performed an internal inspection or other evaluation to assess whether the work performed by its engagement personnel on issuer audits met applicable professional standards, regulatory requirements, and the Firm's standards of quality.

62. The Firm's failure to implement monitoring procedures to enable it to obtain reasonable assurance that its system of quality control was effective violated QC §§ 20 and 30.

H. Halperin Directly and Substantially Contributed to the Firm's Engagement Quality Review, PCAOB Reporting and Quality Control Violations

63. PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, states that "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."

64. Halperin is, and at all relevant times was, the Firm's sole owner and partner and served as the engagement partner for each of the Issuer Audits. Accordingly, Halperin was responsible for ensuring that the Firm complied with PCAOB rules and standards. She was also responsible for developing and maintaining quality control policies and procedures applicable to the Firm's auditing practice.

65. Halperin knew, or was reckless in not knowing, that her acts and omissions would directly and substantially contribute to the Firm's violations of AS 1220, PCAOB reporting requirements, and PCAOB quality control standards described above. As a result, Halperin violated PCAOB Rule 3502.

IV.

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

[47] QC § 30.03.

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

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

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

C. After three years from the date of this Order, the Firm may reapply for registration by filing an application for registration pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Halperin is barred from being an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[48]

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

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $200,000 is imposed, jointly and severally, on the Firm and Halperin;

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondents shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money

[48] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Halperin. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the Firm and Halperin as respondents in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondents' payment of the civil money penalty pursuant to this Order, in any private action brought against either Respondent based on substantially the same facts as set out in the findings in this Order.

5. By consenting to this Order, the Firm acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any reapplication for registration pursuant to PCAOB Rule 2101.

6. By consenting to this Order, Halperin acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b).

G. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Before filing with the Board any future registration application, to establish, revise, or supplement, as necessary, policies and procedures to provide the Firm with reasonable assurance that: (a) Firm personnel will comply with PCAOB standards when conducting issuer audits; (b) Firm personnel will obtain, and adequately document, engagement quality reviews for all issuer audits in accordance with applicable professional standards; (c) the Firm will properly assemble for retention complete and final sets of audit documentation in accordance with professional standards; (d) the Firm will comply with PCAOB reporting requirements on a timely basis, including with respect to Form 2 and Form AP; and (e) the Firm has established monitoring procedures sufficient to enable it to obtain reasonable assurance that its system of quality control is suitably designed and being effectively applied.

2. To provide with any future registration application a written certification of compliance with the above requirements, in the form of a narrative, exhibits sufficient to demonstrate compliance, and such additional evidence of and information concerning compliance as the staff of the Division of Registration and Inspections may reasonably request.

H. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Halperin is required to complete, prior to filing any petition to terminate her bar and for Board consent to reassociate with a registered public accounting firm, 40 hours of continuing professional education and training relating to PCAOB auditing standards (such hours shall be in addition to, and shall not be counted in, the continuing professional education she is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 19, 2024

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of CHOI Chung Chuen, MA Hong Chao, and DONG Chang Ling,

Respondents.

PCAOB Release No. 105-2024-013

March 20, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring CHOI Chung Chuen (Alex) ("Choi"), MA Hong Chao (Max) ("Ma"), and DONG Chang Ling (Jason) ("Dong") (collectively, "Respondents");

(2) barring Choi and Ma each from being an associated person of a registered public accounting firm;[1]

(3) limiting Dong's activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), for a period of one year from the date of this Order;

(4) imposing civil money penalties in the amounts of $75,000 on Choi, $50,000 on Ma, and $25,000 on Dong;

(5) requiring that Choi and Ma each complete twenty hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license, before filing any petition for Board consent to associate with a registered public accounting firm; and

(6) requiring that Dong complete twenty hours of CPE, in addition to any CPE required in connection with any professional license.

[1] Choi and Ma may each file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

The Board is imposing these sanctions based on its findings that Respondents—three partners of KPMG Huazhen LLP ("KPMG HZ" or the "Firm")—violated PCAOB rules and standards in connection with the Firm's audit of the December 31, 2017 financial statements of Tarena International Inc. ("Tarena").

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order as set forth below.[2]

III.

On the basis of Respondents' Offers, the Board finds that:[3]

A. Respondents

1. **CHOI Chung Chuen (Alex)** is a certified practicing accountant in Hong Kong (license no. P05138) and a partner in KPMG HZ's Beijing office. He was the engagement partner for the Firm's audit of the December 31, 2017 financial statements of Tarena (the "Audit") and,

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

[3] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

at all relevant times, he was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

2. **MA Hong Chao (Max)** is a certified public accountant in the State of California (license no. 122230) and in the People's Republic of China (license no. 110002432630), and a partner in KPMG HZ's Beijing office. He was another partner on the Audit, assisting Choi in supervising other engagement team members. At all relevant times, Ma was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

3. **DONG Chang Ling (Jason)** is a certified information systems auditor, as designated by ISACA (formerly known as the Information Systems Audit and Control Association), and a partner in KPMG HZ's Beijing office. Dong was assigned to the Audit and had overall responsibility for the involvement of the Firm's information risk management ("IRM") personnel on the Audit. At all relevant times, Dong was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Other Relevant Entities

4. **KPMG Huazhen LLP** is a public accounting firm organized under Chinese law and headquartered in Beijing, People's Republic of China, and has offices throughout China. At all relevant times, KPMG HZ was registered with the Board, pursuant to Section 102 of the Act and PCAOB rules. KPMG HZ reported to the PCAOB that during the period April 1, 2022, through March 31, 2023, the Firm issued 21 audit reports for issuers.

5. **Tarena International, Inc**. (n/k/a TCTM Kids IT Education Inc.)[4] is an exempted company[5] with limited liability incorporated under the laws of the Cayman Islands and headquartered in Beijing, China. Tarena provides education services including information technology ("IT") training courses and non-IT training courses across China. According to its public filings, over 128,000 adult students, and nearly 10,000 children, enrolled in at least one of its courses in 2017. At the time of the Audit, Tarena's American Depository Receipts were

[4] Tarena announced a name change on February 27, 2024. *See* Exhibit 99.1 to Form 6-K (filed Feb. 27, 2024), https://www.sec.gov/Archives/edgar/data/1592560/000110465924027901/tm247364d1_ex99-1.htm.

[5] An "exempted company" is an offshore entity organized under the laws of the Cayman Islands that conducts its business mainly outside of the Cayman Islands. *See, e.g.*, Cayman Islands Companies Act Part VII (Exempted Companies) § 163, *What Companies May Apply to be Registered as Exempted Companies* (2021 Rev.).

traded on the Nasdaq Global Select Market.[6] Tarena is an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

6. This matter involves multiple violations of PCAOB rules and standards by Choi, Ma, and Dong, three KPMG HZ partners who worked on the Audit of Tarena, an education service provider in China.

7. *First*, Choi and Ma failed to obtain sufficient appropriate audit evidence to support Tarena's reported revenue. During the Audit, Choi and Ma planned to test the design and operating effectiveness of Tarena's internal controls in order to rely on them to address, among other things, a fraud risk they had identified related to Tarena potentially recording revenue from fictitious students.

8. However, after learning of numerous unremediated deficiencies in Tarena's IT general controls ("ITGCs"), Choi and Ma did not respond appropriately. Instead, Choi and Ma improperly concluded that these unremediated control deficiencies did not affect their plan to rely on Tarena's revenue-related controls. In particular, Choi and Ma did not revise the control risk assessment and modify the nature, timing, and extent of their substantive revenue testing planned under the assumption that Tarena's revenue-related controls were effective. As a result, Choi and Ma failed to obtain sufficient appropriate audit evidence as to Tarena's reported revenue.

9. *Second*, Choi and Ma also failed to exercise due care and professional skepticism and obtain sufficient appropriate audit evidence to support Tarena's net accounts receivable. Specifically, they did not appropriately evaluate the reasonableness of Tarena's allowance for doubtful accounts, *i.e.*, its bad debt allowance estimate, which they had identified as a significant accounting estimate and as a significant risk. In particular, they did not obtain an adequate understanding of how management developed the estimate, did not appropriately evaluate its reasonableness, and did not adequately consider evidence indicating that the estimate might not be reasonable.

10. *Third*, Dong failed to properly supervise the IT auditors on the Audit, which resulted in Dong's failure to identify several deficiencies in the IT auditors' procedures.

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[6] Tarena transferred the listing of its American Depositary Receipts to the Nasdaq Capital Market on November 17, 2023. *See* Exhibit 99.1 to Form 6-K (filed Nov. 16, 2023), https://www.sec.gov/Archives/edgar/data/1592560/000110465923118945/tm2330909d1_ex99-1.htm.

11. Choi, Ma, and Dong's violations occurred in connection with audit procedures for two accounts that Tarena later restated. Specifically, during the following year's audit, KPMG HZ informed Tarena's audit committee that the 2018 engagement team had identified non-compliance or suspected non-compliance with laws and regulations, including (a) Tarena employees' interference with KPMG HZ's anti-fraud procedures for testing the existence of students and (b) acts related to the existence and accuracy of revenue recognition.[7] In response, on April 30, 2019, Tarena disclosed that its audit committee was conducting a review into certain issues concerning revenue recognition at the company. KPMG HZ did not issue a report of Tarena's December 31, 2018 financial statements and was dismissed as Tarena's auditor on December 5, 2019. The audit committee-led investigation ultimately found that Tarena (a) had inflated revenue by, among other means, recording fictitious student account data in the company's systems and prematurely recognizing revenue; and (b) made improper charges against accounts receivable. As reflected in its restatement, Tarena's originally reported net revenue for 2017 was overstated by approximately 13% and its originally reported net accounts receivable for 2017 were overstated by more than 300%.

D. Choi and Ma Failed to Obtain Sufficient Appropriate Audit Evidence to Support Tarena's Reported Revenue

i. Relevant Rules and Standards

12. In connection with the preparation or issuance of an audit report, PCAOB rules require that associated persons of a registered public accounting firm comply with the Board's auditing and related professional practice standards.[8] An auditor is in a position to express an unqualified opinion on the financial statements when the auditor conducted an audit in accordance with the standards of the PCAOB and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[9]

13. PCAOB standards provide that, as part of audit planning, the auditor should establish an overall audit strategy.[10] The auditor should modify the overall audit strategy and

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[7] Respondents were also members of the engagement team for the 2018 audit.

[8] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the Audit.

[9] AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

[10] *See* AS 2101.08, *Audit Planning.*

the audit plan as necessary if circumstances change significantly during the course of the audit, including changes due to a revised assessment of the risks of material misstatement or the discovery of a previously unidentified risk of material misstatement.[11]

14. PCAOB standards also require that an auditor exercise due professional care in planning and performing an audit.[12] Due professional care requires that the auditor exercise professional skepticism—an attitude that includes a questioning mind and a critical assessment of audit evidence—throughout the audit process.[13]

15. PCAOB standards instruct that "[t]he auditor should design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure."[14] "[T]he audit procedures that are necessary to address the assessed fraud risks depend upon the types of risks and the relevant assertions that might be affected."[15]

16. The auditor should perform substantive procedures, including tests of details, that are specifically responsive to the assessed fraud risks. If the auditor selects certain controls intended to address the assessed fraud risks for testing, the auditor should perform tests of those controls.[16]

17. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[17] To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based.[18]

18. PCAOB standards provide that if the auditor plans to assess control risk at less than the maximum by relying on controls, and the nature, timing, and extent of planned substantive procedures are based on that lower assessment, the auditor must obtain evidence

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[11] *Id.* at .15.

[12] AS 1015.01, *Due Professional Care in the Performance of Work*.

[13] *See id.* at .07-.08; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 2401.13, *Consideration of Fraud in a Financial Statement Audit*.

[14] AS 2301.08.

[15] *Id.* at .12; *see also* AS 2401.52.

[16] AS 2301.13.

[17] AS 1105.04, *Audit Evidence*.

[18] *Id.* at .06.

that the controls selected for testing are designed effectively and operated effectively during the entire period of reliance.[19] Also, tests of controls must be performed in the audit of financial statements for each relevant assertion for which substantive procedures alone cannot provide sufficient appropriate audit evidence and when necessary to support the auditor's reliance on the accuracy and completeness of financial information used in performing other audit procedures.[20]

19. "When a significant amount of information supporting one or more relevant assertions is electronically initiated, recorded, processed, or reported, it might be impossible to design effective substantive tests that, by themselves, would provide sufficient appropriate evidence regarding the assertions."[21] In these circumstances, obtaining sufficient appropriate audit evidence is usually dependent on the effectiveness of controls over that information.[22]

20. Control risk should be assessed at the maximum level for relevant assertions (a) for which controls necessary to sufficiently address the assessed risk of material misstatement in those assertions are missing or ineffective or (b) when the auditor has not obtained sufficient appropriate evidence to support a control risk assessment below the maximum level.[23]

21. When deficiencies affecting the controls on which the auditor intends to rely are detected, the auditor should evaluate the severity of the deficiencies and the effect on the auditor's control risk assessments.[24] If the auditor plans to rely on controls relating to an assertion but the controls that the auditor tests are ineffective because of control deficiencies, the auditor should (a) perform tests of other controls related to the same assertion as the ineffective controls; or (b) revise the control risk assessment and modify the planned substantive procedures as necessary in light of the increased assessment of risk.[25]

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19 AS 2301.16.

20 *Id.* at .17; *see also id*. at .18.

21 *Id.* at .17, Note.

22 *See id.*

23 *Id.* at .33.

24 *Id.* at .34.

25 *Id.*

22. If the auditor identifies deficiencies in controls that are intended to address assessed fraud risks, the auditor should take into account those deficiencies when designing his or her response to those fraud risks.[26]

23. "Audit evidence consists of both information that supports and corroborates management's assertions regarding the financial statements . . . and information that contradicts such assertions."[27]

24. If audit evidence obtained from one source is inconsistent with audit evidence obtained from another source, "the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit."[28]

25. When an auditor uses information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to, among other things, test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information.[29]

26. PCAOB standards require an auditor to evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[30]

ii. Background

27. In 2017, Tarena reported in its audited financial statements net revenue of approximately 2 billion Chinese Renminbi ("RMB"). Nearly 97% of Tarena's net revenue was attributable to relatively small tuition transactions with the over 135,000 students enrolled in courses that it offered.

28. Once Tarena entered into a training contract with a student, Tarena personnel at the student's training center inputted the student's contract information into its customer relationship management ("CRM") system, including the student's name, course term, tuition

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[26] *Id.* at .12, Note.

[27] AS 1105.02.

[28] *Id.* at .29.

[29] *See id.* at .10.

[30] *See* AS 2810.33-.35, *Evaluating Audit Results*.

fee, and payment terms. Class commencement, repayment, and other relevant information were also updated in the CRM system by the personnel at the training centers.

29. Tuition fees were proportionately recognized as revenue as the training courses were delivered, with the unearned portion of tuition fees being recorded as deferred revenue. Tarena personnel exported a revenue spreadsheet from the CRM system at the end of each month and manually re-calculated tuition revenue and an accounts receivable aging schedule based on the information produced by the CRM system. They then prepared journal entries to record tuition revenue and deferred revenue, with the corresponding accounts receivable, in Tarena's financial accounting system.

30. The accuracy and completeness of the data exported from the CRM system depended on the design and operating effectiveness of certain controls, known as IT application controls ("ITACs"), that Tarena had adopted over approval rights, data transmission, and data accuracy and integrity. The effectiveness of certain of those ITACs, in turn, depended on the proper design and operating effectiveness of the relevant underlying ITGCs.

iii. Choi and Ma's Failure to Appropriately Evaluate Tarena's Revenue-Related Controls Resulted in a Failure to Obtain Sufficient Appropriate Audit Evidence Concerning Tarena's Revenue

a. Choi and Ma's Planning and Risk Assessment

31. Choi and Ma identified a significant risk in connection with the occurrence of Tarena's revenue: the fraud risk that Tarena's management would record fictitious student revenue. Choi and Ma planned to address that fraud risk through reliance on Tarena's controls, including IT controls, and substantive testing.

32. Choi and Ma documented that the Firm's IRM personnel should be included in the Audit because, among other reasons, (a) Tarena's business was dependent on IT processes to maintain its financial reporting and accounting books and records; and (b) the engagement team would be unable to obtain sufficient appropriate audit evidence without reliance on application controls.

33. Choi and Ma planned to use the IRM personnel to obtain an understanding of IT at Tarena and to test the design and operating effectiveness of Tarena's ITGCs and several ITACs related to Tarena's process for recording revenue.

34. Based on their plan to rely on Tarena's controls, Choi and Ma adopted a lower extent of planned substantive testing, as compared to the substantive testing in the prior year's audit in which the Firm did not rely on controls. They also planned to rely on Tarena's controls

to provide assurance as to the accuracy and completeness of the information generated by Tarena's CRM and financial accounting systems.

b. The Engagement Team's Identification of Control Deficiencies

35. Choi, Ma, and their team identified three ITACs as important to the proper recording of tuition revenue. These ITACs were: (1) the interface between the CRM system and financial accounting system transmits accurate and complete data; (2) approval rights have been established for the CRM system; and (3) relevant data is accurate and complete in the CRM system (collectively, the "Tuition Revenue ITACs"). The engagement team concluded that the failure of any of these Tuition Revenue ITACs could impact the accuracy and completeness of tuition-related information in the CRM system and the data in the revenue spreadsheet exported from the CRM system.

36. The engagement team also concluded that the effectiveness of the three Tuition Revenue ITACs was dependent on certain ITGCs (the "ITAC-Relevant ITGCs"). During the Audit, however, the engagement team found that multiple ITAC-Relevant ITGCs were either not designed effectively or were not operating effectively. In fact, IRM staff identified that about one third of the ITAC-Relevant ITGCs were either designed ineffectively or operating ineffectively. Among those deficient ITGCs were (a) controls to prevent employees' ability to directly access and make changes to CRM system data Tarena used to calculate student tuition revenue; and (b) logging, monitoring, or reviewing controls to detect any changes to such data.

37. After identifying the ineffective ITGCs, the IRM staff documented that all of the deficiencies were mitigated by compensating controls or other factors. But the work papers in which the IRM staff purported to document the compensating controls and mitigating factors merely repeated the reasons those ITGCs were ineffective. No one on the engagement team identified or tested any mitigating factors or compensating controls for the deficient ITGCs to support their reliance on the Tuition Revenue ITACs. Choi and Ma did not ensure that, as planned, non-IRM members of the engagement team reviewed IRM personnel's conclusions concerning Tarena's ITGCs and Tuition Revenue ITACs. In fact, an IRM staff person at the assistant manager level, who performed and documented much of the IT control testing, signed off as the sole preparer and sole reviewer of certain testing work papers, with no other IRM staff or other engagement team member properly reviewing that work.

c. Choi and Ma Did Not Respond Appropriately to the Control Deficiencies

38. After learning of the ITGC deficiencies that the engagement team had identified, Choi and Ma did not respond appropriately. Under PCAOB standards, Choi and Ma were required either (a) to perform tests of other controls related to the same assertion(s) as the ineffective ITGCs; or (b) to revise their control risk assessment and modify the planned

substantive procedures as necessary in light of the increased assessment of risk. However, Choi and Ma did neither. Instead, they continued with their controls reliance approach, concluding that, despite the deficiencies identified in ITAC-relevant ITGCs, they could rely on the Tuition Revenue ITACs when evaluating Tarena's tuition revenue.

39. That conclusion was inappropriate given that the three Tuition Revenue ITACs could be relied upon only when the ITAC-relevant ITGCs were designed and operating effectively. Notably, Choi and Ma did not document any support for the conclusion that they could rely on the Tuition Revenue ITACs.

40. In reaching their conclusion that the ITGC deficiencies affecting Tarena's CRM and financial accounting systems did not impact their audit strategy, Choi and Ma did not perform any procedures to determine whether the specific deficiencies were compensated for by other controls or had other mitigating factors.

41. Choi and Ma also did not evaluate whether the nature, timing, and extent of the engagement team's substantive revenue testing needed to be modified.[31] They failed to do so, despite the fact that the nature, timing, and extent of their substantive tests of revenue had been determined under the assumption that Tarena's revenue-related controls were effective, and thus the testing was more limited than it would have been absent that incorrect assumption.

42. In addition, Choi and Ma did not address the implications of the control deficiencies for the reports generated by Tarena's CRM system, from which the engagement team selected samples for revenue testing. Although the engagement team performed some manual testing over the accuracy and completeness of the CRM data, due to the identified deficiencies in the ITGCs, Choi, Ma, and the engagement team could not rely on the accuracy and completeness of the reports drawn from that system absent further work.

43. Furthermore, Choi and Ma did not appropriately evaluate the severity of the ITGC deficiencies. Although Choi and Ma documented that, overall, there was a "[s]ignificant deficiency related to the design and operating effectiveness of [ITGCs] for" Tarena's CRM and financial accounting systems and reported that significant deficiency to Tarena's audit committee, they failed to obtain or provide support for their conclusion that the severity of the ITGC deficiencies was only a significant deficiency, rather than a material weakness.

44. In summary, Choi and Ma failed to exercise due professional care and take appropriate steps after learning of numerous control deficiencies in Tarena's revenue-related IT

[31] *See* AS 2301.06, .34.

controls.[32] As a result, they failed to obtain sufficient appropriate audit evidence to support Tarena's reported revenue, in violation of PCAOB standards.[33]

E. In Evaluating Tarena's Bad Debt Allowance Estimate, Choi and Ma Failed to Obtain Sufficient Appropriate Audit Evidence as to Tarena's Net Accounts Receivable

i. Relevant Rules and Standards

45. PCAOB standards require the auditor to evaluate the reasonableness of accounting estimates made by management in the context of the financial statements taken as a whole.[34] Estimates are based on subjective as well as objective factors, and when planning and performing procedures to evaluate accounting estimates, the auditor should consider, with an attitude of professional skepticism, both the subjective and objective factors.[35] The auditor's objective when evaluating accounting estimates is to obtain sufficient appropriate evidential matter to provide reasonable assurance that all accounting estimates that could be material to the financial statements have been developed, those estimates are reasonable in the circumstances, and the accounting estimates are presented in conformity with applicable accounting principles and are properly disclosed.[36]

46. The risk of material misstatement of accounting estimates normally varies with (i) the complexity and subjectivity associated with management's process for preparing accounting estimates, which normally includes accumulating relevant, sufficient, and reliable data on which to base the estimate, developing assumptions that represent management's judgment of the most likely circumstances and events with respect to the relevant factors, and determining the estimated amount based on the assumptions and other relevant factors; (ii) the availability and reliability of relevant data; (iii) the number and significance of assumptions that are made; and (iv) the degree of uncertainty associated with the assumptions.[37]

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[32] *See* AS 1015.01; AS 2401.13.

[33] *See* AS 1105.04; AS 2110.74, *Identifying and Assessing Risks of Material Misstatement*; AS 2301.06, .34, .46.

[34] AS 2501.04, *Auditing Accounting Estimates*.

[35] *Id.*

[36] *Id.* at .07.

[37] *See id.* at .05.

47. "In evaluating reasonableness, the auditor should obtain an understanding of how management developed the estimate."[38] Based on that understanding, the auditor should then use one or a combination of the following approaches to test the accounting estimate: (1) review and test the process used by management to develop the estimate; (2) develop an independent expectation of the estimate to corroborate the reasonableness of management's estimate; or (3) review subsequent events or transactions occurring prior to the date of the auditor's report.[39] In addition, when evaluating the reasonableness of an estimate, the auditor normally concentrates on key factors and assumptions that are significant to the estimate.[40]

48. "If a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances," "consider the reliability of the representation made," and "consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified."[41] In addition, if management's responses to the auditor's inquiries appear to be "implausible, inconsistent with other audit evidence, imprecise, or not at a sufficient level of detail to be useful, the auditor should perform procedures to address the matter."[42]

ii. Background

49. Tarena's accounts receivable primarily consisted of tuition fees due from students. Accounts receivable were considered past due based on their contractual payment terms. Tarena maintained a bad debt allowance for estimated losses resulting from the inability of its customers to make required payments. Tarena disclosed that it wrote off against the bad debt allowance accounts receivable that it deemed to be uncollectible after all means of collection had been exhausted and the potential for recovery was considered remote. Tarena reported its accounts receivable net of the bad debt allowance.

50. As of December 31, 2017, Tarena's reported net accounts receivable represented approximately 10% of Tarena's total reported assets. Between December 31, 2016, and December 31, 2017, Tarena's gross accounts receivable increased by more than 65%, from

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38 *Id.* at .10.

39 *Id.*

40 *Id.* at .09.

41 AS 2805.04, *Management Representations*.

42 AS 2810.08.

approximately RMB 199 million to approximately RMB 330 million.[43] Despite that increase, Tarena decreased its bad debt allowance over the same period from approximately RMB 100 million to approximately RMB 98 million.

iii. Choi and Ma Failed to Exercise Appropriate Professional Skepticism and Due Care in Evaluating the Bad Debt Allowance Accounting Estimate, Resulting in a Failure to Obtain Sufficient Appropriate Audit Evidence for Net Accounts Receivable

51. As described below, Choi and Ma violated PCAOB standards because, after identifying Tarena's bad debt allowance as a significant accounting estimate, they did not obtain an adequate understanding of how management developed the estimate, did not appropriately evaluate its reasonableness, and did not consider evidence indicating that the estimate might not be reasonable.

a. Choi and Ma Did Not Obtain an Adequate Understanding of How Management Developed the Bad Debt Allowance

52. Choi and Ma identified Tarena's bad debt allowance as a significant accounting estimate and concluded that the allowance presented a significant risk of material misstatement for the value of tuition receivables. However, Choi and Ma did not obtain an adequate understanding of how management developed its bad debt allowance estimate.

53. Tarena disclosed that, in establishing its bad debt allowance, it considered "historical losses, the students' financial condition, the amount of accounts receivables in dispute, the accounts receivables aging and the students' payment patterns."[44] In actually calculating the allowance, however, Tarena mechanically applied particular bad debt ratios to different categories of past-due receivables based both on the age of the receivables and the year of enrollment of the students from whom tuition was due ("aging buckets"). Tarena then aggregated the results of applying the various ratios to the receivables in different aging buckets to arrive at its bad debt allowance estimate.

54. To understand how management developed its bad debt estimate, therefore, Choi and Ma needed to understand how management arrived at its various bad debt ratios. They did not do so. Instead, they documented that management used actual cash collections

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[43] This increase in gross accounts receivable was multiples of the RMB 11.5 million materiality level set by Choi and Ma.

[44] Tarena 2017 Form 20-F at F-16 (filed with the U.S. Securities and Exchange Commission Apr. 30, 2018).

and cash collection forecasts as inputs, but did not obtain an adequate understanding of how management used that information to develop any particular bad debt ratio.

55. Choi, Ma, and the engagement team also did not obtain an adequate understanding of management's basis for its cash collection forecasts, including whether management accumulated relevant, sufficient, and reliable data to arrive at the forecasts, notwithstanding that certain of them appeared unreasonable on their face. For example, for one quarter, management forecast that Tarena would collect the same amount of cash—RMB 6 million—from students enrolled in each of the years 2015, 2016, and 2017, despite the very different ages and gross amounts of those accounts receivable groupings.

56. In short, Choi and Ma did not obtain an adequate understanding of how management arrived at the particular bad debt ratios that drove Tarena's bad debt allowance estimate, despite the bad debt ratios being assumptions that were significant to the accounts receivable estimate. They therefore did not obtain an adequate understanding of how management developed the estimate, in violation of PCAOB standards.[45]

b. Choi and Ma Did Not Respond Appropriately to Contradictory Audit Evidence

57. Choi, Ma, and the engagement team also did not obtain an adequate understanding of the reason for, and did not obtain support for the reasonableness of, the significant decrease in Tarena's bad debt allowance percentage in 2017. To the contrary, Choi and Ma were on notice during the Audit of evidence that appeared to contradict management's decision to decrease the allowance, yet they did not appropriately address that contradictory audit evidence. For example:

a. As noted above, between year-end 2016 and year-end 2017, Tarena's gross accounts receivable increased by more than 65%, from approximately RMB 199 million to approximately RMB 330 million, yet Tarena's management decreased its bad debt allowance over the same period.

b. Similarly, Tarena's reported net revenue increased from approximately RMB 1.6 billion to approximately RMB 2.0 billion, or by 25%, and its total past due accounts receivable increased from approximately RMB 121 million to approximately RMB 199 million, or by 64%, from year-end 2016 to year-end 2017. Yet management decreased Tarena's bad debt expense over the same period.

[45] AS 2501.10; *see also id.* at 04-.05.

c. Management decreased Tarena's bad debt allowance from 50% in 2016 to 30% in 2017 as a percentage of year-end accounts receivable balances. While the engagement team documented reasons for the 20% decrease, including a write-off of RMB 33.7 million of accounts receivable in 2017 (with no write-off in 2016), those reasons accounted for only a small portion of the decrease. Furthermore, the aging of Tarena's accounts receivable worsened in 2017, yet the bad debt allowance as a percentage of aged accounts receivable decreased from 28% in 2016 to 16% in 2017.

d. Tarena significantly increased its cash collection projection for 2018, despite, as Choi and Ma were aware, there being a tighter student loan regulatory environment in China affecting Tarena's potential customer pool.

e. Ma knew that in 2017 management decreased the bad debt ratios for tuition due from students enrolled in 2015 and that management's basis for this adjustment was that it believed actual collections from 2015-enrolled students were better than from students enrolled in prior years. Ma did not obtain adequate support for management's representation and did not consider contradictory information suggesting difficulties in collections from 2015-enrolled students.

f. Shortly before the Firm issued its audit opinion, Choi was informed that the subsequent collections data from early 2018 did not present an "optimistic" situation, potentially requiring a revision of Tarena's bad debt allowance. Yet Choi did not sufficiently question the adequacy of the bad debt allowance, which was not revised.

58. Choi and Ma did not, as required by PCAOB standards, resolve the doubts that this evidence should have raised about the adequacy of Tarena's bad debt allowance or attempt to resolve the inconsistencies between the evidence and management's decision to reduce the bad debt allowance in 2017.[46]

c. Choi and Ma Failed to Evaluate the Reasonableness of the Bad Debt Allowance in Accordance with PCAOB Standards

59. Choi and Ma also did not ensure that the specific procedures the engagement team performed sufficiently addressed the risks associated with the bad debt allowance and accorded with PCAOB standards.

60. Choi, Ma, and the engagement team appeared to attempt to use a combination of the three approaches identified in AS 2501.10 to evaluate the reasonableness of the bad

[46] *See* AS 1105.05, .29; AS 2810.35.

debt allowance estimate. However, they did not appropriately evaluate the estimate using any of the approaches.

61. With respect to reviewing and testing the process used by management to develop the bad debt allowance estimate, Choi and Ma, as noted above, did not obtain an adequate understanding of management's process for arriving at its estimate. For that reason, and also because they did not respond appropriately to contradictory audit evidence that their procedures revealed, Choi and Ma did not appropriately test management's process for developing the estimate.

62. Choi and Ma's testing of management's process for developing the bad debt allowance estimate was deficient for other reasons also, including that the testing used information from the revenue spreadsheet exported from the CRM system. As explained above, due to the identified deficiencies in Tarena's IT controls, Choi, Ma, and the engagement could not rely on the accuracy and completeness of the reports drawn from the CRM system absent further work.

63. Under Choi and Ma's direction, the engagement team also appeared to attempt to develop an independent expectation of the bad debt allowance to corroborate the reasonableness of management's estimate. The engagement team did not perform this procedure with due professional care. For example, the engagement team included information for certain periods that appeared unreasonable. Choi and Ma did not consider whether inclusion of that information rendered their independent expectation unreliable.

64. Moreover, creating an independent expectation only achieves its objective if the auditor uses the result of that procedure to assess the reasonableness of management's estimate. Although the independent expectation procedure that Choi and Ma developed indicated that Tarena's bad debt allowance was understated by an amount that exceeded the materiality level set for the Audit, Ma and the engagement team did not appropriately evaluate whether the difference should be treated as a misstatement and, if so, whether that misstatement was material.

65. Finally, under Choi and Ma's direction, the engagement team reviewed certain subsequent events or transactions occurring prior to the date of the auditor's report. Specifically, Ma and the engagement team compared actual cash collections in the first quarter of 2018 to management's higher cash collection forecast for that quarter, but they did not adequately evaluate the reason for the shortfall or its implications as to the reasonableness of the bad debt allowance estimate. Also, for the reasons stated earlier, including the failure to adequately understand how management developed its collection forecast for the first quarter of 2018, this procedure did not provide evidence of the reasonableness of Tarena's bad debt allowance.

66. In summary, Choi and Ma failed to exercise due care or to obtain sufficient appropriate audit evidence in performing any of the procedures identified in PCAOB standards for evaluating the reasonableness of management's bad debt allowance.[47] Moreover, as a result, Choi and Ma did not perform, or ensure that their engagement team performed, sufficient substantive procedures that were specifically responsive to the significant risk they identified with respect to accounts receivable.[48]

F. Dong Failed to Fulfill His Supervisory Responsibilities

67. PCAOB standards provide that the engagement partner is responsible for the engagement and its performance.[49] Accordingly, the engagement partner is responsible for proper supervision of the work of engagement team members and for compliance with PCAOB standards, including standards regarding using the work of specialists, other auditors, internal auditors, and others who are involved in testing controls.[50] Engagement team members who assist the engagement partner with supervision of the work of other engagement team members also should comply with the requirements of the PCAOB supervision standard with respect to the supervisory responsibilities assigned to them.[51]

68. The engagement partner and, as applicable, others performing supervisory activities should "[r]eview the work of engagement team members to evaluate whether: (1) [t]he work was performed and documented; (2) [t]he objectives of the procedures were achieved; and (3) [t]he results of the work support the conclusions reached."[52] To determine the extent of supervision necessary for engagement team members to perform their work as directed and form appropriate conclusions, the engagement partner and other engagement team members performing supervisory activities should take into account, among other things, the risks of material misstatement.[53]

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47 *See* AS 1015.01; AS 1105.04; AS 2501.10.

48 *See* AS 2301.08; AS 2110.74.

49 *See* AS 1201.03, *Supervision of the Audit Engagement*.

50 *Id.*

51 *Id.* at .04.

52 *Id.* at .05.

53 *See id.* at .06.

69. Dong was the IRM partner on the Audit with overall responsibility for the IRM personnel's involvement and the overall IRM work quality. Accordingly, Dong's role was to assist Choi with supervision over this area of the Audit.[54]

70. Dong assigned an IRM associate director to the engagement. However, Dong himself had minimal involvement in the Audit. Aside from the IRM planning memo, Dong did not review any work papers and did not obtain an understanding during the Audit of the procedures performed, evidence obtained, or conclusions reached by the IRM personnel.

71. In fact, Dong's only source of information about the IRM personnel's audit work was through his occasional oral communications with the IRM associate director. He did not have any other communications with other IRM personnel concerning the Audit.

72. Dong relied almost exclusively on the IRM associate director, despite never having worked with him before, and despite the assigned work being in an area of identified higher risk. Dong did not become aware of how little involvement the IRM associate director himself had in the Audit.[55] For example, Dong was not aware that the IRM associate director did not review numerous work papers prepared by IRM personnel and did not charge any time to the Audit.

73. As detailed above, the IRM personnel on the Audit identified control deficiencies in Tarena's ITGCs, which increased the risk of material misstatement. As a result, Dong should have adjusted and increased his level of supervision.[56] He did not do so, in violation of PCAOB standards.

74. Moreover, given his lack of involvement with the Audit and the personnel he was responsible for supervising, Dong was unfamiliar with the IRM personnel's procedures and conclusions, as well as their documentation. For example:

a. He was not aware that the IRM personnel did not document the key elements of understanding Tarena's IT environment, a procedure that they had been designated to perform in the IRM planning memo.

b. He did not discuss or evaluate the identified ineffective ITGCs with the IRM personnel or other engagement team members.

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54 *Id.* at .04.

55 *See id.* at .04-.05.

56 *Id.* at .06.

c. He also was not aware that the IRM personnel did not properly document compensating controls or mitigating factors for the ineffective ITGCs.

d. He did not obtain an understanding of how the engagement team determined the severity of the control deficiencies, nor how the engagement team concluded that the ineffective ITGCs did not affect the Tuition Revenue ITACs.

e. He also did not review, or ensure others on the IRM team reviewed as planned, a number of control testing work papers for which an IRM staff person at the assistant manager level had signed off as both preparer and sole reviewer.

75. Accordingly, Dong failed to sufficiently supervise the engagement team's IT controls testing to evaluate if the procedures were performed and documented; if its objectives were achieved; and if the results supported the conclusions reached, in violation of AS 1201.

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), CHOI Chung Chuen, MA Hong Chao, and DONG Chang Ling are hereby censured.

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), CHOI Chung Chuen and MA Hong Chao are each barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[57]

C. After one year from the date of this Order, CHOI Chung Chuen and MA Hong Chao may each file a petition for Board consent to associate with a registered public accounting firm pursuant to PCAOB Rule 5302(b).

[57] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Choi and Ma. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), CHOI Chung Chuen and MA Hong Chao are required to complete, before filing a petition for Board consent to associate with a registered firm, twenty hours of continuing professional education ("CPE") in subjects that are directly related to the audits of issuer financial statements under PCAOB standards (such hours shall be in addition to, and shall not be counted in, the CPE they are required to obtain in connection with any professional license).

E. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date of this Order, DONG Chang Ling's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Dong shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) assist the engagement partner in fulfilling his or her responsibilities in an audit under paragraph 4 of AS 1201; (6) participate on an audit as an engagement team member with specialized skill or knowledge in information technology, *see* AS 1201, App. C.1, Note; or (7) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors*.[58]

F. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), DONG Chang Ling is required to complete, within one year from the date of this Order, twenty hours of CPE related to AS 1201, *Supervision of the Audit Engagement*; AS 1015, *Due Professional Care in the Performance of Work*; AS 1215, *Audit Documentation*; or AS 2301, *The Auditor's Responses to the Risks of Material*

[58] Nor shall Dong assume any equivalent role, such as a serving as a "lead auditor," "other auditor," or "referred-to auditor," as such terms will be defined by Appendix A of AS 2101, *Audit Planning*, when amendments to AS 2101 become effective for audits for fiscal years ending on or after December 15, 2024.

Misstatement (such hours shall be in addition to, and shall not be counted in, the CPE he is required to obtain in connection with any professional license).

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), civil money penalties are imposed on Respondents in the following amounts: (i) CHOI Chung Chuen—$75,000; (ii) MA Hong Chao—$50,000; and (iii) DONG Chang Ling—$25,000.

1. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act.

2. Respondents shall pay these civil money penalties within thirty (30) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (c) submitted under a cover letter which identifies the payor as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. With respect to any civil money penalty amounts Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondents' payment of the civil money penalties pursuant to this Order, in any private action brought against Respondents based on substantially the same facts as set out in the findings in this Order.

4. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. By consenting to this Order, CHOI Chung Chuen and MA Hong Chao acknowledge that a failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

6. By consenting to this Order, DONG Chang Ling acknowledges that a failure to pay the civil money penalty described above may result in the PCAOB summarily suspending or barring him pursuant to PCAOB Rule 5304(b), following written notice to him at the address he last provided to the PCAOB's Division of Enforcement and Investigations in writing as of the time of the issuance of this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 20, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of PricewaterhouseCoopers LLP,

Respondent.

PCAOB Release No. 105-2024-014

March 28, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring PricewaterhouseCoopers LLP ("Respondent," "PwC," or the "Firm");

(2) imposing a civil money penalty in the amount of $2,750,000 on Respondent; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB quality control standards that required the Firm to establish and appropriately communicate policies and procedures to provide reasonable assurance that its personnel maintain independence (in fact and in appearance) in all required circumstances and consult, on a timely basis, concerning independence with individuals within or outside the firm, when appropriate.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has

determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings contained herein, except as to the Board's jurisdiction over Respondent and the subject matter of this proceeding, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. PricewaterhouseCoopers LLP is a limited liability partnership organized under the laws of the state of Delaware, and headquartered in New York, New York. The Firm is licensed to practice public accounting in multiple jurisdictions, including the State of New York (Partnership ID No. 036148). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, PwC served as the external auditor for an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), referred to herein as "Issuer A."

B. Summary

2. This matter concerns PwC's failure to implement a system of quality control that provided reasonable assurance that its personnel maintain independence (in fact and in appearance) in all required circumstances.

3. Due to its size and substantial business activities beyond its provision of audit services, PwC can often face complex, unusual, or unfamiliar issues that may impact the Firm's independence, either in fact or appearance. Those issues can include circumstances which are not specifically addressed in applicable independence rules and standards, but which have the potential to impair independence and must be evaluated under the general standard of independence set forth in Rule 2-01(b) of Securities and Exchange Commission ("SEC" or "Commission") Regulation S-X ("Reg. S-X").[2] To mitigate the resulting risks to independence, the

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

[2] Rule 2-01(b) of Reg. S-X, 17 C.F.R. § 210.2-01(b), provides:

> The Commission will not recognize an accountant as independent, with respect to an audit client, if the accountant is not, or a reasonable investor with knowledge of all relevant facts and circumstances would conclude that the accountant is not, capable of

Firm maintains an Independence Office, which develops and provides guidance, training, and resources to PwC professionals on independence, and serves as a consultative resource for independence questions and issues.

4. However, during the period covered by the Order, the Firm's quality control policies and procedures, and the Firm's communications around those policies and procedures, failed to provide reasonable assurance that Firm personnel would timely consult with the Independence Office or other qualified individuals and/or refer to authoritative literature or other sources, when dealing with certain complex, unusual, or unfamiliar independence issues that warranted such steps. In particular, PwC's quality control policies and procedures did not advise or require any Independence Office consultation prior to discussions with an audit client about the possibility of terminating the audit relationship to allow for consideration of potential joint business activities. Nor did they require such a consultation after such discussions took place. The Firm's policies and procedures, as communicated, also failed to provide reasonable assurance that PwC professionals would timely and appropriately evaluate the impact of such discussions under Reg. S-X's general standard of independence. As a result, the Firm's quality control policies and procedures failed to provide reasonable assurance that Firm personnel would comply with the general standard of independence set forth in Reg. S-X Rule 2-01(b), and related obligations under PCAOB rules and standards addressing independence.[3] The Firm, therefore, violated QC § 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

5. The foregoing quality control deficiencies were illustrated in 2018 when numerous PwC leaders and partners failed to initiate an Independence Office consultation or conduct other appropriate independence analysis as PwC explored the possibility of terminating its audit relationship with a client, Issuer A—a supplier of software that PwC utilized (as a consumer) in a variety of both internal and client-facing business activities—to allow for a potential joint business relationship ("JBR") with Issuer A.

6. On November 28, 2018, at the instruction of one of PwC's national leaders for Assurance ("National-Level Assurance Leader"), two PwC partners—including the audit

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exercising objective and impartial judgment on all issues encompassed within the accountant's engagement. In determining whether an accountant is independent, the Commission will consider all relevant circumstances, including all relationships between the accountant and the audit client, and not just those relating to reports filed with the Commission.

[3] *See, e.g.,* PCAOB Rule 3520, *Auditor Independence*; AS 1005.03-.06, *Independence*; ET § 101.01, *Independence*; ET § 101.02, *Interpretation of Rule 101*.

engagement partner for the then-ongoing integrated audit of Issuer A's December 31, 2018 financial statements ("Audit Engagement Partner")—met with Issuer A's CEO and Issuer A's President and discussed, among other things, the independence restrictions currently imposed on the parties and business opportunities that PwC and Issuer A could pursue in a JBR (the "November 28 Meeting"). PwC planned and conducted that meeting in response to a projection in a June 2018 "business case" document, prepared by members of PwC's Tax group, showing that PwC could generate substantially more revenue from a JBR with Issuer A than it was earning as Issuer A's auditor. Going into the meeting, PwC anticipated that Issuer A would be intrigued by a JBR. And, both during and after the meeting, Issuer A's CEO expressed enthusiasm for a JBR with PwC, which the CEO understood might be worth tens of millions of dollars to Issuer A. PwC and Issuer A then immediately began exploring the possibility of transitioning Issuer A to another auditor, so that there would be no independence-related restrictions on the commercial relationships and business activities between PwC and Issuer A—a process which PwC refers to, internally, as "channel change"—which would free PwC and Issuer A to enter into a JBR. At the same time, however, PwC planned to continue performing the integrated audit of Issuer A's financial statements and internal control over financial reporting for the year ended December 31, 2018 ("2018 Audit") and also to perform a review of Issuer A's Q1 2019 interim financial statements, while simultaneously arranging meetings with Issuer A's CEO in follow-up to the November 28 Meeting.

7. Despite the risks to PwC's independence stemming from the unusual facts and circumstances surrounding the November 28 Meeting, no PwC policy required any consultation to take place with PwC's Independence Office, either before or after the November 28 Meeting. Nor did any written independence policy, procedure, or guidance provide reasonable assurance that PwC professionals would promptly reevaluate independence under the general standard of independence set forth in Rule 2-01(b) of Reg. S-X, in light of the unusual events surrounding the November 28 Meeting.

8. In fact, PwC professionals did not initiate any consultation with the Independence Office related to either the internal discussions about the potential JBR or the November 28 Meeting and its aftermath until January 2019, after the PCAOB's Division of Enforcement and Investigations ("DEI") began an inquiry into PwC's independence from Issuer A. Only then, in response to a DEI document and information request, did PwC personnel finally consult with the Independence Office about the November 28 Meeting and related internal and external discussions, and their impact on whether PwC would appear independent to a reasonable investor.[4] As a result of that consultation, PwC advised Issuer A in January 2019

[4] In addition to the JBR-related discussions, the Independence Office also considered other PwC activities relating to Issuer A, including both internal and client-facing business activities, in order to

that, although the 2018 Audit was already underway, Issuer A should consider terminating PwC as its auditor, due to independence concerns. Issuer A then terminated PwC before PwC issued an audit report, and Issuer A retained a different independent public accountant to audit its 2018 financial statements.

C. PwC Violated PCAOB Quality Control Standards

9. PCAOB rules require registered public accounting firms to comply with the Board's quality control standards.[5] Those standards require that registered firms establish and maintain an adequate system of quality control.[6] "A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and procedures established to provide the firm with reasonable assurance of complying with professional standards. The nature, extent, and formality of a firm's quality control policies and procedures should be appropriately comprehensive and suitably designed in relation to the firm's size, the number of its offices, the degree of authority allowed its personnel and its offices, the knowledge and experience of its personnel, the nature and complexity of the firm's practice, and appropriate cost-benefit considerations."[7]

10. PCAOB standards provide that a firm should establish quality control policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[8] A firm's system of quality control should, among other things, include policies and procedures to provide the firm with reasonable assurance that personnel maintain independence (in fact and in appearance) in all required circumstances.[9] "Policies and procedures should also be established to provide reasonable assurance that personnel refer to authoritative literature or other sources and consult, on a timely basis, with individuals within

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evaluate the risk that PwC's independence could be considered impaired, in fact or appearance, based on the totality of the circumstances.

5 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

6 *See* QC § 20.01; *see also* QC § 20.03 ("A firm has a responsibility to ensure that its personnel comply with the professional standards applicable to its accounting and auditing practice. A system of quality control is broadly defined as a process to provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality.").

7 QC § 20.04.

8 *See* QC § 20.17.

9 *See* QC § 20.09.

or outside the firm, when appropriate (for example, when dealing with complex, unusual, or unfamiliar issues)."[10]

11. "A firm should communicate its quality control policies and procedures to its personnel in a manner that provides reasonable assurance that those policies and procedures are understood and complied with. The form and extent of such communications should be sufficiently comprehensive to provide the firm's personnel with an understanding of the quality control policies and procedures applicable to them."[11]

12. As described below, PwC failed to establish and appropriately communicate policies and procedures to provide reasonable assurance that its personnel would: (1) maintain independence, including the appearance of independence, throughout the audit and professional engagement period, as required under the general standard of Rule 2-01(b) of Reg. S-X; and (2) timely consult and refer to authoritative literature and other sources about auditor independence, when appropriate.

i. Independence Requirements

13. PCAOB rules require that registered public accounting firms and their associated persons comply with all applicable auditing and related professional practice standards.[12] Among other requirements, registered public accounting firms and their associated persons must comply with the Board's auditing and independence standards in connection with the preparation or issuance of an audit report.[13]

14. PCAOB Rule 3520 requires a registered public accounting firm and its associated persons to be independent of the firm's audit client throughout the audit and professional engagement period.[14] Rule 3520 "encompasses not only an obligation to satisfy the

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10 QC § 20.19.

11 QC § 20.23.

12 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

13 *See* PCAOB Rule 3200, *Auditing Standards*; PCAOB Rule 3500T, *Interim Ethics and Independence Standards*.

14 *See* PCAOB Rule 3520; *see also* PCAOB Rule 3501(a)(iii), *Definitions of Terms Employed in Section 3, Part 5 of the Rules* (defining "audit and professional engagement period"); Reg. S-X Rule 2-01(f)(5), 17 C.F.R. § 210.2-01(f)(5) (defining the term "audit and professional engagement period"). Under PCAOB Rule 3501(a)(iii) and Reg. S-X Rule 2-01(f)(5), the "audit period" includes the period covered by any financial statements being audited or reviewed. The "professional engagement period" begins with the earlier of the agreement to perform audit or review services or the start of those procedures and ends

independence criteria applicable to the engagement set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws."[15] PCAOB standards likewise require compliance with the Commission's independence criteria and other applicable independence criteria.[16]

15. To be independent within the meaning of AS 1005, an auditor "must be without bias with respect to the client since otherwise he would lack that impartiality necessary for the dependability of his findings."[17] AS 1005 further states that auditors should not only be independent in fact, but should avoid situations that may lead outsiders to doubt their independence.[18] Similarly, Rule 2-01(b) of Reg. S-X provides: "The Commission will not recognize an accountant as independent, with respect to an audit client, if the accountant is not, or a reasonable investor with knowledge of all relevant facts and circumstances would conclude that the accountant is not, capable of exercising objective and impartial judgment on all issues encompassed within the accountant's engagement."[19] ET § 101, which the Board adopted from the AICPA Code of Professional Conduct,[20] further provides that "[i]t is impossible to enumerate all circumstances in which the appearance of independence might be questioned." That standard also states that "[m]embers should consider whether personal and business relationships between the member and the client or an individual associated with the

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when the audit client or the accountant notifies the Commission that the client is no longer that auditor's audit client.

15 PCAOB Rule 3520, Note 1.

16 *See* AS 1005.05-.06; ET § 101.01.

17 AS 1005.02.

18 *See* AS 1005.03 ("It is of utmost importance to the profession that the general public maintain confidence in the independence of independent auditors. Public confidence would be impaired by evidence that independence was actually lacking, and it might also be impaired by the existence of circumstances which reasonable people might believe likely to influence independence. . . . Independent auditors should not only be independent in fact; they should avoid situations that may lead outsiders to doubt their independence.").

19 Reg. S-X Rule 2-01(b).

20 *See* PCAOB Rule 3500T.

client would lead a reasonable person aware of all the relevant facts to conclude that there is an unacceptable threat to the member's and the firm's independence."[21]

ii. Deficiencies in PwC's Independence Quality Control Policies and Procedures

16. PwC is one of the largest accounting firms in the world, and the nature of its practice, which includes substantial tax and advisory services, gives rise to independence risks that are less common for firms with less complexity. The Firm has established an Independence Office intended to address associated independence risks. That office, which is a key pillar in PwC's system of quality control, comprises independence-focused individuals with specialized knowledge, and is responsible for maintaining PwC's independence policies, processes, and controls, and for developing the Firm's independence training courses. The Independence Office is also intended to serve as a resource when independence-related questions arise, including by providing *ad hoc* guidance on an as-needed basis.

17. However, at the time of the events described below, PwC's quality control policies and procedures failed to provide reasonable assurance that its personnel referred to authoritative independence guidance or engaged in independence consultations, on a timely basis, in all appropriate circumstances. In particular, neither PwC's written independence policies and procedures, nor its communications and trainings around them, provided reasonable assurance that PwC personnel would refer to authoritative literature or other sources and promptly consult with knowledgeable individuals within or outside the Firm prior to engaging in discussions with audit clients about potential joint business activities prior to a JBR proposal, including commercially motivated "channel change" discussions. PwC also did not adequately communicate to its personnel in this context that, under applicable independence criteria, an accountant's appearance of independence could be impaired in situations not specifically addressed in, or prohibited by, an independence rule or standard, and that all relevant facts and circumstances, including all relationships between the accountant and the audit client, should be considered in such situations.

18. As a result, PwC's quality control policies and procedures did not provide the Firm with reasonable assurance that personnel maintain independence (in fact and in appearance) in all required circumstances, in violation of QC § 20.

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[21] ET § 101.02.

iii. PwC Professionals' Failure to Timely Consult About the Internal Discussions and Interactions with Issuer A Regarding a Potential Channel Change and JBR

19. By the beginning of 2018, professionals within a PwC group specializing in the use of technology to improve tax reporting (the "Tax Sub-Group") were making significant use of Issuer A's software in a variety of the Firm's client-facing activities. However, the Tax Sub-Group understood that there were certain marketplace activities that it could not engage in related to Issuer A and Issuer A's software while PwC was Issuer A's auditor.

20. In February 2018, a practice area leader in the Tax Sub-Group ("Tax Sub-Group Partner") held a call with several PwC partners to explore whether there had been a "channel choice discussion" within PwC concerning Issuer A—i.e., whether PwC had considered if it would be preferable to sever the audit relationship with Issuer A, thereby removing independence-related restrictions on PwC's business interactions with Issuer A.[22] The call included the Issuer A Audit Engagement Partner and a PwC Assurance leader for the area covering Issuer A ("Local Assurance Leader").

21. During the February 2018 call, the Tax Sub-Group Partner shared his thought that there could be a substantial benefit to PwC in forming an alliance with Issuer A and pursuing a joint go-to-market strategy, which he understood would first require that PwC terminate its audit relationship with Issuer A. The Tax Sub-Group Partner specifically raised the idea of pursuing a channel change with Issuer A to enable such an alliance. In response, the participants in the February 2018 call agreed that there was merit to internally exploring whether to change the relationship with Issuer A.

22. Thereafter, with the help of the Tax Sub-Group's leader ("Tax Sub-Group Leader") and others, the Tax Sub-Group Partner drafted a document summarizing the business case for pursuing a channel change and JBR with Issuer A. That business case document laid out the key business drivers for considering a channel change and JBR with Issuer A at the conclusion of the year-end 2018 Audit. It included specific business activities that could be pursued through a JBR. It also estimated that the proposed channel change and JBR could enable PwC to generate revenues that were substantially higher than PwC's audit revenues from Issuer A.

23. The Tax Sub-Group Leader and Tax Sub-Group Partner shared the business case document with the Audit Engagement Partner in July 2018. The Audit Engagement Partner then

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[22] Within PwC, audit clients subject to auditor independence restrictions are referred to as "channel 1" or "C1" clients. Clients not subject to such restrictions are referred to as "channel 2" or "C2" clients.

shared and discussed the business case document with various local and regional leaders in PwC's Assurance group, including the Local Assurance Leader. At about the same time, the Tax Sub-Group Leader also discussed the Tax Sub-Group's proposal with two members of the Firm's national leadership, including the National-Level Assurance Leader.

24. The Audit Engagement Partner, upon reviewing and forwarding the business case document to the Local Assurance Leader, indicated that Issuer A would likely be intrigued by the Tax group's proposal and open to having a channel change discussion. The Local Assurance Leader also shared that assessment with a regional PwC Assurance leader ("Regional Assurance Leader") and another local PwC leader, and noted to them that a channel change discussion concerning Issuer A was likely to reach high levels of Firm leadership.

25. In October 2018, the Tax Sub-Group Leader sent the National-Level Assurance Leader an updated version of the business case document for pursuing a JBR and channel change with Issuer A. The updated business case document noted that Issuer A was "aggressively pushing us to work with them in unique ways" and was "a fast growing company looking to partner with someone like us."

26. Following the receipt of the updated business case document, the National-Level Assurance Leader instructed the Audit Engagement Partner to arrange and participate in a meeting between Issuer A's CEO and a member of PwC's Tax group, in light of the Tax group's JBR and channel change proposal. The National-Level Assurance Leader gave that instruction in meetings that included the Regional Assurance Leader, Local Assurance Leader, Tax Sub-Group Leader, and Audit Engagement Partner. The National-Level Assurance Leader also instructed that PwC should not propose a channel change in the meeting, noting that it should be Issuer A's decision whether to terminate the audit relationship. However, the National-Level Assurance Leader indicated that the Audit Engagement Partner and Tax group representative should explain during the meeting with Issuer A's CEO both what PwC could and could not do while the audit relationship continued, and instructed that he wanted to be "[kept] in the loop as the discussions progress."

27. Based on the National-Level Assurance Leader's guidance, the Audit Engagement Partner then scheduled a meeting with Issuer A's CEO for November 28, 2018, which was a time when PwC would already be performing work on the 2018 Audit.

28. On November 28, 2018, the Audit Engagement Partner and the Tax Sub-Group Partner met with both Issuer A's CEO and Issuer A's President/Chief Revenue Officer. During the meeting, the Tax Sub-Group Partner described, among other things, PwC's use of Issuer A software, PwC's strategy to grow its business in areas that were relevant to Issuer A, and

certain marketplace opportunities and activities relating to Issuer A that PwC could not engage in while PwC remained Issuer A's auditor.

29. On December 10, 2018, the Audit Engagement Partner described in an email to the National-Level Assurance Leader, Regional Assurance Leader, Local Assurance Leader, Tax Sub-Group Leader, and Tax Sub-Group Partner, that the Issuer A representatives in the November 28 Meeting: (1) "were very receptive to the discussion and the conversation evolved very quickly," (2) "were very excited about the possibility of expanding their relationship with us," and (3) "directly asked . . . what the process looks like for auditor transition." The Audit Engagement Partner also described in that email that, in follow-up conversations with Issuer A representatives, the Audit Engagement Partner understood that Issuer A's CEO "'could hardly contain himself' after coming out of the meeting with us, and sees the opportunity as a 'tens of million of dollars [sic].'" Later that month, Issuer A's Audit Committee issued a request for proposal to audit firms, including PwC, to allow for consideration of a possible channel change.

30. Because the tax group's internal JBR proposal was the impetus for the November 28 Meeting, and such a JBR was impermissible under the independence rules and standards while PwC was Issuer A's auditor, there was a risk that the November 28 Meeting could lead to discussions that would cause a reasonable investor to doubt PwC's independence from Issuer A and conclude that PwC was not capable of exercising objective and impartial judgment on all issues encompassed within the ongoing 2018 Audit.

31. Moreover, the substance of the conversations that did occur during the November 28 Meeting and follow-up discussions, as reported in the Audit Engagement Partner's December 10 summary, increased the risk that a reasonable investor with knowledge of all relevant facts and circumstances would have concluded that PwC was not capable of exercising objective and impartial judgment on all issues encompassed within the ongoing 2018 Audit.

32. Nevertheless, PwC's then-existing independence policies and procedures did not require an Independence Office consultation in these circumstances. More specifically, while PwC's then-existing policies required consultation with the Independence Office regarding any "proposed" JBR, they did not require any consultation before or after discussions about potential joint business activities with an audit client prior to a formal proposal. In the absence of such guidance, the PwC professionals discussed above did not initiate an Independence Office or similar consultation either before the November 28 Meeting or reasonably promptly after receiving the Audit Engagement Partner's summary of that meeting and the follow-up conversations with Issuer A. Nor did any of those PwC leaders or partners perform or cause PwC to perform a specific analysis of the implications of the November 28 Meeting and follow-

up conversations under the general standard of independence set forth in Rule 2-01(b) of Reg. S-X, either before or reasonably promptly after they occurred.

33. Instead, with the knowledge of each of the PwC leaders and partners identified in paragraph 29, above, PwC continued to perform the 2018 Audit, and was also planning to perform a review of Issuer A's interim financial statements for the first quarter of 2019. Some of those professionals also immediately began to plan follow-up meetings with Issuer A's CEO, that would have taken place while the 2018 Audit was ongoing.

34. The PwC leaders and partners did not initiate a consultation with the Independence Office, or perform an appropriate analysis of its independence from Issuer A in the wake of the November 28 Meeting, until DEI initiated its investigation. On January 4, 2019, DEI sent PwC a document and information request concerning PwC's independence from Issuer A, which caused the Firm to initiate a consultation with the Independence Office. During that consultation, the Independence Office learned about the Tax group proposal for a channel change and JBR, and the related November 28 Meeting, for the first time. The Independence Office then considered those circumstances, alongside PwC's other non-audit interactions with and involving Issuer A—including PwC's enterprise-wide license of Issuer A software, PwC's encouraging its staff to use Issuer A software, and PwC's use of Issuer A software in client-facing activities—and determined that there was a risk that a reasonable investor could conclude that PwC was not independent of Issuer A in 2018.

35. On January 17, 2019, PwC informed the Chair of Issuer A's Audit Committee that PwC was recommending that Issuer A's Audit Committee consider immediately replacing PwC as Issuer A's auditor. The following day, PwC made the same recommendation to the full Audit Committee. Shortly thereafter, the Audit Committee determined to terminate PwC as Issuer A's auditor.

36. The foregoing events related to Issuer A illustrate PwC's failure to establish or appropriately communicate policies and procedures that would provide reasonable assurance that its personnel would maintain independence, in fact and in appearance, in all required circumstances.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in PricewaterhouseCoopers LLP's Offer. In ordering sanctions, the Board took into consideration the Firm's cooperation, including the fact that the Firm voluntarily undertook certain remedial steps during the pendency of the

PCAOB's investigation, including (1) adopting additional policies and procedures relating to independence being maintained (in both fact and appearance) in connection with any channel change discussions between the Firm and an audit client and (2) providing supplemental training to audit, tax, and advisory professionals on independence risks, including those arising from the use of software and other products sold by audit clients.

Accordingly, it is hereby ORDERED, effective immediately, that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,750,000 is imposed on PricewaterhouseCoopers LLP.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies PricewaterhouseCoopers LLP as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(F)-(G) of the Act and PCAOB Rule 5300(a)(6) & (9), the Board orders that:

1. **Review by PricewaterhouseCoopers LLP.** Within 90 days of the entry of this Order, PricewaterhouseCoopers LLP shall establish, revise, or supplement, as necessary, its independence-related quality control policies and procedures to provide the Firm with reasonable assurance that (1) the Firm and its personnel maintain independence (in fact and in appearance) in all required circumstances; and (2) Firm personnel refer to authoritative literature or other sources and consult, on a timely basis, with individuals within or outside the Firm, when appropriate (for example, when dealing with complex, unusual, or unfamiliar issues). As part of that review and evaluation, the Firm shall consider and analyze, without limitation, whether its policies and procedures and related guidance that the Firm makes available to its professionals in searchable databases adequately address the topics described in paragraphs IV.C.2 and IV.C.3, below.

2. **Communication of Quality Control Policies and Procedures.** Within 60 days of the completion of the undertaking described in paragraph IV.C.1, above, PricewaterhouseCoopers LLP shall:

a. Communicate to all of the Firm's professionals[23] any additions, revisions, or supplements to its independence-related quality control policies and procedures as a result of the undertaking described in paragraph IV.C.1, above, in a manner that provides reasonable assurance that those policies and procedures are understood and complied with;

b. Communicate to all of the Firm's professionals to emphasize and reinforce:

    1. That an auditor must be independent in both fact and appearance;

    2. That appearance of independence, within the meaning of Reg. S-X Rule 2-01(b), 17 C.F.R. § 210.2-01(b), is measured through a "reasonable investor" test, which is an objective standard, and the SEC will not recognize an accountant as independent, with respect to an audit client, if a reasonable investor with knowledge of all relevant facts and circumstances would conclude that the accountant is not capable of exercising objective and impartial judgment on all issues encompassed within the accountant's engagement;

    3. That an auditor may violate independence rules, regulations, and standards set forth by the PCAOB and SEC if facts and circumstances would lead a reasonable investor to doubt the auditor's independence from an audit client—even if the particular circumstance is not expressly addressed in, or prohibited by, a more specific independence-related rule, regulation, or standard;

    4. That, in determining whether an accountant is independent, the SEC will consider all relevant

[23] For purposes of the undertakings set forth in Section IV of this order, "professionals" shall mean any partner, principal, shareholder, or professional employee of the Firm, regardless of whether such person provides audit services.

circumstances, including all relationships between the accountant and the audit client, and not just those relating to reports filed with the SEC;

5. That a registered public accounting firm and its associated persons must be independent of the firm's audit client throughout the audit and professional engagement period, and that the determination of compliance with independence requirements is not limited to preliminary engagement activities and should be reevaluated with changes in circumstances; and

6. That, as part of the policies and procedures that the Firm has adopted in response to QC § 20.19, it is the Firm's policy to encourage consultations with the Independence Office when complex, unusual, or unfamiliar circumstances arise that may bear on a reasonable investor's evaluation of auditor independence.

3. **Training of Current Professionals.** PricewaterhouseCoopers LLP shall ensure that each of its professionals receives 4 hours of additional training on auditor independence within 12 months of the completion of the undertaking described in paragraph IV.C.1, above, which must include this order as a required reading material and include each of the following topics:

   a. The requirement, pursuant to PCAOB Rule 3520, *Auditor Independence*, that both a registered firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period and satisfy all independence criteria applicable to the engagement, including the independence criteria set out in the rules and standards of the PCAOB, and in the rules and regulations of the Commission under the federal securities laws;

   b. The general standard of independence set forth in Reg. S-X, Rule 2-01(b), 17 C.F.R. § 210.2-01(b);

c. The obligations of auditors to avoid situations that may lead outsiders to doubt their independence from an audit client, pursuant to AS 1005.03, *Independence*;

d. The obligations of auditors, pursuant to ET § 101.02, *Interpretation of Rule 101*, to consider whether personal and business relationships with a client or an individual associated with the client would lead a reasonable person aware of all the relevant facts to conclude that there is an unacceptable threat to auditor independence; and

e. The policies and procedures that the Firm has adopted to provide the Firm with reasonable assurance that personnel maintain independence (in fact and in appearance) in all required circumstances, including:

    1. Key factors that the Firm has identified that should be considered in evaluating whether the Firm has maintained the appearance of independence;

    2. Authoritative literature and other resources available to Firm professionals concerning auditor independence, and how and where to access that literature and those resources;

    3. The role of, and services provided by, the Firm's Independence Office, including the consultative services available from and provided by the Independence Office;

    4. The process for initiating an Independence Office consultation;

    5. Firm policies and procedures for ensuring that independence is not impaired by any proposal to form new relationships with an audit client, including any required consultations prior to communicating with an audit client about potential changes to the Firm's relationships with that client;

6. Steps Firm personnel can take if they believe that other professional staff are engaged in or planning activities for which an Independence Office consultation is warranted, but has not taken place; and

7. How Firm personnel can raise concerns about whether the Firm or its professionals have violated, or may in the future violate, independence rules or standards, including that:

    a. Individuals may raise concerns anonymously through PwC's Ethics Helpline; and

    b. The Firm will protect individuals from retaliation for raising good-faith concerns, even if the concerns are ultimately unsubstantiated.

4. **Future Independence Training.** For a period of five years following the date of this Order, PricewaterhouseCoopers LLP shall ensure that each professional it hires after the date of this Order receives 4 hours of training on auditor independence within the time period set forth for the completion of the undertakings in paragraph IV.C.3, above, or within 60 days of being hired, whichever is later, including training covering the topics described in paragraph IV.C.3, above.

5. **Certification.** Respondent shall certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs IV.C.1 through IV.C.3, as follows: (a) within 60 days after completing the undertakings in paragraph IV.C.2, the Firm will certify compliance with paragraphs IV.C.1 and IV.C.2, and (b) within 60 days after completing the undertakings in paragraph IV.C.3, the Firm will certify compliance with paragraph IV.C.3. The certification of the Firm's compliance with paragraph IV.C.1 shall include copies of the policies, procedures, and related guidance, including any supplements or amendments thereto, that PwC is relying upon to satisfy that undertaking. The certification of the Firm's compliance with paragraph IV.C.2 shall include copies of

the communications sent to the Firm's professionals to comply with those undertakings. The certification of the Firm's compliance with paragraph IV.C.3 shall include copies of any written materials or recordings used in the trainings conducted to comply with those undertakings.

6. For good cause shown, the PCAOB staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

7. Respondent understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 28, 2024

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

1666 K Street NW
Washington, DC 20006

Office: 202-207-9100
Fax: 202-862-8430

www.pcaobus.org

Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of PricewaterhouseCoopers,

Respondent.

PCAOB Release No. 105-2024-015

March 28, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) Censuring PricewaterhouseCoopers ("PwC Australia," "Firm," or "Respondent");

(2) Imposing a $600,000 civil money penalty on PwC Australia; and

(3) Requiring PwC Australia to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that PwC Australia violated PCAOB rules and quality control standards in connection with its failure to timely report certain matters to the Board.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **PricewaterhouseCoopers** is a partnership organized under Australian law and headquartered in Sydney, Australia. It is a member firm of the PwC network, of which PricewaterhouseCoopers International Limited is the coordinating entity. At all relevant times, PwC Australia was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm served as principal auditor for nine or more issuer audit clients.

B. Summary

2. This matter concerns PwC Australia's failure to timely report the initiation and conclusion of proceedings against the Firm by the Australian Tax Practitioners Board ("TPB"). The TPB proceedings related to failures on the part of the Firm to properly manage conflicts of interest that arose from the participation of certain partners in confidential consultations with the Australian government. In an order issued November 25, 2022, the TPB found that PwC Australia violated the TPB's Code of Professional Conduct because the Firm "would have [been], or should have been, aware of the perceived and actual conflict of interest which existed in relation to its duties and activities as a tax agent and it failed to ensure that there were adequate arrangements in place to manage these conflicts."[2] Despite being put on notice in February 2022 of the TPB's initiation of proceedings against the Firm, and the issuance of the TPB's order in November 2022, the Firm did not report the initiation or conclusion of those proceedings to the Board on PCAOB Form 3*, Special Report*, until June 2023, well after the applicable deadlines.

3. This matter also concerns the failure of PwC Australia to properly monitor compliance with its quality control policies and procedures that were meant to provide

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

[2] *See* Tax Practitioners Board Order (available at PriceWaterhouseCoopers | Tax Practitioners Board (tpb.gov.au)).

reasonable assurance that the Firm met its Form 3 reporting requirements. Significantly, the Firm's then-Chief Executive Officer, and members of the Firm's Office of General Counsel ("OGC"), Strategy, Risk, and Reputation Group, and Financial Advisory Services practice, were aware of the TPB investigation as early as March 2021 and related proceedings as early as February 2022. They also participated in preparing the Firm's responses to the TPB, yet none of those involved shared information about the proceedings with those at the Firm responsible for Form 3 reporting compliance. Indeed, the individuals responsible for Form 3 reporting learned of the proceedings only after reading about them in the press during early May 2023. Even then, the Firm failed to file mandatory Form 3s until June 20, 2023.

4. The Firm's monitoring processes failed to identify the siloed nature of the Firm's primary practice areas and the impact it might have on the Firm's compliance with its PCAOB reporting requirements. The Firm's monitoring process further failed to (i) timely identify necessary corrective actions and improvements to be made in the Firm's system of quality control; (ii) communicate to appropriate Firm personnel any weaknesses in the quality control system or in the level of understanding or compliance therewith; and (3) follow up with appropriate firm personnel to ensure that any necessary modifications were made to the quality control policies and procedures in a timely manner.

C. PwC Australia Violated PCAOB Rules and Standards

i. PwC Australia Failed to Timely File Form 3s

5. PCAOB Rule 2203, *Special Reports*, requires registered public accounting firms to file Form 3s disclosing certain reportable events to the Board within 30 days of the occurrence of those events.[3] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a government entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[4]

6. Another reportable event occurs when a firm has become aware that a reportable proceeding (*i.e.*, a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[5]

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3 *See* PCAOB Rule 2203(a)(1).

4 PCAOB Form 3, at Item 2.7 (italics in the original removed).

5 *Id.* at Item 2.10.

7. In March 2021, as described more fully below, certain people within PwC Australia became aware that the TPB had commenced an investigation into the Firm. No later than February 16, 2022, the TPB initiated proceedings against the Firm when the TPB indicated it was concerned about the Firm's conflict of interest policies and procedures and requested a statement of position from the Firm. The request for a statement of position reflected a change in the posture of the TPB's investigation, and the Firm should have understood that the TPB's request for a statement of position constituted the TPB's commencement of a proceeding against the Firm.

8. No later than November 25, 2022, the TPB notified the Firm that it had concluded its proceedings against the Firm by issuing its order against the Firm. The TPB's order found that the Firm violated the TPB's Code of Professional Conduct because the Firm would have, or should have, been "aware of the perceived and actual conflict of interest which existed in relation to its duties and activities as a tax agent and it failed to ensure that there were adequate arrangements in place to manage these conflicts."[6] As part of the order, the TPB required the Firm to undertake certain remedial measures.

9. The initiation and conclusion of the TPB proceedings against the Firm constituted reportable events under Form 3. Accordingly, the Firm was required to report those events to the PCAOB on Form 3 within thirty days of their occurrence.[7] However, PwC Australia reported the two events on June 20, 2023, more than a year after the TPB proceedings were initiated and more than six months after the proceedings were concluded.

ii. PwC Australia's Monitoring Procedures Failed to Provide Reasonable Assurance that Reportable Events Were Identified and Timely Reported

10. PCAOB rules also require that a registered accounting firm comply with the Board's quality control standards,[8] which provide that a registered accounting firm "shall have a system of quality control for its accounting and auditing practice."[9] "A system of quality control is . . . a process to provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality."[10] "A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and

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6 *See* PriceWaterhouseCoopers | Tax Practitioners Board (tpb.gov.au).

7 *See* PCAOB Rule 2203(a).

8 *See* Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; Rule 3400T, *Interim Quality Control Standards*.

9 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice.*

10 *Id.* at .03.

procedures established to provide the firm with reasonable assurance of complying with professional standards."[11]

11. PCAOB standards require that a firm establish policies and procedures to monitor its system of quality control. Such procedures should "provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied."[12]

12. Under PCAOB standards, monitoring "involves an ongoing consideration and evaluation of," among other things, the "[r]elevance and adequacy of the firm's policies and procedures . . . [and] compliance with the firm's policies and procedures."[13] When monitoring, a firm should consider "the effects of the firm's management philosophy."[14] A firm's "[m]onitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective."[15]

13. Monitoring procedures may include: (i) "Determination of any corrective actions to be taken and improvements to be made in the quality control system"; (ii) "Communication to appropriate firm personnel of any weaknesses identified in the quality control system or in the level of understanding or compliance therewith"; and (iii) "Follow-up by appropriate firm personnel to ensure that any necessary modifications are made to the quality control policies and procedures on a timely basis."[16]

14. Between 2015 and 2017, certain PwC partners were engaged by Australia's Department of the Treasury ("Treasury") in confidential consultations on proposed tax legislation. Under the terms of those consultations, the partners agreed to keep confidential information obtained from Treasury. In March 2021, after the TPB had commenced an inquiry into the Firm, PwC Australia, through its OGC, undertook an internal inquiry. As part of its internal inquiry, PwC Australia's OGC learned that certain PwC Australia partners had shared confidential tax information with others within the firm despite signing confidentiality

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11 *Id.* at .04.

12 QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

13 *Id.*

14 *Id.*

15 *Id.* at .03.

16 *Id*.

agreements with Treasury.[17] The findings of the internal inquiry, including details of the confidentiality breaches, were shared with the Firm's then-Chief Executive Officer ("CEO") and its then-Chief Strategy, Risk, and Reputation Officer. Significantly, the CEO was in a unique position to assess the merits of the concerns raised by the TPB as he was the leader of the tax practice at the time the PwC Australia partners were asked to participate in confidential Treasury consultations and was advised of their participation at the time. He was also aware, as early as January 2016, that information obtained by a partner participating in Treasury consultations had been used to market and sell tax services to existing and prospective clients.

15. From March 2021 until November 2022, the Firm's former CEO, the Firm's then-Financial Advisory Services Leader and OGC were directly involved in and had oversight over the Firm's handling of the TPB matter. Despite the direct involvement of Firm leadership, the existence of the TPB matter was not shared with those at the Firm responsible for compliance with PCAOB reporting requirements.

16. Under the Firm's existing policies and procedures, threatened or potential investigations by a regulator required internal reporting intended to trigger notice to and consideration by the individuals responsible for Form 3 compliance. Such reporting did not occur either at the time the TPB investigation commenced in March 2021 or when the TPB proceedings commenced in February 2022. Indeed, the individuals responsible for Form 3 compliance learned of the TPB matter only after hearing about it in the press in May 2023.

17. It appears the siloed nature of the Firm's practices, combined with a lack of candor by Firm leadership, led to the failure to share information on the matter with the appropriate individuals. Moreover, the Firm's monitoring procedures failed to properly consider and respond to the Firm's fragmented governance structure and the culture of the tax practice under its former leader, who became the Firm's CEO in March 2020. As a result, the Firm's monitoring procedures failed to identify the Firm's non-compliance with Rule 2203 and the need for updated quality control policies and procedures. The Firm's monitoring procedures further failed to communicate weaknesses identified in the relevant quality control policies and

[17] In 2019, Firm leadership and the Australian Tax Office ("ATO") met on several occasions. After conducting an investigation into the improper handling of confidential information, PwC Australia concluded that during at least one of those 2019 meetings, the ATO raised concerns "about the culture in the [F]irm's Tax practice." *See* Review of Tax Confidentiality Breaches and Related Questions, available at https://www.pwc.com.au/about-us/commitments-to-change/pwc-australias-statement-of-facts.pdf (italics omitted). These concerns were reported to the Firm's Governance Board shortly after that 2019 meeting. *See id*. The Firm's investigation also found that, during 2019, the ATO put the Firm on notice of confidentiality breaches within its tax practice. *See id*.

procedures or in the level of understanding or compliance therewith, and ensure necessary modifications were timely made.

18. As illustrated by the Form 3 violations described above, from at least 2021 to 2023, the Firm failed to establish and implement appropriate monitoring procedures to provide the Firm with reasonable assurance that its Form 3-related policies and procedures were suitably designed and being effectively applied. As a result, the Firm violated QC § 30.

IV.

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

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation in this matter.[18] The Firm provided substantial assistance to the PCAOB's investigation by sharing the results of the Firm's investigation into the confidentiality breaches and its related root cause analysis. Additionally, the Firm subsequently instituted remedial measures to address the above-described issues, including retaining an independent consultant to evaluate and report on the Firm's governance and culture to identify shortcomings and areas for improvement at the Firm. The Firm also made changes to its leadership, replacing its CEO, Chief Strategy, Risk, and Reputation Officer, and Financial Advisory Services Leader. The Chairs of the Firm's Governance Board and the Governance Board's designated risk committee were also replaced. The Firm also represented that it has (i) created a new role, Chief Risk and Ethics Leader, and a new compliance function, and (ii) revised its Annual Compliance Confirmation to include questions to identify Form 3 reportable events.[19]
Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $600,000 is imposed on PricewaterhouseCoopers.

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[18] *See Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations*, PCAOB Rel. No. 2013-003 (Apr. 24, 2013).

[19] In 2023, the Firm added four new PCAOB-related questions to its Annual Compliance Confirmation designed to identify potential reportable events. The first period covered by the new requirements was May 1, 2022 – April 30, 2023.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. PricewaterhouseCoopers shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies PricewaterhouseCoopers as the Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. With respect to any civil money penalty amounts that PricewaterhouseCoopers shall pay pursuant to this Order, PricewaterhouseCoopers shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy (except Respondent may seek or accept reimbursement or indemnification of any civil money penalty amounts from self-insurance provided through a captive insurer owned by Respondent and/or other firms within the network of which Respondent is a member that provides insurance solely to Respondent and other firms within the network); (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of PricewaterhouseCoopers's payment of the civil money penalty pursuant to this Order, in any private action brought against PricewaterhouseCoopers based on substantially the same facts as set out in the findings in this Order.

4. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. PricewaterhouseCoopers understands that failure to pay the civil money penalty described above may result in summary suspension of its

registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), PricewaterhouseCoopers is required:

1. Within 120 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (a) personnel comply with the Firm's policies and procedures related to compliance with Form 3 reporting requirements; and (b) the above-described policies and procedures are suitably designed and are being effectively applied.

2. Within 150 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with Section IV.C.1. above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. PricewaterhouseCoopers shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

3. The Firm understands that the failure to satisfy any provision of Section IV.C. may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 28, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Berkower LLC,

Respondent.

PCAOB Release No. 105-2024-016

March 28, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Berkower LLC ("Berkower," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $25,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely assemble a complete and final set of audit documentation within 45 days of the report release date in connection with its audit of Issuer A.

I.

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

II.

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

behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Berkower LLC** is a New Jersey limited liability company headquartered in Iselin, New Jersey. Berkower is licensed to practice public accounting by the New Jersey State Board of Accountancy (License No. 20CB00106700), among other state boards. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Issuer

2. **Issuer A** was, at all relevant times, a shell company incorporated in Nevada and headquartered in New York, New York. At all relevant times, Issuer A was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Berkower issued an audit report that Issuer A included in its Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") for the year ended December 31, 2020.

C. Berkower Failed to Assemble and Retain Audit Documentation in Violation of AS 1215

3. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards.[2] PCAOB standards require that the auditor prepare and retain audit documentation in connection with audit engagements.[3] That includes the requirement that "[a] complete and final set of audit documentation should

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

[2] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[3] *See* AS 1215.01, *Audit Documentation*.

be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[4]

4. Berkower audited Issuer A's financial statements for the year ended December 31, 2020, and issued its audit report on March 31, 2021, which the issuer included in its Form 10-K filed with the Commission.

5. The documentation completion date for the audit was May 15, 2021 (45 days after the report release date). However, from such time until at least March 2022, the Firm failed to assemble a complete and final set of audit documentation for retention. In addition, the Firm failed to include multiple work papers necessary to evidence the Firm's compliance with auditing standards in the Firm's final set of audit documentation.

6. Accordingly, Berkower violated AS 1215.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by PCAOB staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K

[4] *Id.* at .15.

Street NW, Washington, D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), the Firm is required:

1. Within 90 days of the entry of this Order, to ensure that all professionals involved in any "audit," as that term is defined in Section 110(1) of the Act, have received professional education and training concerning compliance with AS 1215, *Audit Documentation*, including archiving of audit documentation in accordance with AS 1215. The Firm understands

that the failure to satisfy this condition may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 28, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Freedman & Goldberg, C.P.A.'s, P.C.,

Respondent.

PCAOB Release No. 105-2024-017

March 28, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Freedman & Goldberg, C.P.A.'s, P.C. ("Freedman & Goldberg," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $25,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to establish quality control policies and procedures that would provide reasonable assurance that the work performed by engagement personnel would comply with PCAOB standards requiring the timely assembly of a complete and final set of audit documentation under AS 1215.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Freedman & Goldberg has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Freedman & Goldberg, C.P.A.'s, P.C.** is a Michigan domestic professional corporation headquartered in Farmington Hills, Michigan. Freedman & Goldberg is licensed to practice public accounting by the Michigan Department of Licensing and Regulatory Affairs (License No. 1102001272). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Freedman & Goldberg Violated PCAOB Quality Control Standards

2. PCAOB rules require a registered public accounting firm to comply with all applicable auditing and related professional practice standards, including the Board's quality control standards.[2]

3. PCAOB quality control standards require that a registered firm have a system of quality control for its accounting and auditing practice.[3] "A system of quality control is broadly

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

[2] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[3] *See* Quality Control Standard 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20").

defined as a process to provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality."[4]

4. PCAOB quality control standards require firms to establish policies and procedures sufficient to provide it with "reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[5]

5. PCAOB standards require that the auditor prepare and retain audit documentation in connection with audit engagements.[6] That includes the requirement that "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[7]

6. From May 2020 until at least July 2021, the Firm failed to design and implement appropriate policies and procedures to provide it with reasonable assurance that it would comply with AS 1215's requirements regarding audit documentation. Specifically, the Firm's policies and procedures were designed to comply with professional standards that imposed less exacting archiving requirements than the PCAOB's audit documentation standards. The Firm's policies and procedures therefore failed to require a complete and final set of audit documentation to be assembled for retention within 45 days following the report release date as required under AS 1215.

7. Accordingly, Freedman & Goldberg violated QC § 20.

IV.

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

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4 *Id.* at .03.

5 *Id.* at .17.

6 *See* AS 1215.01, *Audit Documentation*.

7 *Id.* at .15.

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay this civil money penalty as follows: the Firm shall pay $15,000 within ten days of the issuance of this Order and an additional $10,000 within 60 days of the issuance of this Order. The Firm shall make payment by: (1) wire transfer pursuant to instructions provided by PCAOB staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the

amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(F) and (G) of the Act and PCAOB Rule 5300(a)(6) and (9), the Firm is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that Firm personnel will comply with the audit documentation requirements of AS 1215, *Audit Documentation*, including with respect to the archiving of audit documentation in accordance with AS 1215;

2. Within 90 days of the entry of this Order, to ensure that all professionals involved in any audit, as that term is defined in Section 110(1) of the Act, have received professional education and training concerning compliance with AS 1215, including archiving of audit documentation in accordance with AS 1215; and

3. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraphs IV.C.1 and IV.C.2 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these

conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 28, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Sassetti LLC,

Respondent.

PCAOB Release No. 105-2024-018

March 28, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Sassetti LLC ("Sassetti," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $25,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to comply with PCAOB audit documentation standards in connection with the audit of Broker-Dealer A.

I.

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

II.

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

behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Sassetti LLC** is an Illinois limited liability company headquartered in Oak Brook, Illinois. Sassetti is licensed to practice public accounting by the Illinois Department of Financial and Professional Regulation (License No. 158002559) and the South Carolina Board of Accountancy (License No. 10464). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Broker-Dealer

2. **Broker-Dealer A** was, at all relevant times, a Delaware corporation headquartered in Chicago, Illinois. At all relevant times, Broker-Dealer A was registered with the U.S. Securities and Exchange Commission ("Commission") as a broker and dealer in securities. At all relevant times, Broker-Dealer A was a "broker" and "dealer," as those terms are defined in Sections 110(3) and (4) of the Act and PCAOB Rules 1001(b)(iii) and (d)(iii). At all relevant times, Broker-Dealer A was a "non-carrying" broker-dealer (i.e., a broker-dealer that does not maintain custody of customer funds or securities).[2]

C. Sassetti Failed to Assemble and Retain Audit Documentation in Violation of AS 1215

3. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards.[3] PCAOB standards require that

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

[2] Broker-Dealer A claimed an exemption pursuant to paragraph (k)(2)(ii) of Rule 15c3-3 under the Securities Exchange Act of 1934 ("Exchange Act"), 17 C.F.R. § 240.15c3-3(k)(2)(ii).

[3] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

the auditor prepare and retain audit documentation in connection with audit engagements.[4] That includes the requirement that "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[5] Further, "[c]ircumstances may require additions to audit documentation after the report release date[,]" but any documentation added "must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[6]

4. Sassetti audited Broker-Dealer A's financial statements for the year ended December 31, 2021, and issued its audit report on February 25, 2022, that the broker-dealer included in its Form X-17A-5 Part III filed with the Commission.

5. The documentation completion date for the audit was April 11, 2022 (45 days after the report release date). However, the Firm failed to assemble a complete and final set of audit documentation for retention until July 11, 2022, three months after the documentation completion date.

6. In addition, the Firm prepared and/or reviewed 12 work papers after the report release date and failed to indicate the reason for adding each of them to the audit documentation. The work papers included, among other things, the engagement completion document; a supervision, review, and approval form; general auditing and completion procedures; and work papers related to property, income taxes, notes payable and long-term debt, and commission expense and other income and expenses.

7. Accordingly, Sassetti violated AS 1215.

IV.

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

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4 *See* AS 1215.01, *Audit Documentation*.

5 *Id.* at .15.

6 *Id.* at .16.

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by PCAOB staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), the Firm is required:

1. Within 90 days of the entry of this Order, to ensure that all professionals involved in any "audit," as that term is defined in Section 110(1) of the Act, have received professional education and training concerning compliance with AS 1215, *Audit Documentation*, including archiving of audit documentation in accordance with AS 1215. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 28, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of R. Bolko CPA P.A,

Respondent.

PCAOB Release No. 105-2024-019

March 28, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring R. Bolko CPA P.A f/k/a Bolko and Associates LLC, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $30,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to entry of this Order.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **R. Bolko CPA P.A** is a company located in Boca Raton, Florida (License number AD70400). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm audited the financial statements of HFactor, Inc. ("HFactor") (f/k/a FICAAR, Inc.) as of and for the years ended December 31, 2019, 2020, and 2021. For HFactor's 2019 financial statements, the Firm issued an audit report dated January 25, 2021, which was

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

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

included in HFactor's Form 10-K filed with the SEC on February 2, 2021. For HFactor's 2019 and 2020 financial statements, the Firm issued an audit report dated April 9, 2021, which was included in HFactor's Form 10-K filed with the SEC on April 13, 2021. For HFactor's 2020 and 2021 financial statements, the Firm issued an audit report dated April 11, 2022, which was included in HFactor's Form 10-K filed with the SEC on April 14, 2022.

4. The Firm audited the financial statements of Go Go Buyers, Inc. for the year ended December 31, 2021. The Firm issued an audit report dated July 15, 2022, which was included in Go Go Buyers, Inc.'s Form S-1/A filed with the SEC on July 15, 2022. The Firm audited the financial statements of Go Go Buyers, Inc. for the year ended December 31, 2021. The Firm issued an audit report dated July 13, 2022, which was included in Go Go Buyers, Inc.'s Form S-1/A filed with the SEC on August 16, 2022. The Firm audited the financial statements of Go Go Buyers, Inc. for the year ended December 31, 2022. The Firm issued an audit report dated April 14, 2023, which was included in Go Go Buyers, Inc.'s Form 10-K filed with the SEC on April 17, 2023.

5. Over more than a two-year period, the Firm failed to file certain required Form APs for the above filings by the 35th day after the date the audit reports were first included with the filings made with the SEC in violation of PCAOB Rule 3211. The Firm also failed to file certain required Form APs by the 10th day after the date the audit report was first included in a registration statement filed with the SEC, in violation of PCAOB Rule 3211(b)(2).

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money

order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that the failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of

compliance with PCAOB reporting requirements, including PCAOB Rule 3211 and that Form APs are filed in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 28, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Fontanella Associates LLC CPA & Consulting Firm,

Respondent.

PCAOB Release No. 105-2024-020

March 28, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("PCAOB" or "Board") is:

(1) censuring Fontanella Associates LLC CPA & Consulting Firm ("Fontanella," "Firm," or "Respondent");

(2) imposing a $25,000 civil money penalty on Fontanella; and

(3) requiring Fontanella to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that Fontanella failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has

determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Fontanella Associates LLC CPA & Consulting Firm** is a limited liability corporation organized under the laws of New Jersey. The Firm is located in Totowa, New Jersey and is licensed to practice public accounting by the New Jersey Board of Accountancy (license no. 20CB00711700). Fontanella is, and at all relevant times was, registered with the PCAOB pursuant to Section 102 of the Act and PCAOB rules.

B. Fontanella Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211, which took effect for issuer audit reports issued on or after January 31, 2017, requires every registered public accounting firm to file a Form AP for each audit report it issues for an issuer, and include the identity of the engagement partner and certain information about the issuer and other accounting firms that participated in an audit. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission ("SEC"),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. Fontanella audited the financial statements of Sunnyside Bancorp, Inc. ("Sunnyside") for each of the years ended December 31, 2016 through December 31, 2021. On June 1, 2022, Vecta Partners LLC acquired Sunnyside, which then changed its name to Vecta Inc. ("Vecta"). Following the acquisition, Fontanella audited the financial statements of Vecta for the year ended December 31, 2022. For each of its audits of the company, the Firm failed to file

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

[2] *See* PCAOB Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the SEC. *See* PCAOB Rule 3211(b)(2).

a Form AP within 35 days of the inclusion of Fontanella's audit report in a filing with the SEC, as summarized below:

Financial Statement Date	Date of SEC Filing Including Firm Audit Report	Date Form AP Due	Date Form AP Filed
December 31, 2016	March 30, 2017	May 4, 2017	November 1, 2017
December 31, 2017	March 28, 2018	May 2, 2018	September 7, 2018
December 31, 2018	March 28, 2019	May 2, 2019	June 18, 2019
December 31, 2019	March 27, 2020	May 1, 2020	August 19, 2020
December 31, 2020	March 31, 2021	May 5, 2021	July 22, 2021
December 31, 2021	March 30, 2022	May 4, 2022	June 5, 2023
December 31, 2022	March 31, 2023	May 5, 2023	June 5, 2023

4. In addition to repeatedly filing Form APs after the applicable deadline, Fontanella's Form APs for its audits of Sunnyside's financial statements for the years ended December 31, 2016 through 2019 included an incorrect Central Index Key ("CIK") number for Sunnyside.

5. The PCAOB conducted its first inspection of Fontanella in 2020 and the inspectors brought to the Firm's attention its failure to file the Form AP for its year-end 2019 Sunnyside audit within the requisite time period—and the inclusion of an incorrect CIK number in it—as deficiencies. The Firm thereafter filed an amended Form AP for that audit, which corrected the CIK number. The Firm continued to use the correct CIK number in its subsequent Form APs, but continued filing those Form APs after the applicable deadline despite such untimeliness having been raised during the inspection.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon Fontanella.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Fontanella shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by PCAOB staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Fontanella as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Fontanella shall pay pursuant to this Order, Fontanella shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Fontanella's payment of the civil money penalty pursuant to this Order, in any private action brought against Fontanella based on substantially the same facts as set out in the findings in this Order.

5. Fontanella understands that failure to pay the civil money penalty described above may result in summary suspension of Fontanella's registration, pursuant to PCAOB Rule 5304(a), following written notice to Fontanella at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Fontanella is required:

1. within 90 days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing Fontanella with reasonable assurance of compliance with PCAOB reporting requirements, including PCAOB Rule 3211, and that Form APs are filed in a timely and complete matter;

2. within 90 days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of Fontanella personnel who participate in the Firm's PCAOB reporting process; and

3. within 120 days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, Fontanella's compliance with paragraphs C.1 and C.2 above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. Fontanella shall also submit such additional evidence and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***Fontanella understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 28, 2024

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Pan-China Singapore PAC,

Respondent.

PCAOB Release No. 105-2024-021

April 9, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Pan-China Singapore PAC ("Pan-China," "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $75,000 on the Firm; and

(3) requiring Pan-China to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and quality control standards by failing to implement and maintain quality control policies and procedures to ensure that its personnel complied with applicable professional standards, regulatory requirements, and the Firm's standards of quality.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Pan-China Singapore PAC** is a partnership organized under the laws of Singapore and headquartered in Singapore. Pan-China is licensed by the Singapore Accounting and Corporate Regulatory Authority (License No. 201603521D). Pan-China is, and at all relevant times was, registered with the PCAOB, pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns the Firm's failure to comply with PCAOB rules and quality control standards. During 2019 and 2020, the Firm failed to establish and maintain a system of quality control to provide it with reasonable assurance that Firm personnel would comply with PCAOB rules and standards and regulatory requirements. Specifically, the Firm's system of quality control failed to provide reasonable assurance that the Firm used an audit methodology, guidance materials, and practice aids designed to comply with PCAOB auditing standards and other regulatory requirements; that staff participated in relevant training; and that the Firm met requirements with respect to audit documentation, auditor reporting of certain audit participants, and audit committee communications.

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

C. The Firm Violated PCAOB Quality Control Standards

3. PCAOB rules require a registered public accounting firm and its associated persons to comply with PCAOB quality control standards.[3] These standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice.[4] A firm's system of quality control provides a critical foundation and infrastructure for a firm's audit quality as it should "ensure that services are competently delivered and adequately supervised."[5] A firm should establish policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[6]

4. Quality control policies and procedures for engagement performance should encompass all phases of the design and execution of an engagement.[7] To the extent appropriate and as required by applicable professional standards, including U.S. Securities and Exchange Commission ("Commission") and PCAOB rules and/or standards, these policies and procedures should also cover planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement.[8]

5. Quality control policies and procedures for personnel management should provide reasonable assurance that personnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements.[9]

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[3] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[4] *See* Quality Control Standard 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20").

[5] QC § 20.02.

[6] QC § 20.17; *see also* QC § 20.03.

[7] QC § 20.18.

[8] *Id*.

[9] QC § 20.13

6. As described below, Pan-China failed to establish policies and procedures sufficient to provide reasonable assurance that its personnel complied with applicable professional standards and regulatory requirements.

i. Pan-China's Quality Control Policies and Procedures Failed to Provide the Firm with Reasonable Assurance that the Work Performed by Engagement Personnel Met Professional Standards and that Personnel Participated in Relevant Training

7. A firm should establish policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[10] The Firm did not maintain adequate policies, procedures, or guidance materials related to performing audits under PCAOB rules and standards.

8. In addition, the Firm failed to establish and implement training policies and procedures that provided reasonable assurance that personnel assigned to issuer audit work would receive appropriate training on PCAOB standards and rules, Commission rules and regulations, and U.S. generally accepted accounting principles, including through participation in general and industry-specific continuing professional education and other professional development activities that would enable them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of professional organizations and regulatory agencies.

9. As a result, the Firm violated QC § 20.13 and QC § 20.17 by failing to have established policies and procedures to provide reasonable assurance that Firm personnel were: (i) using an audit methodology on issuer audit work that was in accordance with PCAOB auditing standards; and (ii) receiving appropriate training on PCAOB standards and rules, Commission rules and regulations, and U.S. GAAP.

ii. Pan-China's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Compliance with Audit Documentation Requirements

10. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that the Firm complies with applicable professional standards and regulatory requirements.[11] During 2019 and 2020, the Firm's system of quality control did not provide reasonable assurance that the Firm's personnel would comply

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10 QC § 20.17.

11 QC §§ 20.03, .17.

with AS 1215, *Audit Documentation*, which establishes requirements for documentation the auditor should prepare and retain in connection with issuer engagements.

11. During 2019 and 2020, Pan-China personnel failed to timely assemble a complete and final set of audit documentation within 45 days of the report release date in connection with issuer audit engagements. The Firm's policies and procedures did not address the requirement that a complete and final set of audit documentation be assembled for retention within 45 days following the report release date.[12] Instead, the Firm's policy set forth a 60-day requirement that on its face was inconsistent with AS 1215.

12. In addition, the Firm's policies and procedures included storing a complete and final set of audit documentation on a USB drive in a secured locker. Firm personnel were required to check out and check in the USB drive when accessing the audit documentation. Under Firm policy if a USB drive is checked out, firm personnel are required to make a copy of the original USB drive and return it to the secured locker.

13. In one issuer audit performed by the Firm, Pan-China personnel checked out the USB drive containing the archived audit documentation to make a copy for use in subsequent audit work. During an inspection by the PCAOB, the Firm discovered that the original USB drive was not returned to the secured locker and had been lost. All that was available for the inspection team was a copy of the USB drive that contained changes made in connection with subsequent audit work. Consequently, the Firm did not have a complete and final set of audit documentation for the original audit. While the changes were not significant in relation to the original audit, the loss of the USB drive demonstrated deficiencies in the Firm's controls over archived audit documentation.

14. These violations illustrate that the Firm failed to have policies and procedures related to audit documentation sufficient to provide it with reasonable assurance that it would comply with the requirements of AS 1215.15, in violation of QC § 20.

iii. Pan-China's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Auditor Reporting of Certain Audit Participants

15. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that the work performed by engagement personnel complies with applicable professional standards and regulatory requirements.[13]

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12 AS 1215.15.

13 QC §§ 20.03, .17.

PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*, requires registered public accounting firms to report information about engagement partners and other accounting firms that participated in the audits of issuers by filing a Form AP for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the Commission,[14] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement under the Securities Act of 1933 filed with the Commission.[15]

16. During 2019 and 2020, Pan-China did not comply with PCAOB Rule 3211. With respect to seven audit reports for two issuers, the Firm failed to timely file Form APs by the relevant deadlines.

17. These violations illustrate that the Firm failed to maintain effective policies and procedures to provide it with reasonable assurance that it would comply with the requirements of PCAOB Rule 3211, in violation of QC § 20.

iv. Pan-China's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Audit Committee Communications

18. A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that the Firm complies with applicable professional standards and regulatory requirements.[16] AS 1301, *Communications with Audit Committees*, requires the auditor to communicate certain matters related to the conduct of an audit to an issuer's audit committee, including significant risks that were identified by the auditor.[17]

19. In one issuer audit, Pan-China did not communicate to, and discuss with the issuer's audit committee, the significant risk related to management override of controls identified during its risk assessment procedures. In another issuer audit, the Firm did not communicate to, and discuss with the issuer's audit committee equivalent, the significant risks

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14 PCAOB Rule 3211(b)(1).

15 In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. PCAOB Rule 3211(b)(2).

16 QC §§ 20.03, .17.

17 AS 1301.09.

related to management override of controls and revenue recognition identified during its risk assessment procedures.[18]

20. These violations illustrate that Pan-China failed to establish policies and procedures sufficient to provide it with reasonable assurance that it would comply with AS 1301, in violation of QC § 20.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $75,000 on Pan-China.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown,

[18] *Id*.

Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Pan-China is required:

1. Within ninety (90) days from the date of the Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable PCAOB rules and standards; and to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable PCAOB rules and standards, of any Firm audit personnel who participate in any way in the planning or performing of any audit or interim review of an issuer or any SEC Registered Broker-Dealer Engagement, which includes any engagement that provides a

report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Securities Exchange Act of 1934 and Rule 17a-5, 17 C.F.R. § 240.17a-5, as amended.

2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1. above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. Pan-China shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

D. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 9, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG Accountants N.V.,

Respondent.

PCAOB Release No. 105-2024-022

April 10, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon KPMG Accountants N.V. ("KPMG Netherlands," the "Firm," or "Respondent"). The Board is:

(1) censuring the Firm;

(2) imposing a $25,000,000 civil money penalty on the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that KPMG Netherlands violated PCAOB rules and quality control standards over several years in connection with the Firm's internal training program.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **KPMG Accountants N.V.** is a limited liability corporation organized under the laws of the Netherlands. KPMG Netherlands is headquartered in Amstelveen, Noord-Holland, Netherlands. The Firm is registered with the Dutch Authority for the Financial Markets ("AFM"), and at all relevant times, was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is a wholly-owned subsidiary of KPMG N.V.[3] KPMG N.V. is a member firm of the KPMG International Limited network of firms. At all relevant times, the individuals serving in the roles of Chief Executive Officer of KPMG N.V., Chief Operating Officer of KPMG N.V., and Head of Assurance of the Firm constituted the Management Board for the Firm. The Management Board has ultimate responsibility for the Firm's system of quality control and annually reviews its effectiveness.

B. Summary

2. From at least October 2017 until December 2022, KPMG Netherlands violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] KPMG N.V. is a holding company with three subsidiaries through which it offers Assurance services (via the Firm – *i.e.*, KPMG Accountants N.V.), Advisory services (via KPMG Advisory N.V.), and Business Services (via KPMG Staffing & Facility Services B.V.), respectively.

internal training tests, including tests designed to help the Firm's audit professionals satisfy the requirements for maintaining their professional certifications. Those quality control failures prevented the Firm from identifying that hundreds of Firm professionals were involved in improper answer sharing—either by providing access to test questions or answers, or by receiving such access without reporting it—in connection with tests for mandatory internal training courses. These courses related to a variety of topics, including U.S. auditing standards, U.S. generally accepted accounting principles ("GAAP"), and professional ethics and independence. Firm personnel engaged in the answer sharing through a variety of unauthorized methods, including by sending or receiving answers through electronic communications and by taking tests jointly. The vast majority of the professionals who engaged in improper answer sharing performed work for the Firm's Assurance practice.

3. This misconduct revealed an inappropriate tone at the top of the Firm and a failure by Firm leadership to effectively promote an ethical culture among Firm personnel with respect to improper answer sharing and monitoring of the Firm's system of quality control. The improper answer sharing included a number of the Firm's partners and some of its most senior leaders, including Marc Hogeboom ("Hogeboom"), who served as the Firm's Head of Assurance and on the Firm's Management Board,[4] and another individual who served as the Chairman of the Firm's Supervisory Board ("Supervisory Chairman").[5] Also, as more fully described below, both KPMG N.V.'s Chief Executive Officer ("CEO"), who served on the Firm's Management Board, and a former head of the Firm's Compliance Department ("Former Compliance Head") were separately aware for at least six months during the PCAOB's investigation that Hogeboom previously had been involved in an incident of improper answer sharing, but neither the CEO nor the Former Compliance Head disclosed this fact to anyone, including the PCAOB, until other evidence of Hogeboom's misconduct came to light.

4. The Firm's leadership also failed to respond appropriately to the risk that Firm personnel might be engaged in improper answer sharing. Since June 2020, the Firm was aware that personnel from a separate KPMG entity based in India that provides support for KPMG Netherlands' audit work (the "Service Delivery Center") had engaged in improper answer sharing. The Firm's leadership was further aware that the misconduct at the Service Delivery Center included improper answer sharing with personnel at another KPMG member firm that also worked with the Service Delivery Center.[6] Nevertheless, KPMG Netherlands took virtually

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[4] *See Marc Hogeboom,* PCAOB Rel. No. 105-2024-023 (Apr. 10, 2024).

[5] Both of these individuals have since left the Firm.

[6] *See KPMG LLP*, PCAOB Rel. No. 105-2022-032 (Dec. 6, 2022) (regarding the United Kingdom member firm of the KPMG International Limited global network).

no steps to investigate potential answer sharing among its own personnel until July 2022, when it received a whistleblower report of answer sharing occurring within the Firm.

5. In addition, from March 2022 to June 2023, the Firm made, and failed to correct, multiple inaccurate representations to the PCAOB during its investigation into improper answer sharing at the Firm. In the first several months of the PCAOB's investigation, KPMG Netherlands sent submissions to the PCAOB denying any knowledge of answer sharing by Firm personnel. These submissions, which were reviewed by the Firm's Management Board and Supervisory Board, were false because members of those Boards—Hogeboom and the Supervisory Chairman—had themselves previously engaged in answer sharing misconduct. Then, after the July 2022 whistleblower report, KPMG Netherlands continued to misstate its knowledge to the PCAOB, erroneously claiming in subsequent submissions that the Firm had not been aware of any improper answer sharing at the Firm *before* learning of the July 2022 whistleblower report. The Firm made, and failed to correct, these later inaccurate representations until approximately June 2023, when another whistleblower at the Firm reported answer sharing by Hogeboom.

C. KPMG Netherlands Violated PCAOB Rules and Standards

i. Applicable PCAOB Rules and Quality Control Standards

6. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[7] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[8]

7. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[9] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[10] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional

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[7] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[8] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[9] QC § 20.09.

[10] QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[11]

8. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[12] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[13] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[14]

ii. Training Requirements for KPMG Netherlands Personnel

9. As part of KPMG Netherlands' personnel management systems, the Firm administers internal training programs for all of its professionals. The training programs the Firm uses are designed to serve multiple purposes, including to provide personnel with technical instruction, to further their professional development, and to help employees satisfy some of the continuing professional education requirements imposed by the accountancy boards that license KPMG Netherlands' auditors. The Firm's training requirements are intended to be relevant to, among other things, the independence of their personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. The training requirements can vary by a professional's position, role, and industry practice area. Many personnel in the Firm's Assurance practice are required to take trainings regarding auditing U.S. issuers.

10. Since at least 2017, the Firm has utilized online platforms to offer training to its personnel. The platforms enable the Firm to deliver, track, and record completion of mandatory training and testing. The platforms record the dates and times when personnel access and complete mandatory training and testing.

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11 QC § 20.13.c; QC § 40.02.c.

12 QC § 20.08.

13 *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

14 *See* QC § 20.20.c-d; QC § 30.02.c-d.

11. The Firm's internal trainings often include a testing component. For training courses with a testing component, the Firm does not credit personnel with completing the training until they satisfactorily pass the related test.

12. Since at least 2017, the Firm has administered periodic licensing exams that are required by the Royal Netherlands Institute of Chartered Accountants ("NBA"), which is the licensing authority for auditors in the Netherlands. Successful completion of such tests is required about every two years for those individuals to maintain their licenses to perform certain types of audits. These tests are known as the NBA Kennistoets ("NBA Knowledge tests").

iii. Failures by KPMG Netherlands to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

13. Between 2017 and 2022, KPMG Netherlands had in place certain quality control policies and procedures intended to address integrity and personnel management. The Firm's policies required that its personnel act with integrity generally. For example, as of 2017, the Firm's Code of Conduct generally advised personnel that the Firm does not "tolerate behavior . . . that is . . . unethical" and that personnel "should act with integrity." At the same time, however, the Firm's policies, including those reflected in its Quality and Risk Management Manual, did not specifically discuss the sharing of training test answers or questions. These and other Firm policies were not specifically designed to provide reasonable assurance that Firm personnel acted with integrity when taking internal training tests.

14. In June 2019, KPMG Netherlands became aware of substantial answer sharing at a KPMG member firm in the United States, through that firm's settlement of an enforcement action ("KPMG U.S. Settlement") brought by the U.S. Securities and Exchange Commission ("SEC").[15] Even after learning of that misconduct, KPMG Netherlands did not appropriately evaluate and address the risk of improper answer sharing among its personnel.

15. In fact, it was not until early 2021 that the Firm began to provide training in which personnel were specifically instructed not to engage in improper answer sharing. Also around that time, the Firm added specific language to some of its training tests warning against answer sharing in connection with the tests. However, this warning language was not included in all of the Firm's internal training tests until later. Similarly, the Firm did not include improper answer sharing in its Annual Compliance Confirmation, in which personnel are required to certify their compliance with the Firm's Code of Conduct, until late 2021.

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[15] *See KPMG LLP*, SEC Rel. No. 34-86118 (June 17, 2019).

16. Although KPMG Netherlands also employed certain monitoring procedures related to internal training from 2017 to 2022, those procedures were limited to tracking completion of courses and related tests. The monitoring procedures were not designed to detect other compliance issues, such as improper answer sharing.

17. As described below, the Firm's policies and procedures were inadequate to prevent or detect the extensive improper answer sharing on training tests that occurred among KPMG Netherlands personnel from 2017 to 2022.

iv. Widespread Sharing of Questions and Answers to Training Tests at KPMG Netherlands

18. From at least October 2017 through 2022, hundreds of KPMG Netherlands personnel, including partners, were involved in improper answer sharing related to training tests, and in some cases the NBA Knowledge tests. This misconduct occurred primarily through emails attaching documents or images containing the contents of the tests and/or answers to test questions. KPMG Netherlands personnel also jointly took tests that were intended to assess individual knowledge. Of the hundreds of Firm personnel who engaged in improper answer sharing during this period, the overwhelming majority did so at least once after the June 2019 publication of the KPMG U.S. Settlement.

19. Instances of improper answer sharing primarily occurred in connection with tests that were a part of KPMG Netherlands' mandatory training. Firm personnel engaged in answer sharing in connection with tests for trainings concerning professional independence, PCAOB audit requirements, SEC regulations, U.S. GAAP and generally accepted auditing standards, and professional integrity. Some Firm personnel, including several partners, also engaged in improper answer sharing in connection with the mandatory NBA Knowledge tests.

20. Some of the answer sharing at KPMG Netherlands extended to personnel who had responsibilities for implementing aspects of the Firm's system of quality control. For example, personnel within the Firm's Department of Professional Practice shared files containing training tests with senior managers who had a quality control role in the Firm's International Business Group ("Business Group"); the purpose of sharing the files was to help members of the Business Group better prepare for certain mandatory exams. From 2019 through 2022, Firm personnel used these shared tests to identify the correct answers before taking the tests and made the answers available for colleagues to use, including outside of the Business Group.

21. The improper answer sharing reached the highest levels of personnel at KPMG Netherlands and reflected the improper tone at the top of the Firm. For example, Hogeboom

repeatedly engaged in improper answer sharing with his subordinates. From 2012 to 2015, and again from January 2020 to July 2023, Hogeboom served on KPMG Netherlands' Management Board. During the latter period, Hogeboom also served as the Head of the Firm's Assurance practice and was a member of the Firm's Regulatory Office Core Team, a group of Firm leaders who met regularly with the Regulatory Office to discuss certain regulatory issues, including how the Firm should respond to inquiries from its regulators.

22. In 2018, Hogeboom solicited subordinates in the Firm to assist him with passing a test in connection with mandatory training for audit supervisors. Eventually, a subordinate on one of his audit engagement teams agreed to sit with him and assist while he took the online test.

23. In 2019, shortly before Hogeboom began serving as the Head of Assurance, rejoined the Management Board, and joined the Firm's Regulatory Office Core Team, he received test answers from a subordinate member of an audit engagement team that he was leading. Hogeboom knew this sharing of answers was wrong, and told the subordinate so, but failed to report this misconduct to the Firm's Compliance function or to look into the matter in any way. In fact, the only person Hogeboom informed at the time was a partner who was working under him on the engagement team and who had served as the Firm's Compliance Head in 2014-2017. Like Hogeboom, the Former Compliance Head failed to tell anyone else of the incident at the time.

24. In 2020, while serving as the Head of Assurance, on the Firm's Management Board, and in its Regulatory Office Core Team, Hogeboom prevailed upon several subordinate members of his engagement team to share test answers with him by accompanying him while he took online training tests. Some of these subordinates also engaged in improper answer sharing with each other, and with others at the Firm.

25. In 2021, another senior leader at the Firm, the Supervisory Chairman, engaged in improper answer sharing. At KPMG Netherlands, the Supervisory Board oversees policies set by the Firm's Management Board and holds the Management Board accountable for designing, implementing, and maintaining an effective system of quality control at the Firm. Shortly after joining the Supervisory Board, the Supervisory Chairman received assistance from a staff member while taking two mandatory trainings that the Supervisory Board had assigned to the Supervisory Chairman. The staff member sat next to the Supervisory Chairman while he took the two training tests, and the staff member finished one of the tests for the Supervisory Chairman when he left for a meeting before completing the test.

v. Failures by KPMG Netherlands to Identify the Sharing of Questions and Answers to Training Tests

26. The growth of this widespread answer sharing was enabled by the Firm's failure to take appropriate steps to monitor, investigate, and identify the potential misconduct.

27. Since at least June 2020, the Firm knew that hundreds of personnel working at the Service Delivery Center in India had engaged in improper answer sharing, and that some of those individuals performed audit work with personnel in certain member firms of the KPMG global network, including KPMG Netherlands and KPMG LLP ("KPMG UK").[16] Since June 2020, the Firm also was aware that personnel at the Service Delivery Center had shared test answers with personnel of KPMG UK.[17] Despite this knowledge, KPMG Netherlands did not investigate whether its Netherlands personnel were engaging in similar misconduct.

28. In October 2021, KPMG Netherlands and Hogeboom reported the answer sharing misconduct by the Service Delivery Center personnel to PCAOB inspectors. The Firm's disclosure only came after direct questioning by PCAOB inspectors during an inspection of the Firm.

29. In February 2022, the Firm learned of the PCAOB's investigation and a concurrent investigation by the AFM into improper answer sharing at the Firm. In March 2022, the Firm sent to the PCAOB and AFM written responses to regulatory requests for documents and information about improper answer sharing at the Firm. Without taking any steps to investigate answer sharing among its personnel, the Firm wrote in its responses, "As there were no indications of improper answer sharing at KPMG NL [Netherlands], no investigation has been performed by KPMG NL [Netherlands]." The Firm's Management Board and the Supervisory Board received this submission for their review and approval in advance of the Firm sending it to the PCAOB and AFM.

30. In June 2022, the Firm sent more responses to the PCAOB and AFM, and it repeated its statement that there were no indications of improper answer sharing at the Firm. The Management Board also approved that submission before the Firm sent it to the PCAOB and AFM.

31. Both the Firm's March 2022 and June 2022 responses constituted misrepresentations to the PCAOB because, at the time the Firm submitted the responses, both

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16 *See KPMG LLP*, PCAOB Rel. No. 105-2022-032.

17 *Id.*

a member of the Management Board (Hogeboom) and a member of the Supervisory Board (Supervisory Chairman) were aware that improper answer sharing had occurred at the Firm, because they had themselves engaged in such improper answer sharing.

32. In July 2022, the Firm received an internal whistleblower report about improper answer sharing that had occurred at the Firm. Although the Firm then started to take some steps to investigate, these efforts were too limited. It was not until November 2022 that the Firm expanded the scope of its investigative steps to reasonable breadth and depth.

33. Between July and December 2022, the Firm sent three more responses to the PCAOB, each inaccurately representing that, before the July 2022 whistleblower report, the Firm had not been aware of any indications of improper answer sharing at the Firm. The Firm's Management Board also approved these responses before they were sent to the PCAOB.

34. During November 2022, Hogeboom and the CEO made multiple requests to have a video meeting with PCAOB and AFM investigators to convey how seriously the Firm was taking the PCAOB's and AFM's investigations. When that meeting occurred on November 29, 2022, Hogeboom and the CEO repeatedly assured the regulators of the sincerity of the Firm's efforts to conduct a complete and thorough investigation into the extent of improper answer sharing at the Firm. But during the meeting, Hogeboom did not correct the prior misrepresentations that the Firm had no indication, before July 2022, that improper answer sharing had occurred at the Firm. In addition, Hogeboom did not reveal that any member of Firm leadership had been involved in improper answer sharing.

35. In or around December 2022, Hogeboom told the CEO about the 2019 incident where he received test answers from a subordinate. However, he told the CEO that the incident had occurred between 2015-2017. He also told the CEO that he responded to the sender and told him that answer sharing was wrong. Hogeboom further told the CEO that he had reported the incident to the partner who had been the Head of Compliance in the 2015-2017 time period. The CEO made no effort to corroborate any part of this partially inaccurate story, erroneously accepting that the matter had been reported to the Firm's Compliance Department, and she and Hogeboom did not report the incident to anyone else for approximately six months.

36. In June 2023, Firm leadership became aware of another internal whistleblower report. This report referenced some of Hogeboom's above-described 2020 answer sharing. At this point, the CEO and Hogeboom, separately from each other, came forward and disclosed their awareness of the "2015-2017" answer sharing incident to others in the Firm's leadership and to internal investigators. The Supervisory Chairman also then came forward about his

answer sharing incident. The Firm started investigating the issue and soon thereafter reported Hogeboom's and the Supervisory Chairman's answer sharing incidents to the PCAOB and AFM.

37. But the Firm should have discovered and reported this information much earlier. Other than the above-mentioned one-on-one discussions Hogeboom had with the CEO and the Former Compliance Head, none of the above Firm leaders disclosed their knowledge of improper answer sharing incidents involving Firm leadership before the June 2023 whistleblower report. By that time, the PCAOB's investigation had been ongoing for more than 15 months, and the Firm's internal investigation—for which the Firm's Management Board and Supervisory Board had certain oversight responsibilities—had been ongoing for almost one year. Similarly, before June 2023, no one from the Firm corrected the untrue representations the Firm had submitted to the PCAOB in connection with the PCAOB's investigation.

* * *

38. As illustrated by the failures and misconduct described above, from at least October 2017 to December 2022, an inappropriate tone at the top enabled a pervasive problem with the Firm's culture, resulting in widespread improper answer sharing with respect to professional training tests. During that period, the Firm failed to establish policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) KPMG Netherlands personnel performed all professional responsibilities with integrity; (2) KPMG Netherlands personnel had the degree of technical training and proficiency required in the circumstances; and (3) KPMG Netherlands personnel participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies. Accordingly, the Firm violated PCAOB quality control standards related to integrity and personnel management.[18]

IV.

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

In ordering sanctions, the Board took into account that the Firm will be subject to an intensive supervision program conducted by the AFM. The Board understands that this supervision program will include remediation, conducting a root cause analysis, establishing

[18] *See* QC § 20.09, .13.b-c, .20; QC § 30.02; and QC § 40.02.b-c.

policies and procedures to prevent and detect improper answer sharing at the Firm, and exploring further appropriate changes to Firm culture.
Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000,000 is imposed on KPMG Accountants N.V.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. KPMG Accountants N.V. shall pay this civil money penalty within ten (10) days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board; (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (iii) submitted under a cover letter which identifies KPMG Accountants N.V. as the Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. With respect to any civil money penalty amounts that KPMG Accountants N.V. shall pay pursuant to this Order, KPMG Accountants N.V. shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of KPMG Accountants N.V.'s payment of the civil money penalty pursuant to this Order, in any private action brought against

KPMG Accountants N.V. based on substantially the same facts as set out in the findings in this Order.

4. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. KPMG Accountants N.V. understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), KPMG Accountants N.V. is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (a) personnel perform all internal training and tests associated with such training with integrity; (b) personnel to whom work has been assigned have the degree of technical training and proficiency required in the circumstances; (c) personnel participate in general and industry-specific continuing professional education that enables them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies; and (d) the above-described policies and procedures are suitably designed and are being effectively applied.

2. Within 120 days of the entry of this Order, to provide a certification, signed by the Chief Executive Officer of KPMG N.V., to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. KPMG Accountants N.V. shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

3. To make available to the PCAOB any document or report submitted to the AFM as part of its intensive supervision of the Firm, within 14 days of any such request by the Division of Enforcement and Investigations.

4. KPMG Accountants N.V. understands that the failure to satisfy any provision of Section IV.C may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 10, 2024

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Marc Hogeboom,

Respondent.

PCAOB Release No. 105-2024-023

April 10, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon Marc Hogeboom ("Hogeboom" or "Respondent"). The Board is:

(1) censuring Hogeboom;

(2) barring Hogeboom from associating with a registered public accounting firm; and

(3) imposing a $150,000 civil money penalty on Hogeboom.

The Board is imposing these sanctions on the basis of its findings that Hogeboom violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, by directly and substantially contributing to violations by KPMG Accountants N.V. ("KPMG Netherlands" or the "Firm") of PCAOB rules and quality control standards in connection with the Firm's internal training program.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Marc Hogeboom** is a chartered accountant certified by the Royal Netherlands Institute of Chartered Accountants ("NBA") (registration no. 29011). At all relevant times, he was a partner of KPMG Netherlands. From 2012 to 2015, he served on the Firm's Management Board, and from January 2020 to July 2023, he served as the Firm's Head of Assurance and again on the Firm's Management Board. At all relevant times, Hogeboom was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Hogeboom is no longer associated with KPMG Netherlands.

B. Other Relevant Entity

2. **KPMG Accountants N.V.** is a limited liability corporation organized under the laws of the Netherlands. KPMG Netherlands is headquartered in Amstelveen, Noord-Holland, Netherlands. The Firm is registered with the Dutch Authority for the Financial Markets ("AFM"), and at all relevant times, was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm is a wholly-owned subsidiary of KPMG N.V.[3] KPMG N.V. is a member firm of the KPMG International Limited network of firms. At all relevant times, the individuals serving in the roles of Chief Executive Officer of KPMG N.V., Chief Operating Officer of KPMG N.V., and Head of Assurance of the Firm constituted the Management Board for the Firm. The

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of, *inter alia*, intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

[3] KPMG N.V. is a holding company with three subsidiaries through which it offers Assurance services (via the Firm – *i.e.*, KPMG Accountants N.V.), Advisory services (via KPMG Advisory N.V.), and Business Services (via KPMG Staffing & Facility Services B.V.), respectively.

Management Board has ultimate responsibility for the Firm's system of quality control and annually reviews its effectiveness.

C. Summary

3. From at least October 2017 until December 2022, KPMG Netherlands violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing internal training tests, including tests designed to help the Firm's audit professionals satisfy the requirements for maintaining their professional certifications.[4] Those quality control failures prevented the Firm from identifying that hundreds of Firm professionals were involved in improper answer sharing—either by providing access to test questions or answers, or by receiving such access without reporting it—in connection with tests for mandatory internal training courses. These courses related to a variety of topics, including U.S. auditing standards, U.S. generally accepted accounting principles ("GAAP"), and professional ethics and independence. Firm personnel engaged in the answer sharing through a variety of unauthorized methods, including by sending or receiving answers through electronic communications and by taking tests jointly. The vast majority of the professionals who engaged in improper answer sharing performed work for the Firm's Assurance practice.

4. This misconduct revealed an inappropriate tone at the top of the Firm and a failure by Firm leadership to effectively promote an ethical culture among Firm personnel with respect to improper answer sharing and monitoring of the Firm's system of quality control. The improper answer sharing included a number of the Firm's partners and some of its most senior leaders, including Hogeboom, who served as the Firm's Head of Assurance and on the Firm's Management Board, and another individual who served as the Chairman of the Firm's Supervisory Board ("Supervisory Chairman").[5] Also, as more fully described below, both KPMG N.V.'s Chief Executive Officer ("CEO"), who served on the Firm's Management Board, and a former head of the Firm's Compliance Department ("Former Compliance Head") were separately aware for at least six months during the PCAOB's investigation that Hogeboom previously had been involved in an incident of improper answer sharing, but neither the CEO nor the Former Compliance Head disclosed this fact to anyone, including the PCAOB, until other evidence of Hogeboom's misconduct came to light.

5. The Firm's leadership, including Hogeboom, also failed to respond appropriately to the risk that Firm personnel might be engaged in improper answer sharing. Since June 2020, the Firm and Hogeboom were aware that personnel from a separate KPMG entity based in

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[4] See *KPMG Accountants N.V.*, PCAOB Rel. No. 105-2024-022 (Apr. 10, 2024), for further information about this misconduct.

[5] The Supervisory Chairman has since left the Firm.

India that provides support for KPMG Netherlands' audit work (the "Service Delivery Center") had engaged in improper answer sharing. The Firm's leadership, including Hogeboom, was further aware that the misconduct at the Service Delivery Center included improper answer sharing with personnel at another KPMG member firm that also worked with the Service Delivery Center.[6] Nevertheless, KPMG Netherlands and Hogeboom took virtually no steps to investigate potential answer sharing among the Firm's own personnel until July 2022, when KPMG Netherlands received a whistleblower report of answer sharing occurring within the Firm.

6. In addition, from March 2022 to June 2023, the Firm made, and failed to correct, multiple inaccurate representations to the PCAOB during its investigation into improper answer sharing at the Firm. In the first several months of the PCAOB's investigation, KPMG Netherlands sent submissions to the PCAOB denying any knowledge of answer sharing by Firm personnel. These submissions, which were reviewed by the Firm's Management Board and Supervisory Board, were false because members of those Boards—Hogeboom and the Supervisory Chairman—had themselves previously engaged in answer sharing misconduct. Then, after the July 2022 whistleblower report, KPMG Netherlands continued to misstate its knowledge to the PCAOB, erroneously claiming in subsequent submissions that the Firm had not been aware of any improper answer sharing at the Firm *before* learning of the July 2022 whistleblower report. The Firm made, and failed to correct, these later inaccurate representations until approximately June 2023, when another whistleblower at the Firm reported answer sharing by Hogeboom.

7. Through his acts and omissions, Hogeboom knowingly and recklessly contributed directly and substantially to the above Firm violations. As the Firm's Head of Assurance and a member of the Firm's Management Board, Hogeboom had responsibilities for the Firm's system of quality control and its effectiveness. And as a member of the Firm's Regulatory Office Core Team, he and other Firm leaders met regularly with the Regulatory Office to discuss certain regulatory issues, such as how the Firm should respond to inquiries from its regulators, including responses in connection with the PCAOB's investigation. Despite those quality control responsibilities, Hogeboom engaged in conduct that compromised the ability of the Firm's quality control system to provide reasonable assurance that its personnel performed their professional responsibilities with integrity and were appropriately trained, and he repeatedly concealed his misconduct from Firm leadership and the PCAOB during its investigation. Accordingly, Hogeboom violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

[6] *See KPMG LLP*, PCAOB Rel. No. 105-2022-032 (Dec. 6, 2022) (regarding the United Kingdom member firm of the KPMG International Limited global network).

D. Hogeboom Directly and Substantially Contributed to KPMG Netherlands' Violations of PCAOB Rules and Standards

i. Applicable PCAOB Rules and Quality Control Standards

8. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[7] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[8]

9. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[9] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[10] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[11]

10. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[12] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[13] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among

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7 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

8 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

9 QC § 20.09.

10 QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

11 QC § 20.13.c; QC § 40.02.c.

12 QC § 20.08.

13 *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[14]

11. PCAOB Rule 3502 provides that "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of . . . the Rules of the Board . . . or professional standards."

ii. Training Requirements for KPMG Netherlands Personnel

12. As part of KPMG Netherlands' personnel management systems, the Firm administers internal training programs for all of its professionals. The training programs the Firm uses are designed to serve multiple purposes, including to provide personnel with technical instruction, to further their professional development, and to help employees satisfy some of the continuing professional education requirements imposed by the accountancy boards that license KPMG Netherlands' auditors. The Firm's training requirements are intended to be relevant to, among other things, the independence of their personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. The training requirements can vary by a professional's position, role, and industry practice area. Many personnel in the Firm's Assurance practice are required to take trainings regarding auditing U.S. issuers.

13. Since at least 2017, the Firm has utilized online platforms to offer training to its personnel. The platforms enable the Firm to deliver, track, and record completion of mandatory training and testing. The platforms record the dates and times when personnel access and complete mandatory training and testing.

14. The Firm's internal trainings often include a testing component. For training courses with a testing component, the Firm does not credit personnel with completing the training until they satisfactorily pass the related test.

iii. Failures by KPMG Netherlands to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

15. Between 2017 and 2022, KPMG Netherlands had in place certain quality control policies and procedures intended to address integrity and personnel management. The Firm's policies required that its personnel act with integrity generally. For example, as of 2017, the Firm's Code of Conduct generally advised personnel that the Firm does not "tolerate behavior . . . that is . . . unethical" and that personnel "should act with integrity." At the same time, however, the Firm's policies, including those reflected in its Quality and Risk Management

[14] *See* QC § 20.20.c-d; QC § 30.02.c-d.

Manual, did not specifically discuss the sharing of training test answers or questions. These and other Firm policies were not specifically designed to provide reasonable assurance that Firm personnel acted with integrity when taking internal training tests.

16. In June 2019, KPMG Netherlands and Hogeboom became aware of substantial answer sharing at a KPMG member firm in the United States, through that firm's settlement of an enforcement action ("KPMG U.S. Settlement") brought by the U.S. Securities and Exchange Commission ("SEC").[15] Even after learning of that misconduct, KPMG Netherlands did not appropriately evaluate and address the risk of improper answer sharing among Firm personnel.

17. In fact, it was not until early 2021 that the Firm began to provide training in which personnel were specifically instructed not to engage in improper answer sharing. Also around that time, the Firm added specific language to some of its training tests warning against answer sharing in connection with the tests. However, this warning language was not included in all of the Firm's internal training tests until later. Similarly, the Firm did not include improper answer sharing in its Annual Compliance Confirmation, in which personnel are required to certify their compliance with the Firm's Code of Conduct, until late 2021.

18. Although KPMG Netherlands also employed certain monitoring procedures related to internal training from 2017 to 2022, those procedures were limited to tracking completion of courses and related tests. The monitoring procedures were not designed to detect other compliance issues, such as improper answer sharing.

19. As described below, the Firm's policies and procedures were inadequate to prevent or detect the extensive improper answer sharing on training tests that occurred among KPMG Netherlands personnel from 2017 to 2022.

iv. Widespread Sharing of Questions and Answers to Training Tests at KPMG Netherlands

20. From at least October 2017 through 2022, hundreds of KPMG Netherlands personnel, including partners, were involved in improper answer sharing related to training tests. This misconduct occurred primarily through emails attaching documents or images containing the contents of the tests and/or answers to test questions. KPMG Netherlands personnel also jointly took tests that were intended to assess individual knowledge. Of the hundreds of Firm personnel who engaged in improper answer sharing during this period, the overwhelming majority, including Hogeboom, did so at least once after the June 2019 publication of the KPMG U.S. Settlement.

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[15] *See KPMG LLP*, SEC Rel. No. 34-86118 (June 17, 2019).

21. Instances of improper answer sharing primarily occurred in connection with tests that were a part of KPMG Netherlands' mandatory training. Firm personnel engaged in answer sharing in connection with tests for trainings concerning professional independence, PCAOB audit requirements, SEC regulations, U.S. GAAP and generally accepted auditing standards, and professional integrity.

22. The improper answer sharing reached the highest levels of personnel at KPMG Netherlands and reflected the improper tone at the top of the Firm. For example, Hogeboom repeatedly engaged in improper answer sharing with his subordinates. From 2012 to 2015, and again from January 2020 to July 2023, Hogeboom served on KPMG Netherlands' Management Board. During the latter period, Hogeboom also served as the Head of the Firm's Assurance practice and was a member of the Firm's Regulatory Office Core Team.

23. In 2018, Hogeboom solicited subordinates in the Firm to assist him with passing a test in connection with mandatory training for audit supervisors. Eventually, a subordinate on one of his audit engagement teams agreed to sit with him and assist while he took the online test.

24. In 2019, shortly before Hogeboom began serving as the Head of Assurance, rejoined the Management Board, and joined the Firm's Regulatory Office Core Team, he received test answers from a subordinate member of an audit engagement team that he was leading. Hogeboom knew this sharing of answers was wrong, and told the subordinate so, but failed to report this misconduct to the Firm's Compliance function or to look into the matter in any way. In fact, the only person Hogeboom informed at the time was a partner who was working under him on the engagement team and who had served as the Firm's Compliance Head in 2014-2017. Like Hogeboom, the Former Compliance Head failed to tell anyone else of the incident at the time.

25. In 2020, while serving as the Head of Assurance, on the Firm's Management Board, and in its Regulatory Office Core Team, Hogeboom prevailed upon several subordinate members of his engagement team to share test answers with him by accompanying him while he took online training tests. Some of these subordinates also engaged in improper answer sharing with each other, and with others at the Firm.

26. In 2021, another senior leader at the Firm, the Supervisory Chairman, engaged in improper answer sharing. At KPMG Netherlands, the Supervisory Board oversees policies set by the Firm's Management Board and holds the Management Board accountable for designing, implementing, and maintaining an effective system of quality control at the Firm. Shortly after joining the Supervisory Board, the Supervisory Chairman received assistance from a staff member while taking two mandatory trainings that the Supervisory Board had assigned to the Supervisory Chairman. The staff member sat next to the Supervisory Chairman while he took

the two training tests, and the staff member finished one of the tests for the Supervisory Chairman when he left for a meeting before completing the test.

v. Hogeboom Directly and Substantially Contributed to Failures by KPMG Netherlands to Identify the Sharing of Questions and Answers to Training Tests

27. The growth of this widespread answer sharing was enabled by the Firm's failure to take appropriate steps to monitor, investigate, and identify the potential misconduct. Hogeboom played a leading role at the Firm with respect to these issues while he served as the Head of Assurance and as a member of the Management Board and Regulatory Office Core Team.

28. Since at least June 2020, the Firm and Hogeboom knew that hundreds of personnel working at the Service Delivery Center in India had engaged in improper answer sharing, and that some of those individuals performed audit work with personnel in certain member firms of the KPMG global network, including KPMG Netherlands and KPMG LLP ("KPMG UK").[16] Since June 2020, the Firm and Hogeboom also were aware that personnel at the Service Delivery Center had shared test answers with personnel of KPMG UK.[17] Despite this knowledge, KPMG Netherlands and Hogeboom did not investigate whether the Firm's Netherlands personnel were engaging in similar misconduct.

29. In October 2021, KPMG Netherlands and Hogeboom reported the answer sharing misconduct by the Service Delivery Center personnel to PCAOB inspectors. The Firm's disclosure only came after direct questioning by PCAOB inspectors during an inspection of the Firm.

30. In February 2022, the Firm and Hogeboom learned of the PCAOB's investigation and a concurrent investigation by the AFM into improper answer sharing at the Firm. In March 2022, the Firm sent to the PCAOB and AFM written responses to regulatory requests for documents and information about improper answer sharing at the Firm. Without taking any steps to investigate answer sharing among its personnel, the Firm wrote in its responses, "As there were no indications of improper answer sharing at KPMG NL [Netherlands], no investigation has been performed by KPMG NL [Netherlands]." The Firm's Management Board and the Supervisory Board received this submission for their review and approval in advance of the Firm sending it to the PCAOB and AFM.

31. In June 2022, the Firm sent more responses to the PCAOB and AFM, and it repeated its statement that there were no indications of improper answer sharing at the Firm.

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16 *See KPMG LLP*, PCAOB Rel. No. 105-2022-032.

17 *Id.*

The Management Board also approved that submission before the Firm sent it to the PCAOB and AFM.

32. Both the Firm's March 2022 and June 2022 responses constituted misrepresentations to the PCAOB because, at the time the Firm submitted the responses, both Hogeboom and a member of the Supervisory Board (Supervisory Chairman) were aware that improper answer sharing had occurred at the Firm, because they had themselves engaged in such improper answer sharing.

33. In July 2022, as Hogeboom was aware, the Firm received an internal whistleblower report about improper answer sharing that had occurred at the Firm. Although the Firm then started to take some steps to investigate, these efforts were too limited.

34. Between July and December 2022, the Firm sent three more responses to the PCAOB, each inaccurately representing that, before the July 2022 whistleblower report, the Firm had not been aware of any indications of improper answer sharing at the Firm. The Firm's Management Board also approved these responses before they were sent to the PCAOB.

35. During November 2022, Hogeboom and the CEO made multiple requests to have a video meeting with PCAOB and AFM investigators to convey how seriously the Firm was taking the PCAOB's and AFM's investigations. When that meeting occurred on November 29, 2022, Hogeboom and the CEO repeatedly assured the regulators of the sincerity of the Firm's efforts to conduct a complete and thorough investigation into the extent of improper answer sharing at the Firm. But during the meeting, Hogeboom did not correct the prior misrepresentations that the Firm had no indication, before July 2022, that improper answer sharing had occurred at the Firm. In addition, Hogeboom did not reveal that any member of Firm leadership, including Hogeboom, had been involved in improper answer sharing.

36. In or around December 2022, Hogeboom told the CEO about the 2019 incident where he received test answers from a subordinate. However, he told the CEO that the incident had occurred between 2015-2017. He also told the CEO that he responded to the sender and told him that answer sharing was wrong. Hogeboom further told the CEO that he had reported the incident to the partner who had been the Head of Compliance in the 2015-2017 time period. The CEO made no effort to corroborate any part of this partially inaccurate story, erroneously accepting that the matter had been reported to the Firm's Compliance Department, and she and Hogeboom did not report the incident to anyone else for approximately six months.

37. In June 2023, Firm leadership, including Hogeboom, became aware of another internal whistleblower report. This report referenced some of Hogeboom's above-described 2020 answer sharing. At this point, the CEO and Hogeboom, separately from each other, came forward and disclosed their awareness of the "2015-2017" answer sharing incident to others in

the Firm's leadership and to internal investigators. The Supervisory Chairman also then came forward about his answer sharing incident. The Firm started investigating the issue and soon thereafter reported Hogeboom's and the Supervisory Chairman's answer sharing incidents to the PCAOB and AFM.

38. But the Firm should have discovered this information, and both the Firm and Hogeboom should have reported it, much earlier. Other than the above-mentioned one-on-one discussions Hogeboom had with the CEO and the Former Compliance Head, none of the above Firm leaders disclosed their knowledge of improper answer sharing incidents involving Firm leadership before the June 2023 whistleblower report. By that time, the PCAOB's investigation had been ongoing for more than 15 months, and the Firm's internal investigation—for which the Firm's Management Board and Supervisory Board had certain oversight responsibilities—had been ongoing for almost one year. Similarly, before June 2023, no one from the Firm corrected the untrue representations the Firm had submitted to the PCAOB in connection with the PCAOB's investigation.

* * *

39. As illustrated by the failures and misconduct described above, from at least October 2017 to December 2022, an inappropriate tone at the top enabled a pervasive problem with the Firm's culture, resulting in widespread improper answer sharing with respect to professional training tests. During that period, the Firm failed to establish policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) KPMG Netherlands personnel performed all professional responsibilities with integrity; (2) KPMG Netherlands personnel had the degree of technical training and proficiency required in the circumstances; and (3) KPMG Netherlands personnel participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies. Accordingly, the Firm violated PCAOB quality control standards related to integrity and personnel management.[18]

40. As described above, Hogeboom knowingly and recklessly contributed directly and substantially to these Firm violations. Specifically, despite his significant responsibilities for elements of the Firm's system of quality control, including those related to integrity and personnel management, Hogeboom continually disregarded those responsibilities. He repeatedly engaged in improper answer sharing on internal training exams and repeatedly concealed his misconduct from Firm leadership and PCAOB investigators, thereby

[18] *See* QC § 20.09, .13.b-c, .20; QC § 30.02; and QC § 40.02.b-c.

compromising the Firm's system of quality control. Accordingly, Hogeboom violated PCAOB Rule 3502.

IV.

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

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Marc Hogeboom is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[19]

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $150,000 is imposed on Marc Hogeboom.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Marc Hogeboom shall pay this civil money penalty within ten (10) days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board; (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (iii) submitted under a cover letter which identifies Hogeboom as the Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to

[19] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Hogeboom. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. With respect to any civil money penalty amounts that Marc Hogeboom shall pay pursuant to this Order, he shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of his payment of the civil money penalty pursuant to this Order, in any private action brought against Hogeboom based on substantially the same facts as set out in the findings in this Order.

4. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. By consenting to this Order, Marc Hogeboom acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any request for leave to petition to terminate a bar pursuant to PCAOB Rule 5302(c).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 10, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Imelda & Rekan,

Respondent.

PCAOB Release No. 105-2024-024

April 10, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Imelda & Rekan ("DT Indonesia," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $1,000,000 on DT Indonesia; and

(3) requiring DT Indonesia to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that DT Indonesia violated PCAOB rules and quality control standards over several years in connection with the Firm's internal training program.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings contained herein, except as to the Board's jurisdiction over Respondent and the subject matter of this proceeding, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **DT Indonesia** is a public accounting firm located in Jakarta, Indonesia. DT Indonesia is an affiliate of a member of the Deloitte Touche Tohmatsu Limited ("Deloitte Global") network. The Firm registered with the Board on March 23, 2021, pursuant to Section 102 of the Act and PCAOB rules. DT Indonesia is, and at all relevant times was, a "registered public accounting firm" as that term is defined by Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i).

B. Summary

2. From 2021 to 2023, DT Indonesia violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing internal training tests, including tests designed to help the Firm's audit professionals satisfy the requirements for maintaining their professional certifications. Those quality control failures prevented the Firm from identifying that, during the relevant period, more than 200 Firm professionals were involved in improper answer sharing—either by providing answers or using answers—or received answers without reporting such sharing in connection with online tests for mandatory internal training courses. DT Indonesia's failure to detect and deter improper answer sharing by its personnel occurred

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

despite numerous warnings from Deloitte Global and regional leadership that answer sharing was impermissible.

C. DT Indonesia Violated PCAOB Rules and Standards

i. Applicable PCAOB Rules and Quality Control Standards

3. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[3] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[4]

4. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity." [5] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[6] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[7]

5. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated," [8] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied." [9] Under

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[3] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[4] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[5] QC § 20.09.

[6] QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

[7] QC § 20.13.c; QC § 40.02.c.

[8] QC § 20.08.

[9] *Id.*; QC § 30.02, Monitoring a CPA Firm's Accounting and Auditing Practice; *see also* QC § 20.20.

PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[10]

ii. Training Requirements

6. As part of DT Indonesia's personnel management systems, the Firm administers internal training programs for all of its professionals. The training programs the Firm uses are designed to serve multiple purposes, including to provide personnel with technical instruction, to further their professional development, and to help licensed certified public accountants satisfy some of the continuing professional education requirements imposed by relevant professional bodies. The Firm's training requirements are intended to be relevant to, among other things, the independence of their personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. The training requirements can vary by a professional's position, role, and industry practice area.

7. The Firm's online internal trainings often include a testing component. For training courses with a testing component, the Firm does not credit personnel with completing the training until they satisfactorily pass the related test.

iii. Failures by DT Indonesia to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

8. DT Indonesia's quality control policies and procedures concerning ethics and integrity as well as personnel management were inadequate to prevent or detect improper answer sharing on training tests that occurred among DT Indonesia personnel from March 2021 until 2023.

9. During the relevant time period, large numbers of DT Indonesia personnel were involved in improper answer sharing. Indeed, more than 200 of its personnel, including two partners, participated in instances of improper answer sharing by, among other means, sending emails with answers to training test questions, providing screenshots of training questions and answers, or discussing answers when taking tests in the presence of others.

10. Despite this widespread answer sharing by the Firm's personnel, none of those aware of the improper answer sharing timely reported the answer sharing (a) to anyone at the Firm not involved in answer sharing; (b) to anyone within regional leadership or Deloitte Global; or (c) to any relevant regulator. Moreover, the misconduct occurred notwithstanding numerous

[10] *See* QC § 20.20.c-.d; QC § 30.02.c-.d.

warnings from Deloitte Global and regional leadership that answer sharing was improper. Beginning in October 2019 through September 2022, DT Indonesia partners were repeatedly told through a series of calls, townhalls, meetings, emails, and mandatory e-learnings that answer sharing was not acceptable. Despite these warnings, answer sharing at DT Indonesia continued until 2023, when the Firm discovered the misconduct and began an internal investigation.

11. As illustrated by the misconduct described above, from 2021 to 2023, DT Indonesia failed to establish and implement policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) DT Indonesia personnel performed all professional responsibilities with integrity; (2) DT Indonesia personnel to whom work was assigned had the degree of technical training and proficiency required in the circumstances; and (3) DT Indonesia personnel participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements for licensed certified public accountants of relevant professional bodies. Accordingly, the Firm violated PCAOB quality control standards related to integrity and personnel management. [11]

IV.

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

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation with respect to certain aspects of its response to discovering improper answer sharing on internal trainings. Specifically, the Firm voluntarily and timely self-reported to PCAOB staff the answer sharing misconduct it had discovered. The Firm then provided substantial assistance to the PCAOB's investigation by conducting, and providing to the PCAOB the results of, its internal investigation, including evidence relating to the Firm's interviews of personnel it suspected of engaging in improper answer sharing.

Additionally, since the answer sharing misconduct occurred, the Firm has implemented remedial and corrective measures aimed at successfully ending improper answer sharing. Among other actions, the Firm has made changes to its quality control policies and procedures to promote professional integrity, especially as it relates to training examinations, and to

[11] *See* QC §§ 20.09, .13.b-c, .20; QC § 30.02; and QC § 40.02.b-c.

ensure that its personnel obtain the degree of technical training and proficiency required without engaging in improper answer sharing.

Absent this extraordinary cooperation, the civil money penalty imposed would have been significantly larger, and the Board may have imposed additional sanctions. Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000,000 is imposed on Imelda & Rekan.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Imelda & Rekan shall pay this civil money penalty within ten (10) days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board; (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (iii) submitted under a cover letter which identifies Imelda & Rekan as the Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. With respect to any civil money penalty amounts that Imelda & Rekan. shall pay pursuant to this Order, Imelda & Rekan shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Imelda & Rekan's payment of the civil money penalty pursuant to

this Order, in any private action brought against Imelda & Rekan based on substantially the same facts as set out in the findings in this Order.

4. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. Imelda & Rekan understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Imelda & Rekan is required:

1. Within 120 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures as described in QC § 20.20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*, to provide the Firm with reasonable assurance that (a) personnel perform all internal training and tests associated with such training with integrity; (b) personnel to whom work has been assigned have the degree of technical training and proficiency required in the circumstances; (c) personnel participate in general and industry-specific continuing professional education that enable them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies; and (d) the above-described policies and procedures are suitably designed and are being effectively applied.

2. Within 150 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with Section IV.C.1. above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. Imelda & Rekan shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

3. The Firm understands that the failure to satisfy any provision of Section IV.C. may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 10, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Navarro Amper & Co.,

Respondent.

PCAOB Release No. 105-2024-025

April 10, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Navarro Amper & Co. ("DT Philippines," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $1,000,000 on DT Philippines; and

(3) requiring DT Philippines to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that DT Philippines violated PCAOB rules and quality control standards over several years in connection with the Firm's internal training program.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings contained herein, except as to the Board's jurisdiction over Respondent and the subject matter of this proceeding, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **DT Philippines** is a public accounting firm located in Taguig, Philippines. DT Philippines is an affiliate of a member of the Deloitte Touche Tohmatsu Limited ("Deloitte Global") network. The Firm registered with the Board on June 2, 2004, pursuant to Section 102 of the Act and PCAOB rules. DT Philippines is, and at all relevant times was, a "registered public accounting firm" as that term is defined by Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i).

B. Summary

2. From at least 2017 until early 2019, DT Philippines violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing internal training tests, including tests designed to help the Firm's audit professionals satisfy the requirements for maintaining their professional certifications. Those quality control failures prevented the Firm from identifying that nearly all of its audit partners during the period, including the then-National Professional Practice Director ("NPPD"), and other audit professionals, engaged in improper answer sharing—either by providing answers or using answers—or received answers without reporting such sharing in connection with online tests for mandatory internal training courses.

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

C. DT Philippines Violated PCAOB Rules and Standards

i. Applicable PCAOB Rules and Quality Control Standards

3. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[3] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[4]

4. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[5] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[6] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[7]

5. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[8] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[9] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among

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[3] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[4] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[5] QC § 20.09.

[6] QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

[7] QC § 20.13.c; QC § 40.02.c.

[8] QC § 20.08.

[9] *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[10]

ii. Training Requirements

6. As part of DT Philippines's personnel management systems, the Firm administers internal training programs for all of its professionals. The training programs the Firm uses are designed to serve multiple purposes, including to provide personnel with technical instruction, to further their professional development, and to help licensed certified public accountants satisfy some of the continuing professional education requirements imposed by relevant professional bodies. The Firm's training requirements are intended to be relevant to, among other things, the independence of their personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. The training requirements can vary by a professional's position, role, and industry practice area.

7. The Firm's online internal trainings often include a testing component. For training courses with a testing component, the Firm does not credit personnel with completing the training until they satisfactorily pass the related test.

iii. Failures by DT Philippines to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

8. DT Philippines's quality control policies and procedures concerning ethics and integrity as well as personnel management were inadequate to prevent or detect improper answer sharing on training tests that occurred among DT Philippines personnel, including nearly all of its audit partners, from at least 2017 to 2019. In fact, during this time, improper sharing of answers was common within the Firm's audit practice and was facilitated by the Firm's then-NPPD, who had responsibility for overseeing Firm personnel's compliance with online courses ("e-learnings") and trainings.[11]

9. During the relevant time period, the NPPD recognized that the Firm's audit partners had fallen behind in their rates of compliance with trainings because their workloads and utilization rates made it difficult for them to keep up with required continuing professional education and trainings.

10. The NPPD e-mailed answers to e-learnings to the audit partners and others in the Firm at least six times from 2017 through 2019. For example, on January 4, 2019, the NPPD

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10 *See* QC § 20.20.c-.d; QC § 30.02.c-.d.

11 *See Wilfredo Baltazar*, PCAOB Rel. No. 105-2024-026 (Apr. 10, 2024).

sent an e-mail to the Firm's audit partner listserv with the subject "IFRS E – Learnings." The email included answers to 21 different questions on three different IFRS topics. The NPPD explained that those answers would result in a passing rate, but not a score of 100%.

11. Between 2017 and 2019, some of the audit partners who received answers from the NPPD used those answers to complete required e-learnings and trainings.

12. Other Firm personnel also engaged in improper answer sharing. For example, in 2018, a director in the Firm's audit practice shared answers with others in the Firm on, at least, three occasions.

13. Despite this widespread answer sharing among audit partners of the Firm and by other audit personnel, none of the Firm's personnel timely reported the answer sharing to (a) anyone at the Firm not involved in answer sharing; (b) anyone within regional leadership or Deloitte Global; or (c) any relevant regulator.

14. As illustrated by the misconduct described above, from at least 2017 to 2019, DT Philippines's inappropriate tone at the top enabled widespread improper answer sharing with respect to internal training tests. From 2017 to October 2019, DT Philippines failed to establish and implement policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) DT Philippines personnel performed all professional responsibilities with integrity; (2) DT Philippines personnel to whom work was assigned had the degree of technical training and proficiency required in the circumstances; and (3) DT Philippines personnel participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements for licensed certified public accountants of relevant professional bodies. Accordingly, the Firm violated PCAOB quality control standards related to integrity and personnel management.[12]

IV.

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

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation with respect to certain aspects of its response to discovering improper answer sharing on internal trainings. Specifically, the Firm provided substantial assistance to the PCAOB's

[12] *See* QC §§ 20.09, .13.b-c, .20; QC § 30.02; and QC § 40.02.b-c.

investigation by conducting, and providing to the PCAOB the results of, its internal investigation, including evidence relating to the Firm's interviews of personnel it suspected of engaging in improper answer sharing.

Additionally, since the answer sharing misconduct occurred, the Firm has implemented remedial and corrective measures aimed at successfully ending improper answer sharing. Among other actions, the Firm has made changes to its quality control policies and procedures to promote professional integrity, especially as it relates to training examinations, and to ensure that its personnel obtain the degree of technical training and proficiency required without engaging in improper answer sharing.

Absent this extraordinary cooperation, the civil money penalty imposed would have been significantly larger, and the Board may have imposed additional sanctions. Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,000,000 is imposed on Navarro Amper & Co.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Navarro Amper & Co. shall pay this civil money penalty within ten (10) days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board; (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (iii) submitted under a cover letter which identifies Navarro Amper & Co. as the Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. With respect to any civil money penalty amounts that Navarro Amper & Co. shall pay pursuant to this Order, Navarro Amper & Co. shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Navarro Amper & Co.'s payment of the civil money penalty pursuant to this Order, in any private action brought against Navarro Amper & Co. based on substantially the same facts as set out in the findings in this Order.

4. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. Navarro Amper & Co. understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Navarro Amper & Co. is required:

1. Within 120 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures as described in QC §20.20, *System of Quality Control for A CPA Firm's Accounting and Auditing Practice*, to provide the Firm with reasonable assurance that (a) personnel perform all internal training and tests associated with such training with integrity; (b) personnel to whom work has been assigned have the degree of technical training and proficiency required in the circumstances; (c) personnel participate in general and industry-specific continuing professional education that enable them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies; and (d) the above-described policies and procedures are suitably designed and are being effectively applied.

2. Within 150 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with Section IV.C.1. above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. Navarro Amper & Co. shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

3. The Firm understands that the failure to satisfy any provision of Section IV.C. may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 10, 2024

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Wilfredo Baltazar,

Respondent.

PCAOB Release No. 105-2024-026

April 10, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) Censuring Wilfredo Baltazar ("Baltazar" or "Respondent");

(2) Barring Respondent from being an associated person of a registered public accounting firm;[1] and

(3) imposing a civil money penalty in the amount of $10,000 on Respondent.[2]

The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, by directly and substantially contributing to violations by Navarro Amper & Co. (the "Firm" or "DT Philippines") of PCAOB rules and quality control standards in connection with the Firm's internal training program.

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[1] Baltazar may file a petition for Board consent to associate with a registered public accounting firm after three years from the date of this Order.

[2] Based on his conduct, Baltazar's civil money penalty in this settlement would have been $50,000. The Board determined to accept Baltazar's offer of settlement and impose a lower penalty after considering his financial resources.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings contained herein, except as to the Board's jurisdiction over Respondent and the subject matter of this proceeding, which is admitted, Respondent consents to the entry of this Order as set forth below.[3]

III.

On the basis of Respondent's Offer, the Board finds that:[4]

A. Respondent

1. **Wilfredo Baltazar** was a partner at DT Philippines in the Audit and Assurance group. From June 2009 until May 2021, Baltazar served as the Firm's National Professional Practice Director ("NPPD"). As the NPPD, Baltazar was responsible for, among other things, promoting Firm audit quality, facilitating audit consultations, and monitoring and managing the compliance by the Firm's auditors with online training and professional training requirements. At all relevant times, Respondent was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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

[4] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of, *inter alia*, intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

B. Other Relevant Entity

2. **DT Philippines** is a public accounting firm located in Taguig, Philippines. DT Philippines is an affiliate of a member of the Deloitte Touche Tohmatsu Limited ("Deloitte Global") network. The Firm registered with the Board on June 2, 2004, pursuant to Section 102 of the Act and PCAOB rules. DT Philippines is, and at all relevant times was, a "registered public accounting firm" as that term is defined by Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i).

C. Summary

3. This matter concerns Baltazar's direct and substantial contribution to violations of PCAOB rules and quality control standards by DT Philippines.[5] As described below, Respondent knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to DT Philippines's violations.

4. From at least 2017 until early 2019, DT Philippines violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing internal training tests, including tests designed to help the Firm's audit professionals satisfy the requirements for maintaining their professional certifications. Those quality control failures prevented the Firm from identifying that nearly all of its audit partners during the period, including Respondent, the Firm's then-NPPD, and other audit professionals, engaged in improper answer sharing—either by providing answers or using answers—or received answers without reporting such sharing in connection with online tests for mandatory internal training courses.

5. Despite Respondent's quality control-related responsibilities as the NPPD, he shared answers to online training ("e-learning") and training assessments. On at least six occasions between 2017 and 2019, Respondent, in his capacity as the partner responsible for e-learning compliance, shared the answers to assessments with other partners at the Firm. Further, throughout the relevant period, Respondent knew that answer sharing occurred and took no steps to stop others at the Firm from sharing answers or to report such misconduct. Through these knowing or reckless acts and omissions, Respondent directly and substantially contributed to DT Philippines's violations of PCAOB rules and quality control standards.

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[5] *See Navarro Amper & Co.*, PCAOB Rel. No. 105-2024-025 (Apr. 10, 2024).

D. DT Philippines's Violations of PCAOB Rules and Quality Control Standards

i. Applicable PCAOB Rules and Quality Control Standards

6. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[6] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[7]

7. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[8] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[9] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[10]

8. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[11] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[12] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among

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6 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

7 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

8 QC § 20.09.

9 QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

10 QC § 20.13.c; QC § 40.02.c.

11 QC § 20.08.

12 *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[13]

ii. Training Requirements

9. As part of DT Philippines's personnel management systems, the Firm administers internal training programs for its audit professionals. The training programs the Firm uses are designed to serve multiple purposes, including to provide personnel with technical instruction, to further their professional development, and to help licensed certified public accountants satisfy some of the continuing professional education requirements imposed by relevant professional bodies. The Firm's training requirements are intended to be relevant to, among other things, the independence of their personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. The training requirements can vary by a professional's position, role, and industry practice area.

10. The Firm's online internal trainings often include a testing component. For training courses with a testing component, the Firm does not credit personnel with completing the training until they satisfactorily pass the related test.

iii. Failures by DT Philippines to Establish Appropriate Quality Control Policies and Procedures Related to Integrity and Personnel Management

11. DT Philippines's quality control policies and procedures concerning ethics and integrity as well as personnel management were inadequate to prevent or detect improper answer sharing on training tests that occurred among DT Philippines personnel, including nearly all of its audit partners, from at least 2017 to 2019. In fact, during this time, improper sharing of answers was common within the Firm's audit practice and was facilitated by Respondent, who had responsibility as the NPPD for overseeing Firm personnel's compliance with e-learnings and trainings.

12. During the relevant time period, Respondent recognized that the Firm's audit partners had fallen behind in their rates of compliance with trainings because their workloads and utilization rates made it difficult for them to keep up with required continuing professional education and trainings.

13. Respondent e-mailed answers to e-learnings to the audit partners and others in the Firm at least six times from 2017 through 2019. For example, on January 4, 2019,

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[13] *See* QC § 20.20.c-.d; QC § 30.02.c-.d.

Respondent sent an e-mail to the audit partner listserv with the subject "IFRS E – Learnings." The email included answers to 21 different questions on three different IFRS topics. Respondent explained that those answers would result in a passing rate, but not a score of 100%.

14. Between 2017 and 2019, some of the audit partners who received answers from Respondent used those answers to complete required e-learnings and trainings.

15. Other Firm personnel also engaged in improper answer sharing. For example, in 2018, a director in the Firm's audit practice shared answers with others in the Firm on at least three occasions.

16. Despite this widespread answer sharing among audit partners of the Firm and by other audit personnel, none of the Firm's personnel timely reported the answer sharing to (a) anyone at the Firm not involved in answer sharing; (b) anyone within regional leadership or Deloitte Global; or (c) any relevant regulator.

17. As illustrated by the misconduct described above, from at least 2017 to October 2019, DT Philippines failed to establish and implement policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) DT Philippines personnel performed all professional responsibilities with integrity; (2) DT Philippines personnel to whom work was assigned had the degree of technical training and proficiency required in the circumstances; and (3) DT Philippines personnel participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements for licensed certified public accountants of relevant professional bodies. Accordingly, the Firm violated PCAOB quality control standards related to integrity and personnel management.[14]

E. Respondent at Least Recklessly, and Directly and Substantially, Contributed to the Firm's Violations of PCAOB Rules and Quality Control Standards

18. PCAOB Rule 3502 provides that "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of . . . the Rules of the Board . . . or professional standards."

[14] *See* QC § 20.09, .13.b-c, .20; QC § 30.02; and QC § 40.02.b-c.

19. Respondent violated PCAOB Rule 3502 because he knew, or recklessly did not know, that his actions and omissions would directly and substantially contribute to the Firm's violations described above. As the NPPD, Respondent had responsibility for Firm personnel's compliance with the Firm's e-learnings and trainings. When Respondent recognized that Firm personnel's compliance rates had fallen, he began sharing answers to exams.

20. As described above, Respondent shared answers with the Firm's audit partners on at least six occasions from 2017-2019. Additionally, he was aware that others at the Firm were involved in improper answer sharing. Respondent failed to put a stop to or report that misconduct during the relevant period, despite his responsibilities for personnel management and promoting an ethical culture at the Firm.

21. Instead, as the Firm's NPPD in charge of Firm training, Respondent created and fostered an environment in which it was acceptable to share answers and use shared answers on e-learning and training tests.

22. Respondent directly and substantially contributed to the Firm's failure to provide reasonable assurance that its personnel, including its partners, acted with integrity by facilitating answer sharing at the Firm, including by personally sharing answers with the Firm's partners.

23. Further, by sharing answers with the Firm's audit partners to use on required e-learnings and trainings, and creating and fostering an environment in which others at the Firm also improperly shared or used answers, Respondent directly and substantially contributed to the Firm's failure to provide reasonable assurance that its personnel: (1) had the degree of technical training and proficiency required in the circumstances; and (2) participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of relevant professional bodies.

IV.

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

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Wilfredo Baltazar is barred from being an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i); [15]

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

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $10,000 is imposed on Wilfredo Baltazar.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay this civil money penalty as follows: Respondent shall pay $5,000 within ten (10) days of the issuance of this Order and an additional $5,000 within 30 days of the issuance of this Order. Respondent shall make payment by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board; (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (iii) submitted under a cover letter which identifies Wilfredo Baltazar as the Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office

[15] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Baltazar. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. Respondent understands that his failure to pay the civil money penalty imposed upon him may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b).

4. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Baltazar shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

6. Respondent acknowledges that the determination to accept his Offer is contingent upon the accuracy and completeness of the financial information he provided to the PCAOB Division of Enforcement and Investigations ("Division"). Balthazar also acknowledges that, if at any time following this settlement, the Division obtains information indicating that any financial information provided by him—including, but not limited to, any information concerning assets, income, liabilities, or net worth—was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such information was provided, then at any time following entry of this Order (1) the Board may institute a disciplinary proceeding for noncooperation with an investigation under PCAOB Rule 5110 and/or (2) the Division may petition the Board to (a) reopen this matter to consider whether Baltazar provided accurate and complete financial information at the time such information was provided to the Division; and (b) seek an order directing payment of the maximum civil money penalty allowable under the law or any lesser amount determined to be appropriate. No other issue shall be considered in connection with this petition other than

whether the financial information provided by Baltazar was fraudulent, misleading, inaccurate, or incomplete in any material respect; and, if so, whether a civil money penalty should be ordered up to the maximum civil money penalty allowable under the law. Baltazar may not, by way of defense to any such petition: (i) contest the findings in this Order; (ii) assert that payment of a civil money penalty should not be ordered; (iii) contend that the amount of the civil money penalty to be ordered should be less than $50,000, which is specified herein as the amount the penalties would have been, based on Baltazar's conduct and without consideration of his financial resources; or (iv) put forward any other contention or assert any defense to liability or remedy, including, but not limited to, any defense based on statute of limitations or any other time-related defense, other than to contend (a) that Baltazar did not provide financial information that was fraudulent, misleading, inaccurate, or incomplete in any material respect, or (b) that a civil money penalty should not be ordered in an amount higher than $50,000.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 10, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Jessica Etania, CPA,

Respondent.

PCAOB Release No. 105-2024-029

May 7, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Jessica Etania, CPA ("Etania" or "Respondent");

(2) barring Etania from being an associated person of a registered public accounting firm;[1] and

(3) imposing a $55,000 civil money penalty on Etania.

The Board is imposing these sanctions on Etania on the basis of its findings that Respondent violated PCAOB rules and standards in connection with the audits by Liggett & Webb, P.A. ("Liggett & Webb" or the "Firm") of the financial statements of Innovative Food Holdings, Inc. ("Innovative Food") for the fiscal year ended December 31, 2020 ("2020 Innovative Food Audit") and of Luvu Brands, Inc. ("Luvu") for the fiscal years ended June 30, 2019 ("2019 Luvu Audit") and June 30, 2020 ("2020 Luvu Audit"), respectively (collectively, the "Luvu Audits").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c)

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

of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1), against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Jessica Etania** was, at all relevant times, a partner of the Firm and a certified public accountant under the laws of Florida (license no. AC50610). Etania served as the engagement partner for the 2020 Innovative Food Audit, the 2019 Luvu Audit, and the 2020 Luvu Audit. At all relevant times, Etania was "an associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities

2. **Liggett & Webb, P.A.** is headquartered in Boynton Beach, Florida. Liggett & Webb was licensed to practice public accounting by the Florida Board of Accountancy (license no. AD63352).[4] Liggett & Webb is, and at all relevant times was, registered with the Board, and

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

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] The Firm's license expired on December 31, 2023.

is a "registered public accounting firm" as that term is defined in Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i).

3. **Innovative Food Holdings, Inc.** is a Florida corporation headquartered in Bonita Springs, Florida. Its public filings disclose that it is a distributor of perishables and specialty food and food-related products to restaurants, hotels, country clubs, national chain accounts, casinos, hospitals, and catering houses. Innovative Food is, and at all relevant times was, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. **Luvu Brands, Inc.** is a Florida corporation headquartered in Atlanta, Georgia. Its public filings disclose that it designs, manufactures, and markets a portfolio of consumer lifestyle brands through the company's websites, online mass merchants, and specialty retail stores worldwide. Luvu is, and at all relevant times was, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Etania's violations of PCAOB rules and standards in connection with the 2020 Innovative Food Audit, the 2019 Luvu Audit, and the 2020 Luvu Audit. As detailed below, Etania failed to obtain sufficient appropriate audit evidence with respect to Innovative Food's and Luvu's revenue and failed to make certain required communications to Luvu's audit committee.

D. Applicable PCAOB Rules and Standards

6. In connection with the preparation and issuance of an audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with all applicable auditing and related professional standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements when the auditor conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[6]

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[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

[6] *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

7. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit.[7] Due professional care requires that the auditor exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[8]

8. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion.[9] In addition, an auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.[10]

9. PCAOB standards also require auditors to design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[11] PCAOB standards further require auditors to perform substantive procedures, including tests of details, that are specifically responsive to the assessed risks, including fraud risks.[12]

10. When using information produced by the company as audit evidence, the auditor is also required to evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to test the accuracy and completeness of the information and evaluate whether the information is sufficiently precise and detailed for purposes of the audit.[13] An entity may publish various documents that contain information in addition to the audited financial statements and the independent auditor's report ("other information").[14] Other information in a document may also be relevant to an audit performed by an independent auditor. PCAOB standards require auditors to read the other information and consider whether such information, or the manner of its presentation, is materially

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7 *See* AS 1015.01, *Due Professional Care in the Performance of Work*.

8 *See* AS 1015.07; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*.

9 *See* AS 1105.04, *Audit Evidence*.

10 *See* AS 2401.12, *Consideration of Fraud in a Financial Statement Audit*.

11 *See* AS 2301.08.

12 *See* AS 2301.11-.13.

13 *See* AS 1105.10.

14 *See* AS 2710.01, *Other Information in Documents Containing Audited Financial Statements*.

inconsistent with information, or the manner of its presentation, appearing in the financial statements.[15]

11. PCAOB standards also require the auditor to communicate with the company's audit committee regarding certain matters related to the conduct of an audit, including identified significant risks and uncorrected misstatements.[16]

E. Etania Violated PCAOB Rules and Standards on the 2020 Innovative Food Audit

12. Liggett & Webb issued an audit report containing an unqualified opinion on Innovative Food's 2020 financial statements on April 15, 2021. The report was included with Innovative Food's Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") on April 15, 2021.

13. Innovative Food disclosed in its Form 10-K for fiscal year 2020 total assets of $23,150,275 and revenue and net loss of $51,676,028 and $7,665,024, respectively, for the year end. Etania and the engagement team identified improper revenue recognition as a significant risk and a fraud risk.

14. Innovative Food also disclosed in its Form 10-K for fiscal year 2020 that its largest customer, U.S. Foods, Inc. ("U.S. Foods"), accounted for 40% of Innovative Food's consolidated revenue. Innovative Food's largest subsidiary, Food Innovations, Inc. ("FII"), with recorded revenue of $20,902,670, had a contractual agreement with U.S. Foods during fiscal year 2020.

15. PCAOB standards required Etania and the engagement team to design and perform audit procedures in a manner that addressed Etania's identification of improper revenue recognition as a significant risk and a fraud risk,[17] and to evaluate whether Innovative Food's revenue was presented in the financial statements fairly, in all material respects, in conformity with the applicable financial reporting framework.[18]

16. In performing audit procedures regarding Innovative Food's revenue, notwithstanding that FII's sales to U.S. Foods represented approximately 40% of Innovative Food's consolidated revenue in 2020, Etania and the engagement team failed to review FII's

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15 *See* AS 2710.04.

16 *See* AS 1301.01, 09, .18, *Communications with Audit Committees*.

17 *See* AS 2301.03, .08-.09, .11-.13.

18 *See* AS 2810.30-.31, *Evaluating Audit Results.*

contract with U.S. Foods—Innovative Food's largest customer—to determine that it met the five criteria[19] outlined in FASB ASC 606, *Revenue from Contracts with Customers* ("ASC 606") to qualify as a contract.[20]

17. As a result of Etania and the engagement team's failure to review FII's contract with U.S. Foods, Etania and the engagement team failed to design and perform audit procedures in a manner that addressed their identification of improper revenue recognition as a significant risk and a fraud risk, failed to obtain sufficient appropriate audit evidence that Innovative Food's revenue was properly valued, and failed to evaluate whether Innovative Food's revenue was presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[21]

F. Etania Violated PCAOB Rules and Standards on the Luvu Audits

18. Liggett & Webb issued audit reports containing unqualified opinions on Luvu's 2019 and 2020 financial statements on June 30, 2019, and June 30, 2020, respectively. The reports were included with Luvu's Forms 10-Ks filed with the Commission on October 11, 2019, and October 1, 2020, respectively.

19. Luvu disclosed in its Form 10-K for fiscal year 2019 total assets of $4,087,000 and net sales and net loss of $17,003,000 and $157,000, respectively. Luvu disclosed in its Form 10-K for fiscal year 2020 total assets of $5,447,000 and net sales and net income of approximately $18,376,000 and $860,000, respectively. In the 2019 Luvu Audit and 2020 Luvu Audit, Etania and the engagement team identified improper revenue recognition as a significant risk and a fraud risk.

i. Etania Failed to Test the Occurrence and Completeness of Revenue and Failed to Determine Whether All Performance Obligations Were Satisfied on the Luvu Audits

20. On both the 2019 Luvu Audit and the 2020 Luvu Audit, Etania and the engagement team failed to perform sufficient substantive procedures to test the occurrence and completeness of Luvu's e-commerce and wholesale revenues, which combined

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[19] ASC 606 includes the following five revenue recognition implementation steps: (1) identify the contract with the customer; (2) identify performance obligations; (3) determine the transaction price; (4) allocate the transaction price to performance obligations; and (5) recognize revenue when each performance obligation is satisfied.

[20] *See* AS 1105.04.

[21] *See* AS 1105.04; AS 2810.30-.31; AS 2301.11-.13.

represented approximately 98 and 99 percent of Luvu's total annual revenue, respectively, to evaluate whether Luvu's revenue was recognized in the proper period and properly valued.

21. For the 2019 Luvu Audit and the 2020 Luvu Audit, in response to the identified significant risk and fraud risk concerning revenue recognition, Etania and the engagement team selected a sample of 292 and 279 sales invoices, respectively. They then planned procedures to agree each sales invoice to a shipping document, and obtain evidence of cash receipts.

22. In selecting the samples for the Luvu Audits, however, Etania and the engagement team failed to perform audit procedures to determine whether the population of sales invoices from which Etania and the engagement team made selections agreed to the sales sub-ledger. They also failed to reconcile the sales sub-ledger to Luvu's trial balance, general ledger, or financial statements. Therefore, Etania and the engagement team failed to sufficiently test the accuracy and completeness of the population of sales invoices agreed to the shipping documents and cash receipts.[22]

23. Additionally, during the 2019 Luvu Audit, Etania and the engagement team failed to trace 224 of the 292 selected sales invoices to actual shipping documents. Similarly, in the 2020 Luvu Audit, Etania and the engagement team failed to obtain evidence of shipping for 179 of the 279 selected sales invoices. Therefore, in both of the Luvu Audits, Etania and the engagement team failed to obtain sufficient appropriate audit evidence that Luvu's revenue was recognized in the proper period and properly valued.[23]

24. Finally, in both Luvu Audits, Etania and the engagement team failed to design and perform audit procedures in a manner that addressed their identification of improper revenue recognition as a significant risk and a fraud risk.[24]

ii. Etania Failed to Evaluate Revenue Recognition Disclosures to Identify Material Inconsistencies in Luvu's Financial Statements on the 2019 Luvu Audit

25. In the Management Discussion & Analysis section ("MD&A") of Luvu's Form 10-K for the fiscal year 2019, Luvu disclosed the following: "[r]evenue is recognized at the point in time that control of the ordered products is transferred to the customer. Generally, this occurs

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22 *See* AS 1105.10.

23 *See* AS 1105.04.

24 *See* AS 2301.08, .13.

when the product is delivered, or in some cases, picked up from one of our distribution centers by the customer."

26. But the disclosures included in Luvu's Form 10-K financial statements for the fiscal year ended 2019 contained contradictory language regarding revenue recognition as compared to the MD&A. Specifically, the disclosures provided that different revenue streams affected how revenue is recognized and that revenue was not always only recognized upon delivery of goods to a customer, but could also be recognized upon shipment of goods to the customer.

27. As a result, in reviewing Luvu's revenue recognition disclosures in its financial statements, Etania failed to consider whether that information was materially inconsistent with other information in the MD&A.[25]

iii. Etania Failed to Evaluate Whether Luvu's Revenue Was Presented Fairly, in All Material Respects, in Conformity with the Applicable Financial Reporting Framework on the 2020 Luvu Audit

28. In Luvu's Form 10-K for the fiscal year 2020, Luvu disclosed in the notes to the financial statements the following: "[r]evenue is recognized at the point in time that control of the ordered products is transferred to the customer. Generally, this occurs when the product is delivered, or in some cases, picked up from one of our distribution centers by the customer."

29. Etania and the engagement team, however, understood that Luvu recognized revenue upon shipment—not delivery. As a result, Etania and the engagement team failed to evaluate whether Luvu's revenue as disclosed in its financial statements was presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[26]

iv. Etania Failed to Make Required Communications to the Audit Committee on the Luvu Audits

30. In addition to improper revenue recognition, in both the 2019 Luvu Audit and the 2020 Luvu Audit, Etania and the engagement team identified management override of controls and inventory valuation as significant risks and fraud risks.

31. In both the 2019 Luvu Audit and the 2020 Luvu Audit, Etania and the engagement team sent letters to Luvu's audit committee, on August 14, 2019, and August 16,

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[25] *See* AS 2710.04.

[26] *See* AS 2810.30-.31.

2020, respectively, communicating an overview of the audit strategy, including the timing of the audit, and the identified significant risks related to improper revenue recognition and inventory valuation. In both audits, however, they failed to disclose management override of controls as a significant risk and a fraud risk.

32. Additionally, during the 2019 Luvu Audit, Etania and the engagement team identified an uncorrected misstatement—specifically, a balance sheet reclassification from a prepaid asset to deferred revenue. In the final letter communication to Luvu's audit committee on October 11, 2019, however, Etania and the engagement team did not provide the schedule of uncorrected misstatements to the audit committee.

33. As a result of these failures in both the 2019 Luvu Audit and the 2020 Luvu Audit, Etania and the engagement team failed to make certain required communications to Luvu's audit committee concerning identified significant risks and uncorrected misstatements.[27]

IV.

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

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jessica Etania is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[28]

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[27] *See* AS 1301.09, .18.

[28] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Etania. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

C. Pursuant to PCAOB Rule 5302(b), Jessica Etania may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $55,000 is imposed on Jessica Etania.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Jessica Etania shall pay $30,000 within ten days of the issuance of this Order, and $25,000 within twelve months of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Jessica Etania as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Jessica Etania understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

5. With respect to any civil money penalty amounts that Jessica Etania shall pay pursuant to this Order, Jessica Etania shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or

professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Jessica Etania's payment of the civil money penalty pursuant to this Order, in any private action brought against Jessica Etania based on substantially the same facts as set out in the findings in this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 7, 2024

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Arpita Joshi, CPA,

Respondent.

PCAOB Release No. 105-2024-030

May 7, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Arpita Joshi, CPA ("Joshi" or "Respondent");

(2) barring Joshi from being an associated person of a registered public accounting firm;[1] and

(3) imposing a $45,000 civil money penalty on Joshi.

The Board is imposing these sanctions on Joshi on the basis of its findings that Respondent violated PCAOB rules and standards in connection with the audits by Liggett & Webb, P.A. ("Liggett & Webb" or the "Firm") of the financial statements of Innovative Food Holdings, Inc. ("Innovative Food") for the fiscal year ended December 31, 2019 ("2019 Innovative Food Audit") and of Luvu Brands, Inc. ("Luvu") for the fiscal year ended June 30, 2020 ("2020 Luvu Audit").

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c)

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

of the Sarbanes-Oxley Act of 2002, as amended (the " Act"), and PCAOB Rule 5200(a)(1), against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Arpita Joshi** was, at all relevant times, a partner of the Firm and a certified public accountant under the laws of New York (license no. 120778) and Maine (license no. CP4777). Joshi served as the engagement partner for the 2019 Innovative Food Audit and the engagement quality review ("EQR") partner on the 2020 Luvu Audit. At all relevant times, Joshi was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities

2. **Liggett & Webb, P.A.** is headquartered in Boynton Beach, Florida. Liggett & Webb was licensed to practice public accounting by the Florida Board of Accountancy (license

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

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

no. AD63352).[4] Liggett & Webb is, and at all relevant times was, registered with the Board, and is a "registered public accounting firm" as that term is defined in Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i).

3. **Innovative Food Holdings, Inc.** is a Florida corporation headquartered in Bonita Springs, Florida. Its public filings disclose that it is a distributor of perishables and specialty food and food-related products to restaurants, hotels, country clubs, national chain accounts, casinos, hospitals, and catering houses. Innovative Food is, and at all relevant times was, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. **Luvu Brands, Inc.** is a Florida corporation headquartered in Atlanta, Georgia. Its public filings disclose that it designs, manufactures, and markets a portfolio of consumer lifestyle brands through the company's websites, online mass merchants, and specialty retail stores worldwide. Luvu is, and at all relevant times was, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Joshi's violations of PCAOB rules and standards in connection with the 2019 Innovative Food Audit. As detailed below, Joshi failed to obtain sufficient appropriate audit evidence with respect to Innovative Food's goodwill and other intangible assets.

6. Additionally, Joshi violated AS 1220, *Engagement Quality Review,* by providing her concurring approval of issuance of the 2020 Luvu Audit report without performing the required EQR with due professional care.

D. Joshi Violated PCAOB Rules and Standards in Connection with the 2019 Innovative Food Audit

7. In connection with the preparation and issuance of an audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with all applicable auditing and related professional standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements when the auditor conducted an audit in accordance

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[4] The Firm's license expired on December 31, 2023.

[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[6]

8. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit.[7] Due professional care requires that the auditor exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[8]

9. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion.[9] In addition, an auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.[10]

10. PCAOB standards also require auditors to evaluate whether the significant assumptions used to measure the fair value of an asset provide a reasonable basis for the fair value measurement and disclosure in the financial statements.[11] PCAOB standards further require auditors who use the work of a specialist as evidential matter in performing an audit to, among other things, "evaluate whether the specialist's findings support the related assertions in the financial statements."[12]

11. Liggett & Webb issued an audit report containing an unqualified opinion on Innovative Food's 2019 financial statements on May 14, 2020. The report was included with Innovative Food's Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") on May 14, 2020.

12. Innovative Food disclosed in its Form 10-K for fiscal year 2019 total assets of $20,874,975, including goodwill and other intangible assets of $3,525,806. More specifically, for the intangible assets, Innovative Food disclosed goodwill in the amount of $650,243, Trade

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6 *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

7 *See* AS 1015.01, *Due Professional Care in the Performance of Work*.

8 *See* AS 1015.07; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*.

9 *See* AS 1105.04, *Audit Evidence*.

10 *See* AS 2401.12, *Consideration of Fraud in a Financial Statement Audit*.

11 *See* AS 2502.26, .28, *Auditing Fair Value Measurements and Disclosures*.

12 AS 1210.12(c), *Using the Work of a Specialist*.

Name in the amount of $1,532,822, Customer Relationships in the amount of $640,422, Non-Compete Agreements in the amount of $72,355, and Internally Developed Technology in the amount of $545,964. Joshi and the engagement team assessed inherent risk, control risk, and the combined risk of material misstatement for the valuation of intangible assets as high, and they identified a significant risk related to goodwill.

13. PCAOB standards required Joshi and the engagement team to design and perform audit procedures in a manner that addressed Joshi's identification of valuation of goodwill as a significant risk,[13] and to evaluate whether Innovative Food's intangible assets were presented in the financial statements fairly, in all material respects, in conformity with the applicable financial reporting framework.[14]

14. Innovative Food performed a qualitative assessment of goodwill to determine whether it was more likely than not that the fair value of goodwill was less than the carrying amount. Innovative Food concluded that the qualitative assessment indicated that goodwill could be impaired and engaged a valuation specialist to perform a quantitative assessment.

15. Joshi and the engagement team used the report of the specialist as evidence in performing substantive procedures to evaluate the valuation of Innovative Food's goodwill as of December 31, 2019. Joshi and the engagement team, however, failed to perform procedures to evaluate whether the specialist's findings supported that valuation.[15]

16. Additionally, with respect to Innovative Food's other intangible assets, Joshi and the engagement team failed to perform any audit procedures over Innovative Food's Trade Name, Customer Relationships, Non-Compete Agreements, or Internally Developed Technology, other than tracing amounts to prior year financial statements and cross-footing to other data provided by Innovative Food.

17. As a result, Joshi and the engagement team failed to adequately test the fair value of Innovative Food's goodwill and intangible assets.[16] They failed to adequately perform substantive procedures specifically responsive to the identified significant risks over Innovative Food's goodwill,[17] and they failed to evaluate whether the specialist's findings supported the

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[13] *See* AS 2301.03, .08-.09.

[14] *See* AS 2810.30-.31, *Evaluating Audit Results.*

[15] *See* AS 1210.12(c).

[16] *See* AS 2502.26, .28.

[17] *See* AS 2301.11.

valuation of Innovative Food's goodwill.[18] They also failed to perform sufficient audit procedures related to Innovative Food's intangible assets, and failed to obtain sufficient appropriate audit evidence that Innovative Food's goodwill and other intangible assets were properly valued as of December 31, 2019.[19]

E. Joshi Failed to Appropriately Perform the EQR on the 2020 Luvu Audit

18. PCAOB standards require that an EQR be performed on all audit engagements conducted pursuant to PCAOB standards.[20] In conducting the EQR, PCAOB standards require the EQR partner to evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[21]

19. PCAOB standards also require the EQR partner to evaluate the assessment of, and audit responses to, among other things, significant risks identified by the engagement team, including fraud risks.[22] In addition, the EQR partner is required to evaluate whether the engagement documentation that he or she reviewed in connection with the EQR indicates that the engagement team responded appropriately to significant risks, and supports the conclusions reached by the engagement team with respect to the matters reviewed.[23]

20. The EQR partner may provide concurring approval of issuance of an audit report only if, after performing the EQR with due professional care, the EQR partner is not aware of a significant engagement deficiency.[24] Among other things, a significant engagement deficiency in an audit exists when the engagement team failed to obtain sufficient appropriate audit evidence in accordance with PCAOB standards.[25]

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18 *See* AS 1210.12.

19 *See* AS 1105.04.

20 *See* AS 1220.01.

21 *See* AS 1220.09.

22 *See* AS 1220.10.

23 *See* AS 1220.11.

24 *See* AS 1220.12; *see also* AS 1015.07 ("[d]ue professional care requires the auditor to exercise professional skepticism," which is "an attitude that includes a questioning mind and a critical assessment of audit evidence").

25 *See* AS 1220.12, Note.

21. Liggett & Webb issued an audit report containing an unqualified opinion on Luvu's 2020 financial statements on June 30, 2020. The report was included with Luvu's Form 10-K filed with the Commission on October 1, 2020. Luvu disclosed in its Form 10-K for fiscal year 2020 total assets of $5,447,000 and net sales and net income of approximately $18,376,000 and $860,000, respectively. In the 2020 Luvu Audit, the engagement team identified improper revenue recognition as a significant risk and a fraud risk.

22. On the 2020 Luvu Audit, the engagement team failed to perform sufficient substantive procedures to test the occurrence and completeness of Luvu's e-commerce and wholesale revenues, which combined represented approximately 99 percent of Luvu's total revenue, to evaluate whether Luvu's revenue was recognized in the proper period and properly valued.

23. For the 2020 Luvu Audit, in response to the identified significant risk and fraud risk concerning revenue recognition, the engagement team selected a sample of 279 sales invoices. They then planned procedures to agree each sales invoice to a shipping document, and obtain evidence of cash receipts.

24. In selecting the sample, however, the engagement team failed to perform audit procedures to determine whether the population of sales invoices agreed to the shipping documents and cash receipts was recorded in the sales sub-ledger. The engagement team also failed to reconcile the sales sub-ledger to Luvu's trial balance, general ledger, or financial statements. Therefore, the engagement team failed to sufficiently test the accuracy and completeness of the population of sales invoices agreed to the shipping documents and cash receipts.[26]

25. Additionally, in the 2020 Luvu Audit, the engagement team did not obtain evidence of shipping for 179 of the 279 selected sales invoices. Therefore, the engagement team failed to obtain sufficient appropriate audit evidence that Luvu's revenue was recognized in the proper period and properly valued.[27]

26. Joshi served as the EQR partner on the 2020 Luvu Audit and provided her concurring approval of issuance of the 2020 Luvu Audit report.

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[26] *See* AS 1105.10.

[27] *See* AS 1105.04.

27. During her EQR of the 2020 Luvu Audit, Joshi was aware that the engagement team identified Luvu's revenue as a significant risk. She reviewed the revenue work papers from the audit file.

28. Joshi failed to conduct the EQR in accordance with PCAOB standards by failing to properly: (1) evaluate the significant judgments the engagement team made with respect to Luvu's revenue, and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report;[28] (2) evaluate the engagement team's assessment of, and audit responses to, the significant risk they identified in the area of revenue;[29] and (3) evaluate whether the engagement documentation that Joshi reviewed indicated that the engagement team responded properly to significant risks and supported the conclusions the engagement team reached with respect to the matters reviewed related to the area of revenue.[30]

29. An EQR partner performing an EQR with due professional care, in compliance with AS 1220, should have detected the significant engagement deficiencies described above. Because Joshi did not identify the significant engagement deficiencies in the area of revenue, she failed to exercise due professional care and perform her EQR in accordance with AS 1220, and she inappropriately provided her concurring approval of issuance, in violation of PCAOB standards.[31]

IV.

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

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Arpita Joshi is barred from being an "associated person of a registered public

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[28] *See* AS 1220.09.

[29] *See* AS 1220.10.

[30] *See* AS 1220.11.

[31] *See* AS 1220.09-.12; AS 1015.07.

accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[32]

C. Pursuant to PCAOB Rule 5302(b), Arpita Joshi may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $45,000 is imposed on Arpita Joshi.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Arpita Joshi shall pay $22,500 within ten days of the issuance of this Order, and $22,500 within six months of the issuance of this Order, by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Arpita Joshi as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

[32] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Joshi. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Arpita Joshi understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

5. With respect to any civil money penalty amounts that Arpita Joshi shall pay pursuant to this Order, Arpita Joshi shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Arpita Joshi's payment of the civil money penalty pursuant to this Order, in any private action brought against Arpita Joshi based on substantially the same facts as set out in the findings in this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 7, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Robert Garick, CPA,

Respondent.

PCAOB Release No. 105-2024-031

May 7, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Robert Garick, CPA ("Garick" or "Respondent");

(2) limiting Garick's activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended (the "Act") for a period of one year from the date of this Order; and

(3) imposing a $30,000 civil money penalty on Garick.

The Board is imposing these sanctions on Garick on the basis of its findings that Respondent violated PCAOB rules and standards in connection with the audit by Liggett & Webb, P.A. ("Liggett & Webb" or the "Firm") of the financial statements of Innovative Food Holdings, Inc. ("Innovative Food") for the fiscal year ended December 31, 2020 ("2020 Innovative Food Audit").

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Robert Garick** was, at all relevant times, a certified public accountant under the laws of Florida (license no. AC0020942) and New York (license no. 046922). Garick served as the engagement quality review ("EQR") partner for the 2020 Innovative Food Audit. At all relevant times, Garick was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Entities

2. **Liggett & Webb, P.A.** is headquartered in Boynton Beach, Florida. Liggett & Webb was licensed to practice public accounting by the Florida Board of Accountancy (license no. AD63352).[3] Liggett & Webb is, and at all relevant times was, registered with the Board, and is a "registered public accounting firm" as that term is defined in Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i).

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[3] The Firm's license expired on December 31, 2023.

3. **Innovative Food Holdings, Inc.** is a Florida corporation headquartered in Bonita Springs, Florida. Its public filings disclose that it is a distributor of perishables and specialty food and food-related products to restaurants, hotels, country clubs, national chain accounts, casinos, hospitals, and catering houses. Innovative Food is, and at all relevant times was, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. This matter concerns Garick's violations of PCAOB rules and standards in connection with the 2020 Innovative Food Audit. As detailed below, Garick violated AS 1220, *Engagement Quality Review*, by providing his concurring approval of issuance of the 2020 Innovative Food Audit report without performing the required EQR with due professional care.

D. Garick Failed to Appropriately Perform the Engagement Quality Review on the 2020 Innovative Food Audit

5. In connection with the preparation and issuance of an audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with all applicable auditing and related professional standards.[4] An auditor may express an unqualified opinion on an issuer's financial statements when the auditor conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[5]

6. PCAOB standards also require that an EQR be performed on all audit engagements conducted pursuant to PCAOB standards.[6] In conducting the EQR, PCAOB standards require the EQR partner to evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[7]

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[4] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

[5] *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

[6] *See* AS 1220.01.

[7] *See* AS 1220.09.

7. PCAOB standards also require the EQR partner to evaluate the assessment of, and audit responses to, among other things, significant risks identified by the engagement team, including fraud risks.[8] In addition, the EQR partner is required to evaluate whether the engagement documentation that the EQR partner reviewed in connection with the EQR indicates that the engagement team responded appropriately to significant risks, and supports the conclusions reached by the engagement team with respect to the matters reviewed.[9]

8. The EQR partner may provide concurring approval of issuance of an audit report only if, after performing the EQR with due professional care, the EQR partner is not aware of a significant engagement deficiency.[10] Among other things, a significant engagement deficiency in an audit exists when the engagement team failed to obtain sufficient appropriate audit evidence in accordance with PCAOB standards.[11]

9. Liggett & Webb issued an audit report containing an unqualified opinion on Innovative Food's 2020 financial statements on April 15, 2021. The report was included with Innovative Food's Form 10-K filed with the U.S. Securities and Exchange Commission on April 15, 2021.

10. Innovative Food disclosed in its Form 10-K for fiscal year 2020 total assets of $23,150,275 and revenue and net loss of $51,676,028 and $7,665,024, respectively, for the year end. The engagement team identified improper revenue recognition as a significant risk and a fraud risk.

11. Innovative Food also disclosed in its Form 10-K for fiscal year 2020 that its largest customer, U.S. Foods, Inc. ("U.S. Foods"), accounted for 40% of Innovative Food's consolidated revenue. Innovative Food's largest subsidiary, Food Innovations, Inc. ("FII"), with recorded revenue of $20,902,670, had a contractual agreement with U.S. Foods during fiscal year 2020.

12. In performing audit procedures over Innovative Food's revenue, notwithstanding that FII's sales to U.S. Foods represented approximately 40% of Innovative Food's consolidated revenue in 2020, the engagement team failed to review FII's contract with U.S. Foods—

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[8] *See* AS 1220.10.

[9] *See* AS 1220.11.

[10] *See* AS 1220.12; *see also* AS 1015.07, *Due Professional Care in the Performance of Work* ("[d]ue professional care requires the auditor to exercise professional skepticism," which is "an attitude that includes a questioning mind and a critical assessment of audit evidence").

[11] *See* AS 1220.12, Note.

Innovative Food's largest customer—to ensure that it met the five criteria[12] outlined in FASB ASC Topic 606, *Revenue from Contracts with Customers* ("ASC 606"), to qualify as a contract.[13]

13. As a result of the engagement team's failure to review FII's contract with U.S. Foods, the engagement team failed to design and perform audit procedures in a manner that addressed their identification of improper revenue recognition as a significant risk and a fraud risk, failed to obtain sufficient appropriate audit evidence that Innovative Food's revenue was properly valued, and failed to evaluate whether Innovative Food's revenue was presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[14]

14. Garick served as the EQR partner on the 2020 Innovative Food Audit and provided his concurring approval of issuance of the 2020 Innovative Food Audit report.

15. During his EQR of the 2020 Innovative Food Audit, Garick was aware that the engagement team identified both Innovative Food's revenue and accounts receivable as significant risks and fraud risks. He reviewed some of the revenue and accounts receivable work papers included in the audit file.

16. Garick, however, saw no documentation that the engagement team reviewed FII's contract with U.S. Foods. Additionally, he failed to review the work papers summarizing the engagement team's testing of accounts receivable confirmations and revenue, as well as the U.S. Foods accounts receivable confirmation. As a result, Garick failed to conduct the EQR in accordance with PCAOB standards by failing to properly: (1) evaluate the significant judgments the engagement team made with respect to Innovative Food's revenue, and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report;[15] (2) evaluate the engagement team's assessment of, and audit responses to, the significant risk and fraud risk identified in the area of revenue;[16] and (3) evaluate whether the engagement documentation that Garick reviewed indicated that the engagement

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[12] ASC 606 includes the following five revenue recognition implementation steps: (1) identify the contract; (2) identify separate performance obligations; (3) determine the transaction price; (4) allocate the transaction price of performance obligations; and (5) recognize revenue when each performance obligation is satisfied.

[13] *See* AS 1105.04, *Audit Evidence*.

[14] *See* AS 1105.04; AS 2810.30-.31, *Evaluating Audit Results*; AS 2301.11-.13, *The Auditor's Responses to the Risks of Material Misstatement*.

[15] *See* AS 1220.09.

[16] *See* AS 1220.10.

team responded properly to the identified significant risk and supported the conclusions the engagement team reached with respect to the matters reviewed related to the area of revenue.[17]

17. An EQR partner performing an EQR with due professional care, in compliance with AS 1220, should have detected the significant engagement deficiencies described above. Because Garick did not identify the significant engagement deficiencies in the area of revenue, he failed to exercise due professional care and perform his EQR in accordance with AS 1220, and he inappropriately provided his concurring approval of issuance, in violation of PCAOB standards.[18]

IV.

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

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

B. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of one year from the date of this Order, Robert Garick's role in any "audit," as that term is defined in Section 110(1) of the Act and PCAOB Rule 1001(a)(v), shall be restricted as follows: Robert Garick shall not (1) serve, or supervise the work of another person serving, as an "engagement partner," as that term is used in AS 1201, *Supervision of the Audit Engagement*; (2) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (3) serve, or supervise the work of another person serving, in any role that is equivalent to engagement partner or engagement quality reviewer, but differently denominated (such as "lead partner," "practitioner-in-charge," or "concurring partner"); (4) exercise authority, or supervise the work of another person exercising authority, either to sign a registered public accounting firm's name to an audit report, or to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; (5) assist the engagement partner in

[17] *See* AS 1220.11.

[18] *See* AS 1220.09-.12; AS 1015.07.

fulfilling his or her responsibilities under paragraph 4 of AS 1201; or (6) serve, or supervise the work of another person serving, as the "other auditor," or "another auditor," as those terms are used in AS 1205, *Part of the Audit Performed by Other Independent Auditors.*[19]

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed on Robert Garick.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Robert Garick shall pay $20,000 within ten days of the issuance of this Order, $5,000 within sixty (60) days from the date of the issuance of this Order, and $5,000 within one hundred twenty (120) days from the date of the issuance of this Order, by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Robert Garick as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Robert Garick shall pay pursuant to this Order, Robert Garick shall not, directly or indirectly,

[19] Nor shall Robert Garick assume any equivalent role, such as a serving as a "lead auditor," "other auditor," or "referred-to auditor," as such terms will be defined by Appendix A of AS 2101, *Audit Planning*, when amendments to AS 2101 become effective for audits for fiscal years ending on or after December 15, 2024.

(a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Robert Garick's payment of the civil money penalty pursuant to this Order, in any private action brought against Robert Garick based on substantially the same facts as set out in the findings in this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 7, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of MaloneBailey, LLP,

Respondent.

PCAOB Release No. 105-2024-032

May 21, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring MaloneBailey, LLP ("MaloneBailey," "Firm," or "Respondent");

(2) imposing a $400,000 civil money penalty on the Firm;

(3) requiring MaloneBailey to engage an independent consultant to review and make recommendations concerning MaloneBailey's system of quality control as specified in Section IV of this Order; and

(4) requiring MaloneBailey to conduct certain training for all audit staff.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and quality control standards by failing to take sufficient steps from 2018 through 2021 to ensure that its system of quality control provided reasonable assurance that its personnel complied with applicable professional standards and the Firm's standards of quality, despite repeated notifications of auditing and quality control concerns brought to the Firm's attention through several PCAOB inspections.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **MaloneBailey, LLP** is a public accounting firm headquartered in Houston, Texas. MaloneBailey is licensed to practice public accounting by the Texas State Board of Public Accountancy (License No. P05522), among other states, and is a member of the Nexia International network of firms. MaloneBailey is, and at all relevant times, was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns the Firm's failure to comply with PCAOB rules and quality control standards during the time period 2018 through 2021. The Firm's system of quality control failed to provide reasonable assurance that the Firm would establish engagement performance and monitoring policies and procedures sufficient to provide it with reasonable assurance that its policies and procedures were suitably designed and effectively applied. During the period from 2018 through 2021, PCAOB inspectors repeatedly brought concerns to the Firm's attention related to significant deficiencies in various audit areas, including auditing

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

accounting estimates and testing revenue, and raised concerns that MaloneBailey's system of quality control failed to provide reasonable assurance of complying with the related professional standards. Despite the Firm's awareness of these deficiencies and concerns, the Firm failed to make effective changes to improve its system of quality control, as indicated by the repeated significant engagement deficiencies identified in the 2018, 2019, and 2021 inspections.

C. The Firm Violated PCAOB Rules and Quality Control Standards

3. PCAOB rules require a registered public accounting firm and its associated persons to comply with PCAOB quality control standards.[3] These standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice.[4] A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and procedures established to provide the firm with reasonable assurance of complying with professional standards.[5]

4. A firm's system of quality control should, among other things, include policies and procedures for engagement performance.[6] These quality control policies and procedures should provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[7] Quality control policies and procedures for engagement performance encompass all phases of the design and execution of an engagement.[8] To the extent appropriate and as required by applicable professional standards, these policies and procedures should cover planning, performing, supervising, reviewing, documenting, and communicating

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[3] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[4] *See* Quality Control Standard 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice* ("QC § 20").

[5] QC § 20.04.

[6] QC § 20.07

[7] QC § 20.17

[8] QC § 20.18

the results of each engagement.[9] These policies and procedures also should address engagement quality reviews ("EQRs").[10]

5. A firm should also establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures are suitably designed and are being effectively applied.[11] Monitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective.[12] Procedures that provide the firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the firm's policies and procedures contribute to the monitoring element.[13] Among other things, a firm's monitoring procedures may include inspection procedures, preissuance or postissuance review of selected engagements, determination of any corrective actions to be taken and improvements to be made in the quality control system, communication to appropriate firm personnel of any weaknesses identified, and follow-up to ensure that any necessary modifications are made to the quality control system on a timely basis.[14]

6. Inspection procedures, as a part of a firm's system of quality control, evaluate the adequacy of a firm's policies and procedures, its personnel's understanding of those policies and procedures, and the extent of the firm's compliance with its quality control policies and procedures.[15] Inspection procedures contribute to the monitoring function because findings are evaluated and changes in, or clarifications of, quality control policies and procedures are considered.[16]

7. To provide reasonable assurance that the firm's quality control system achieves its objectives, appropriate consideration should be given to the assignment of quality control responsibilities within the firm, the means by which quality control policies and procedures are

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9 *Id.*

10 *Id.*

11 *See* QC § 20.20; Quality Control Standard 30, *Monitoring a CPA Firm's Accounting and Auditing Practice* ("QC § 30"), .02.

12 QC § 30.03.

13 *Id*.

14 QC § 30.03; *see also* QC §§ 30.04 - .08.

15 QC § 30.04.

16 *Id*.

communicated, and the extent to which the policies and procedures and compliance should be documented.[17]

8. As described below, MaloneBailey failed to establish policies and procedures sufficient to provide reasonable assurance that its personnel complied with applicable professional standards and regulatory requirements.

i. MaloneBailey Received Notice of Significant Audit Deficiencies in the Firm's Audits through Repeat Notifications in Multiple PCAOB Inspections

9. During the time period from 2018 through 2021, PCAOB inspection staff conducted three inspections of the Firm and, during each inspection, notified the Firm of repeated significant audit deficiencies that raised concerns about the Firm's engagement performance. The initial notifications of these deficiencies provided the Firm with notice of engagement performance issues. Subsequent findings of deficiencies provided continuing notice and indicated the Firm's system of quality control had failed to adequately address the deficiencies noted in previous inspections.

10. In 2018, PCAOB inspection staff conducted an inspection of the Firm. In connection with the inspection, between September 2018 and October 2018, PCAOB inspection staff informed the Firm of its findings regarding significant audit deficiencies in MaloneBailey issuer audits related to revenue testing, auditing accounting estimates, including fair value measurements, and audit committee communications.

11. In 2019, PCAOB inspection staff conducted another inspection of the Firm. In connection with the inspection, between November 2019 and December 2019, PCAOB inspection staff informed the Firm of its findings regarding significant audit deficiencies in numerous MaloneBailey issuer audits related again to revenue testing, auditing accounting estimates, including fair value measurements, and audit committee communications. In addition, the inspection staff also identified audit deficiencies related to EQRs. With respect to the EQR deficiencies, in several audits inspected, the EQR partner did not identify a deficiency in an area identified by the engagement team as a significant risk, including in some cases a fraud risk.[18] Inspection staff also identified deficiencies related to the Firm's internal inspection program and state practice qualification requirements.

12. In 2021, PCAOB inspection staff conducted an inspection of the Firm. In connection with the inspection, between September 2021 and December 2021, PCAOB

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[17] QC § 20.21.

[18] *See* AS 1220.10, *Engagement Quality Review*.

inspection staff informed the Firm regarding significant audit deficiencies in numerous MaloneBailey issuer audits related again to revenue testing, auditing accounting estimates, including fair value measurements, audit committee communications, and EQRs. With respect to the EQR deficiencies, PCAOB inspection staff identified one or more deficiencies in areas that the EQR partners were required to evaluate, such as the engagement teams' assessment of, and audit responses to, areas of significant risk, including in some cases a fraud risk. Inspection staff also identified deficiencies related to state practice qualification requirements.

ii. Despite the Repeat, Significant Audit Deficiencies, the Firm's Quality Control Policies and Procedures Failed to Provide Reasonable Assurance That They Were Suitably Designed and Being Effectively Applied from 2018 through 2021

13. From 2018 through 2021, the engagement performance element of the Firm's system of quality control failed to provide the Firm with reasonable assurance that the work performed by its engagement personnel met applicable professional standards, regulatory requirements, and the firm's standards of quality.[19] In addition, the Firm's monitoring procedures related to inspections ("Internal Inspections") were deficient and failed to provide the Firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the Firm's policies and procedures that contribute to the monitoring element.[20]

14. To address requirements that a firm's monitoring element provide it with reasonable assurance that its policies and procedures for each of the other elements of its system of quality control are suitably designed and were being effectively applied,[21] the Firm's policies indicated that Internal Inspections were to be performed on all elements of the Firm's quality control system at least annually.

15. The Firm conducted an internal inspection for the year-ended June 30, 2019, and identified a large number of engagement-specific deficiencies, yet the Firm failed to take sufficient or timely corrective action to improve compliance with the Firm's quality control policies and procedures.

16. Additionally, the Firm's Internal Inspections included the inspection of two issuer audits that the 2019 PCAOB inspection team subsequently inspected. However, the Firm's Internal Inspections failed to identify significant engagement deficiencies in the engagement

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19 QC § 20.17.

20 QC § 30.03.

21 QC § 20.20.

performance of one of the audits where the same areas were reviewed by the PCAOB, and significant engagement deficiencies were found.

17. Despite the Firm's awareness that PCAOB inspectors had found repeated engagement performance deficiencies in specific audits, including deficiencies that the Firm failed to identify during its Internal Inspections, the Firm did not consider and evaluate the adequacy of its monitoring policies and procedures in light of these findings.[22] The Firm failed to make changes to, or sufficiently improve, its policies and procedures to address the failures of its procedures to identify these deficiencies.

18. As a result, the Firm violated PCAOB rules and quality control standards by failing to have monitoring policies and procedures, taken as a whole, that enabled the Firm to obtain reasonable assurance that its system of quality control was effective, such that the policies and procedures for each of the elements of its system of quality control were suitably designed and being effectively applied, including engagement performance.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $400,000 on MaloneBailey.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check:

[22] QC § 30.04.

(i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Sections 105(c)(4)(C) and (G) of the Act and PCAOB Rules 5300(a)(3), (8) and (9), the Board orders that:

1. Independent Consultant

a. MaloneBailey shall retain and pay for an independent consultant ("Independent Consultant"), not unacceptable to the PCAOB staff, to review and make recommendations regarding MaloneBailey's quality control policies and procedures applicable to audits and reviews conducted pursuant to PCAOB standards. The Independent Consultant must have experience with, and be knowledgeable concerning, PCAOB quality control and auditing standards. Within thirty days after the entry of this Order, MaloneBailey shall submit to the PCAOB staff a proposal setting forth the identity, qualifications, and proposed terms of retention of the Independent Consultant. MaloneBailey may not hire as the Independent Consultant any individual who has provided legal, auditing, or other services to, or has had any affiliation with, MaloneBailey during the two years prior to entry of this Order.

b. To ensure the independence of the Independent Consultant, MaloneBailey: (i) shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the PCAOB staff; and (ii) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

c. MaloneBailey shall cooperate fully with the Independent Consultant and shall provide reasonable access to its personnel, information, and records as the Independent Consultant may reasonably request for the Independent Consultant's review, evaluation, and reports.

d. If MaloneBailey, despite its best, good faith efforts, is unable to identify an Independent Consultant candidate that meets all of the above-listed criteria, it may seek approval from the PCAOB staff of alternative candidates or alternative terms that MaloneBailey believes to be otherwise suitable.

e. Within 90 days of this Order, MaloneBailey will review, evaluate, and implement, under the supervision of the Independent Consultant, any necessary enhancements to MaloneBailey's quality control policies

and procedures applicable to audits and reviews conducted pursuant to PCAOB standards. If, as a result of that review and evaluation, it appears to the Independent Consultant that any further enhancements to the system of quality control are necessary, it shall recommend such enhancements to MaloneBailey.

f. Within 120 days of this Order, MaloneBailey shall (1) implement any recommendations received from the Independent Consultant, pursuant to Paragraph IV.C.1.e, and (2) require the Independent Consultant to review a sample of the Firm's most recent public company audits to ensure those audits comply with PCAOB auditing standards and that those integrated audits were conducted in accordance with PCAOB quality control standards and the Firm's revised Quality Control Manual. If MaloneBailey does not implement recommendations received from the Independent Consultant pursuant to Paragraph IV.C.1.e, it shall communicate to the Director of the Division of Enforcement and Investigations the recommendations of the Independent Consultant it did not implement and the reasons for not doing so.

2. Firm Certification

a. Within 270 days of the date of this Order, MaloneBailey shall certify in writing to the Director of the Division of Enforcement and Investigations, PCAOB, 1666 K Street N.W., Washington, DC 20006, the Firm's compliance with the above paragraphs ("Final Certification"). The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The certification shall include a description of the specific enhancements implemented to MaloneBailey's system of quality control from the time of the conduct described in this Order. MaloneBailey shall also submit such additional evidence of and information concerning as the staff of the Division of Enforcement and Investigations may reasonably request.

b. For good cause shown, the PCAOB staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the

last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

c. MaloneBailey understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

D. Pursuant to Section 105(c)(4)(F), (G) of the Act and PCAOB Rule 5300(a)(6), (9), MaloneBailey is required:

1. As of the date of the Final Certification, to have conducted training for all audit personnel of the Firm related to changes to the Firm's policies and procedures that resulted from the Independent Consultant's recommendations relating to, among other areas:

a. Testing Accounting Estimates, Including Fair Value Measurements, and Using the Work of a Company's Specialist
b. Testing of Revenue
c. EQRs
d. Audit Committee Pre-Approval and Independence
e. Audit Committee Communications
f. Internal Inspections
g. State Practice Qualification Requirements

E. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

May 21, 2024

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of L&L CPAs, PA, Weixuan Tracy Luo, CPA, Andy Chow, CPA, and Robert Kinzer, CPA,

Respondents.

PCAOB Release No. 105-2024-033

June 10, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring L&L CPAs, PA ("L&L" or the "Firm"), a registered public accounting firm, Weixuan Tracy Luo, CPA ("Luo"), Andy Chow, CPA ("Chow"), and Robert Kinzer, CPA ("Kinzer") (collectively, "Respondents");

(2) imposing a civil money penalty in the amount of $75,000 upon the Firm and Luo, jointly and severally;

(3) requiring the Firm to undertake certain remedial actions concerning quality control directed toward satisfying requirements applicable to audits and reviews of issuers before filing, and to provide evidence of such measures with, any future registration application;[1]

(4) barring Chow from being associated with a registered public accounting firm and imposing a $50,000 civil money penalty on him;[2]

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[1] L&L filed a Form 1-WD on December 20, 2022, requesting leave to withdraw from registration with the Board.

[2] Chow may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order.

(5) limiting Kinzer's activities in connection with any "audit," as that term is defined in Section 110(1) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), for a period of one year from the date of this Order, and imposing a $25,000 civil money penalty on him;

(6) requiring that Chow complete 50 hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license, before filing any petition for Board consent to associate with a registered public accounting firm; and

(7) requiring that Kinzer complete 50 hours of CPE, in addition to any CPE required in connection with any professional license.

The Board is imposing these sanctions on the basis of its findings that: (a) the Firm failed to timely file two PCAOB Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*, and violated PCAOB quality control standards; (b) Luo directly and substantially contributed to the Firm's violations of PCAOB quality control standards; (c) Chow violated PCAOB rules and auditing standards in connection with the audit of the financial statements of Sugarmade, Inc., ("Sugarmade") for the fiscal year ("FY") ended June 30, 2021 (the "Sugarmade Audit"); and (d) Kinzer violated PCAOB rules and standards in connection with his engagement quality review ("EQR") for the Sugarmade Audit.

I.

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

II.

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

subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[3]

III.

On the basis of Respondents' Offers, the Board finds that:[4]

A. Respondents

1. **L&L CPAs, PA** is a public accounting firm headquartered in Plantation, Florida, and is licensed under the laws of the state of Florida (license no. AD68932). At all relevant times, L&L was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Weixuan Tracy Luo** was, at all relevant times, a certified public accountant licensed by the state of Florida (license no. AC44726), and was an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). At all relevant times, Luo was the President of L&L.

3. **Andy Chow** was, at all relevant times, a certified public accountant licensed by the state of Florida (license no. AC51679) and an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Chow served as the engagement partner for the Sugarmade Audit.

4. **Robert Kinzer** was, at all relevant times, a certified public accountant licensed by the states of New York (license no. 043182) and Florida (license no. AC48886) and an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Kinzer served as the engagement quality reviewer for the Sugarmade Audit.

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

[4] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Issuers

5. **Sugarmade, Inc.** is a corporation organized under the laws of Delaware and headquartered in Monrovia, California. Sugarmade's public filings disclose that it supplies disposable products to the restaurant industry, imports and distributes non-medical personal protection equipment, provides cannabis product delivery services, and is involved in the establishment of cannabis and hemp projects. At all relevant times, Sugarmade was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

6. **Xiamen Lutong International Travel Agency Co., Ltd.** ("Xiamen") is a corporation organized under the laws of Nevada and headquartered in Zhangzhou, Fujian, China. Xiamen's public filings disclose that it is a company that plans to engage in travel businesses in China, but has not commenced its business and has no business operations, revenues, or assets. At all relevant times, Xiamen was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

7. **Grapefruit USA, Inc.** ("Grapefruit") is a corporation organized under the laws of California and headquartered in Delaware. Grapefruit's public filings disclose that it manufactures and distributes cannabis products. At all relevant times, Grapefruit was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

8. **Marijuana Co of America, Inc.** ("Marijuana Co") is a corporation organized under the laws of Utah and headquartered in Escondido, California. Marijuana Co's public filings disclose that it markets and sells consumer products containing hemp and cannabinoids (or CBD) and provides financial accounting and property management services for companies in the cannabis industry. At all relevant times, Marijuana Co was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

9. This matter concerns L&L's violations of PCAOB rules and standards by failing to (1) timely file Form APs for two issuer audits; and (2) establish quality control policies and procedures to provide reasonable assurance that Firm personnel would comply with PCAOB requirements concerning identification and disclosure of critical audit matters ("CAMs"). Luo violated PCAOB rules by knowingly or recklessly, and directly and substantially, contributing to the Firm's violations of PCAOB quality control standards.

10. This matter also concerns Chow's and Kinzer's violations of PCAOB rules and standards during the Sugarmade Audit. Specifically, while serving as engagement partner on

the Sugarmade Audit, Chow failed to: (1) obtain sufficient appropriate audit evidence supporting the existence, valuation, and presentation and disclosure of a purported intangible asset representing over 50% of Sugarmade's total assets in FY 2021; and (2) accurately describe in the Firm's audit report how the engagement team addressed a CAM. Kinzer, the EQR partner for the Sugarmade Audit, failed to perform his engagement quality review with due professional care and in accordance with AS 1220, *Engagement Quality Review*.

D. L&L Failed to Timely File Form APs in Violation of PCAOB Rule 3211

11. PCAOB Rule 3211 provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission ("SEC"),[5] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[6]

12. L&L audited the financial statements of Marijuana Co as of and for the year ended December 31, 2018, and issued an audit report dated June 25, 2019, which was included in Marijuana Co's financial statements filed with the SEC on the same day. After notification from the PCAOB, L&L belatedly filed the Form AP for that audit on March 6, 2024.

13. L&L audited the financial statements of Xiamen as of and for the year ended June 30, 2020, and issued an audit report dated October 13, 2020, which was included in Xiamen's financial statements filed with the SEC on the same day. The Firm belatedly filed the Form AP for that audit on April 20, 2021.

14. L&L failed to file the required Form APs for each of the above audit reports by the 35th day after the date the audit reports were first included with the filings made with the SEC, in violation of PCAOB Rule 3211. Indeed, in the case of the 2018 Marijuana Co audit, L&L's Form AP filing was more than four and a half years late.

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[5] *See* PCAOB Rule 3211(b)(1).

[6] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the SEC. *See* PCAOB Rule 3211(b)(2).

E. L&L Violated PCAOB Rules and Quality Control Standards

15. PCAOB rules require registered public accounting firms to comply with the Board's quality control standards.[7] PCAOB quality control standards, in turn, require each registered firm to effectively design, implement, and maintain a system of quality control for the firm's accounting and auditing practice.[8]

16. A system of quality control is broadly defined as a process to provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality.[9] A firm should establish policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[10]

17. L&L failed to establish and implement policies and procedures to provide it with reasonable assurance that, in audits governed by PCAOB standards, engagement personnel would comply with the requirements of AS 3101, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*, related to determining and reporting CAMs.

18. AS 3101.11 states that an auditor must determine whether there are any CAMs in the audit of a client's current period financial statements. A CAM is "any matter arising from the audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved especially challenging, subjective, or complex auditor judgment."[11]

19. For each CAM communicated in the auditor's report, the auditor must: (a) identify the CAM; (b) describe the principal considerations that led the auditor to determine that the matter is a CAM; (c) describe how the CAM was addressed in the audit; and (d) refer

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7 *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

8 QC § 20.01-.02, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

9 *Id.* at .03.

10 *Id.* at .17.

11 AS 3101.11.

to the relevant financial statement accounts or disclosures that relate to the CAM.[12] If the auditor determines that there are no CAMs in an audit, the auditor must state in the audit report that no CAMs were identified.[13]

20. L&L issued an audit report dated April 19, 2021, on Grapefruit's financial statements for the year ended December 31, 2020 (the "Grapefruit 2020 Audit"). L&L's audit report expressed an unqualified opinion with explanatory language regarding substantial doubt about Grapefruit's ability to continue as a going concern but did not include any language related to CAMs, in violation of AS 3101. On July 26, 2021, the engagement team for the Grapefruit 2020 Audit identified that the previously issued audit report did not include the required language related to CAMs, and subsequently performed procedures to determine whether inventory, fixed assets, accounts payable and accrued liabilities, convertible notes, and equity were CAMs for the Grapefruit 2020 Audit. L&L then issued a revised audit report, also dated April 19, 2021, that included language identifying and describing convertible notes as a CAM.

21. L&L also issued an audit report dated October 13, 2021, for the Sugarmade Audit. L&L's audit report expressed an unqualified opinion with explanatory language regarding substantial doubt about Sugarmade's ability to continue as a going concern. L&L's audit report identified the potential impairment of an intangible asset as a CAM, but it did not accurately describe how that CAM was addressed in the Sugarmade Audit. Specifically, the audit report stated that procedures performed to address CAMs included a "sensitivity analysis of significant assumptions" and "evaluating the impact on the fair values that would result from changes in the assumptions." However, the engagement team did not, in fact, perform the procedures described in the CAM during the Sugarmade Audit.

22. As illustrated by the deficiencies in the Grapefruit 2020 Audit and the Sugarmade Audit, during 2021, L&L failed to establish and implement policies and procedures to provide it with reasonable assurance that, in audits governed by PCAOB standards, engagement personnel would (1) determine whether there were any CAMs in the audit; (2) communicate all CAMs in the audit report or state in the audit report that it determined that there were no CAMs; and (3) accurately describe how the CAMs were addressed in the audit. Accordingly, L&L violated QC § 20.

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12 *Id.* at .14.

13 *Id.* at .13.

F. Luo Directly and Substantially Contributed to the Firm's Quality Control Violations

23. PCAOB rules require that a person associated with a registered public accounting firm shall not take or omit to take an action "knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[14]

24. As described above, the Firm failed to design, implement, and maintain policies and procedures to provide it with reasonable assurance that, in audits governed by PCAOB standards, engagement personnel would comply with the requirements of AS 3101 related to determining and reporting CAMs. At all relevant times, Luo was President of the Firm, and was responsible for developing and maintaining quality control policies and procedures applicable to the Firm's auditing practice.

25. Luo failed to design, implement, and maintain adequate policies and procedures related to compliance with the CAM requirements in AS 3101 and knew, or was reckless in not knowing, that her acts and omissions would directly and substantially contribute to the Firm's violations of QC § 20, as described above.

26. As a result, Luo violated PCAOB Rule 3502.

G. Chow Violated PCAOB Rules and Standards on the Sugarmade Audit

a. Chow Failed to Obtain Sufficient Appropriate Audit Evidence Supporting the Existence of a Purported "Cannabis Cultivation License"

27. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards.[15] Under these standards, an auditor may express an

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[14] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations.*

[15] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

unqualified opinion on an issuer's financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards.[16]

28. The auditor must plan and perform audit procedures to obtain sufficient appropriate evidence to support the audit opinion.[17] Auditors are required to evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the report.[18] Auditors are required to exercise due professional care in the planning and performance of the audit and in the preparation of the report.[19] Due professional care requires the auditor to exercise professional skepticism, which is "an attitude that includes a questioning mind and a critical assessment of audit evidence."[20]

29. In its financial statements for FY 2021, Sugarmade reported "intangible asset, net" totaling $10,650,394, of which $10,637,000 related to a "cannabis cultivation license." This license represented approximately 55% of Sugarmade's total reported assets for FY 2021.

30. The cannabis cultivation license component of Sugarmade's intangible assets was purportedly associated with a 640-acre property that Sugarmade acquired as part of its May 25, 2021, acquisition of a non-operating entity (the "Acquisition"). In the notes to its FY 2021 financial statements, Sugarmade disclosed that it "valued the cannabis cultivation license . . . at $10,637,000 with remaining economic life of 9 years as of June 30, 2021."

31. Chow and the engagement team identified impairment of intangible assets associated with the Acquisition as significant risks in the Sugarmade Audit. As noted above, these significant risks were communicated as CAMs in L&L's audit report.

32. However, Chow failed to plan and perform sufficient audit procedures to test the existence of the purported cannabis cultivation license. Indeed, the only procedures it appears the engagement team performed were to obtain the agreement and plan of merger for the Acquisition, which did not purport to convey a cannabis cultivation license, and make

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16 AS 3101.02.

17 AS 1105.04, *Audit Evidence*.

18 AS 2810.33, *Evaluating Audit Results*.

19 AS 1015.01, *Due Professional Care in the Performance of Work*.

20 *See id.* at .07.

management inquiries. Those procedures were insufficient to evidence the existence of the license under PCAOB standards.[21]

33. In fact, the cannabis cultivation license, reported by Sugarmade, did not exist as of fiscal year-end 2021. While the land Sugarmade acquired in connection with the Acquisition had been zoned for potential cannabis cultivation, neither the acquired company nor Sugarmade had applied for a cannabis cultivation license for the property as of the date of the Acquisition, or as of the date of L&L's October 13, 2021 audit report and the filing of Sugarmade's 2021 Form 10-K.[22]

34. Accordingly, Chow violated AS 1015 and AS 1105.

b. Chow Failed to Obtain Sufficient Appropriate Audit Evidence Supporting the Valuation of the Purported Cannabis Cultivation License

35. Chow not only failed to obtain sufficient evidence to support the existence of the purported cannabis cultivation license, but he also failed to obtain sufficient evidence at year-end to support the valuation management ascribed to the license.

36. An auditor must plan and perform audit procedures to obtain sufficient appropriate evidence to support the audit opinion.[23] To be appropriate, evidence must be both relevant and reliable.[24] PCAOB standards establish requirements for evaluating accounting estimates, including fair value measurements.[25] Among other procedures, an

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21 *See* AS 1105.17, Note ("Inquiry of company personnel, by itself, does not provide sufficient audit evidence to reduce audit risk to an appropriately low level for a relevant assertion or to support a conclusion about the effectiveness of a control.").

22 The following year, in the notes to its FY 2022 financial statements, Sugarmade disclosed that it obtained a conditional use permit number on October 28, 2021—fifteen days *after* the date of L&L's 2021 audit report and after the filing of Sugarmade's 2021 Form 10-K. Sugarmade described the conditional use permit number as "an important step towards . . . commercial cannabis cultivation at its property," as it allowed the company "to proceed with the state cannabis cultivation license application, and potentially obtain certain applicable permits." Sugarmade, Inc.'s Form 10-K for fiscal year ended June 30, 2022, at 44, available at https://www.sec.gov/ix?doc=/Archives/edgar/data/0000919175/000149315223001479/form10-k.htm.

23 *See* AS 1105.04; AS 2810.33.

24 *See* AS 1105.06-.08.

25 AS 2501.01, *Auditing Accounting Estimates, Including Fair Value Measurements*.

auditor should evaluate the reasonableness of the significant assumptions used by a company to develop an estimate, both individually and in combination.[26] This includes evaluating whether the company has a basis for the significant assumptions used and, when applicable, for its selection of assumptions from a range of potential assumptions.[27] When a significant assumption is based on the company's intent and ability to carry out a particular course of action, the auditor should take into account certain factors in evaluating the reasonableness of the assumption, including the company's ability to carry out a particular course of action, which includes, among other things, legal, regulatory, or contractual restrictions that could affect the company's ability to carry out the action.[28]

37. If an auditor uses the work of a specialist, employed or engaged by an issuer client, as audit evidence to support a conclusion regarding a relevant assertion of a significant account or disclosure, the auditor has certain responsibilities.[29] Among other things, when evaluating the work of the company's specialist, the auditor should evaluate whether the significant assumptions used by the specialist are reasonable.[30]

38. Sugarmade engaged a specialist to determine the estimated fair value and estimated useful life of the purported cannabis cultivation license. Sugarmade's specialist used prospective financial information and assumptions developed by Sugarmade management to determine its valuation, which included estimates of revenue, revenue growth, operating expenses, gross margin, taxes, and a discount rate.

39. Chow failed to perform sufficient procedures to evaluate the reasonableness of the significant assumptions used by Sugarmade's valuation specialist. To test the reasonableness of the revenue and revenue growth assumptions, Chow used a third-party study to determine the wholesale market price for a pound of cannabis flower, and then multiplied that price by the estimated production potential per square foot for the 32 acres of cultivable land on the 640-acre property Sugarmade obtained in the Acquisition. However, Chow did not evaluate the relevance or reliability of that third-party study.[31] Nor did Chow

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26 *Id.* at .16.

27 *Id.* at .16(a).

28 *Id*. at .17 and .17(d)(2).

29 *See* AS 1105, Appendix A.

30 *Id.* at .A8b.

31 AS 1105.07 and .08.

appropriately consider factors potentially affecting Sugarmade's ability to carry out the actions necessary to meet its revenue and revenue growth forecasts.[32] For example, Chow did not consider (1) the probability that Sugarmade might not obtain the necessary licenses and approvals to cultivate cannabis; (2) when such licenses and approvals, if granted, might occur; or (3) that Sugarmade might not cultivate the same types of cannabis flowers referenced in the third-party study.

40. Chow did not perform any procedures to evaluate the reasonableness of any other assumptions developed by Sugarmade and used by Sugarmade's valuation specialist, including, for example, estimated operating expenses and the discount rate.[33]

41. Accordingly, Chow violated AS 1015, AS 1105, and AS 2501.

c. Chow Failed to Adequately Evaluate the Presentation and Disclosure of the Purported Cannabis Cultivation License

42. PCAOB standards require an auditor to evaluate whether financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[34] As part of the evaluation of the presentation of the financial statements, the auditor should evaluate whether they contain the information essential for a fair presentation of the financial statements in conformity with the applicable financial reporting framework.[35] Evaluation of the information disclosed in the financial statements includes consideration of the form, arrangement, and content of the financial statements (including the accompanying notes), encompassing matters such as the terminology used, the amount of detail given, the classification of items in the statements, and the bases of amounts set forth.[36]

43. During the Sugarmade Audit, Chow reviewed Sugarmade's financial statements, including the accompanying notes, yet he failed to identify the errors in Sugarmade's presentation of the purported cannabis cultivation license. Specifically, as noted above, Sugarmade repeatedly referred to and valued the cannabis cultivation "license" as if it

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32 AS 2501.17.

33 *Id.* at .15 and .16

34 AS 2810.30.

35 *Id.* at .31.

36 *Id.*

had been obtained in the Acquisition when, in fact, no such license existed as of Sugarmade's fiscal year-end 2021 or at the time Chow authorized the issuance of L&L's audit report.

44. Accordingly, Chow failed to adequately evaluate the presentation and disclosure of the purported cannabis cultivation license, in violation of AS 2810.

d. Chow Failed to Describe Accurately How the Engagement Team Addressed a CAM

45. As stated above, PCAOB standards require that the auditor communicate in the auditor's report the CAMs relating to the audit of the current period's financial statements, or state that the auditor determined that there are no CAMs.[37] For each CAM communicated in the auditor's report, the auditor must, among other things, describe how the CAM was addressed in the audit.[38]

46. For the Sugarmade Audit, Chow did not accurately describe how the engagement team addressed a CAM. The Firm's audit report identified "Intangible Assets Impairment" as a CAM and stated that Sugarmade's intangible assets "mainly related to the cannabis cultivation license." The audit report further stated that the procedures Chow and the engagement team used to address this CAM included performing a "sensitivity analysis of significant assumptions" and "evaluating the impact on the fair values that would result from changes in the assumptions." However, Chow and his team did not, in fact, perform those procedures during the Sugarmade Audit.

47. Accordingly, Chow violated AS 3101.

H. Kinzer Violated PCAOB Rules and Standards in Connection with His EQR on the Sugarmade Audit

48. PCAOB standards require that an EQR be performed on all audit engagements conducted pursuant to PCAOB standards.[39] In conducting the EQR, the EQR partner should evaluate the significant judgments made by the engagement team and the related

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37 AS 3101.13.

38 *Id.* at .14(c).

39 AS 1220.01.

conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.[40]

49. PCAOB standards also require the EQR partner to evaluate the assessment of, and audit responses to, among other things, significant risks identified by the engagement team, including fraud risks.[41] In addition, the EQR partner is required to evaluate whether the engagement documentation that he or she reviewed in connection with the EQR indicates that the engagement team responded appropriately to significant risks, and supports the conclusions reached by the engagement team with respect to the matters reviewed.[42] PCAOB standards also provide that an engagement quality reviewer should evaluate the engagement team's determination, communication, and documentation of CAMs.[43]

50. The EQR partner may provide concurring approval of issuance of an audit report only if, after performing the EQR with due professional care, he or she is not aware of a significant engagement deficiency.[44] A significant engagement deficiency in an audit exists when the engagement team failed to obtain sufficient appropriate audit evidence in accordance with PCAOB standards.[45]

51. As explained above, L&L issued an audit report dated October 13, 2021, and expressed an unqualified opinion for the Sugarmade Audit, with explanatory language regarding substantial doubt about Sugarmade's ability to continue as a going concern. Kinzer was the EQR partner for the Sugarmade Audit and provided his concurring approval of issuance.

52. In the Sugarmade Audit, Chow and his engagement team identified intangible assets, which included the purported cannabis cultivation license, as a significant risk. Thus, Kinzer was required to evaluate, with due professional care, the engagement team's planned and performed procedures related to that account. Kinzer was also required to evaluate, with due professional care, the engagement team's determination, communication, and

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40 *Id.* at .09.

41 *Id.* at .10(b).

42 *Id.* at .11.

43 *Id.* at .10(j).

44 *See id.* at .12; *see also* AS 1015.07.

45 *See* AS 1220.12, Note.

documentation of the CAM described in the Firm's audit report related to the purported cannabis cultivation license.

53. As stated above, Chow and the engagement team failed to perform appropriate procedures and failed to obtain sufficient appropriate audit evidence supporting the existence, valuation, and presentation and disclosure of the purported cannabis cultivation license. While Kinzer, as EQR partner, reviewed the engagement team's procedures in these areas, he failed to evaluate them with due professional care, and as a result, failed to identify multiple deficiencies in the engagement team's work.

54. In addition, as described above, the Firm's audit report on the Sugarmade audit failed to accurately describe how Chow and his engagement team addressed the CAM related to the purported cannabis cultivation license in the Sugarmade Audit. While Kinzer reviewed the Firm's audit report, he failed to evaluate with due professional care whether the communication of the CAM in the report was accurate.

55. Kinzer provided his concurring approval of issuance of the Firm's Sugarmade Audit report, despite the deficiencies described above. As a result, he violated AS 1015 and AS 1220.

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), L&L CPAs, PA, Weixuan Tracy Luo, Andy Chow, and Robert Kinzer are hereby censured.

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Chow is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[46]

[46] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Chow. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable

C. Pursuant to PCAOB Rule 5302, Chow may file a petition for Board consent to associate with a registered public accounting firm after the expiration of one year from the date of this Order.

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Chow is required to complete, before petitioning to reassociate with the Board, fifty hours of CPE in subjects that are directly related to the audits of issuer financial statements under PCAOB standards (such hours shall be in addition to, and shall not be counted in, the CPE he is required to obtain in connection with any professional license).

E. For one year after the date of this Order, Kinzer shall not: (1) serve, or supervise the work of another person serving, as an "engagement quality reviewer," as that term is used in AS 1220, *Engagement Quality Review*; (2) serve, or supervise the work of another person serving, in any role that is equivalent to engagement quality reviewer, but differently denominated (such as "concurring partner"); (3) exercise authority, or supervise the work of another person exercising authority, to consent to the use of a previously issued audit report, for any issuer, broker, or dealer; or (4) assist the engagement quality reviewer in fulfilling his or her responsibilities under the Note to paragraph 6 of AS 1220.

F. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Kinzer is required to complete, within one year of the date of this Order, fifty hours of CPE in subjects that are directly related to the audits of issuer financial statements under PCAOB standards (such hours shall be in addition to, and shall not be counted in, the CPE he is required to obtain in connection with any professional license).

G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), civil money penalties are imposed on Respondents in the following amounts: (i) $75,000 is imposed upon the Firm and Luo, jointly and severally; (ii) $50,000 is imposed upon Chow; and (iii) $25,000 is imposed upon Kinzer.

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care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

1. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm and Luo shall pay the foregoing civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm and Luo as respondents in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. Chow shall pay the foregoing civil money penalty as follows: Chow shall pay $10,000 within ten days of the issuance of this Order, an additional $10,000 within 90 days of the issuance of this Order, an additional $10,000 within 180 days of the issuance of this Order, an additional $10,000 within 270 days of this Order, an additional $10,000 within one year of the issuance of this Order, making each payment by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Chow as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

4. Kinzer shall pay the foregoing civil money penalty as follows: Kinzer shall pay $5,000 within ten days of the issuance of this Order, an additional $5,000 within 90 days of the issuance of this Order, an additional $5,000 within 180 days of the issuance of this Order, an additional $5,000 within 270 days of this Order, and an additional $5,000 within one year of the issuance of this Order, making each payment by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Kinzer as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

5. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

6. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of a Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against the Respondent based on substantially the same facts as set out in the findings in this Order.

7. The Firm understands that failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a), following written notice to

the Firm at the address on file with the PCAOB at the time of the issuance of this Order.

8. Chow understands that his failure to pay the civil money penalty imposed upon him may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b).

9. Kinzer understands that his failure to pay the civil money penalty imposed upon him may, pursuant to PCAOB Rule 5304(b), result in a suspension or bar.

H. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Before filing with the Board any future registration application, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that Firm personnel will comply with PCAOB Rule 3211 and AS 3101; and

2. To provide with any future registration application a written certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.H.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Registration and Inspections may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 10, 2024

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of De Visser Gray LLP,

Respondent.

PCAOB Release No. 105-2024-034

June 18, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring De Visser Gray LLP ("De Visser Gray," "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $60,000 on the Firm; and

(3) requiring De Visser Gray to undertake certain remedial measures as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and quality control standards by failing to take sufficient steps to ensure that its system of quality control provided reasonable assurance that the Firm and its personnel would comply with applicable professional standards and regulatory requirements.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has

determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **De Visser Gray LLP** is a public accounting firm located in Vancouver, British Columbia. It is licensed to practice public accounting by the Chartered Professional Accountants of British Columbia. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns the Firm's failure to comply with PCAOB rules and quality control standards during the time period from April 2019 through January 2024. The Firm's system of quality control failed to provide reasonable assurance that the Firm and its personnel would: (a) comply with applicable PCAOB, as opposed to Canadian, professional standards and regulatory requirements; (b) perform sufficient procedures to determine whether certain matters were critical audit matters ("CAMs"), and accurately describe how CAMs that were identified in audit reports were addressed in the audit; (c) timely file Form APs; (d) make all required communications to issuer audit committees; and (e) comply with independence-related pre-approval requirements.

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

C. The Firm Violated PCAOB Rules and Quality Control Standards.

3. PCAOB rules require registered public accounting firms to comply with PCAOB quality control standards.[3] These standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice.[4] A system of quality control is broadly defined as a process to provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality.[5] A registered public accounting firm should establish quality control policies and procedures to provide reasonable assurance that the work performed by engagement personnel complies with applicable professional standards, regulatory requirements, and the firm's standards of quality.[6] Such policies and procedures should encompass all phases of the design and execution of the engagement.[7] In addition, to the extent appropriate and as required by applicable professional standards, these policies and procedures should cover planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement.[8]

4. As described below, De Visser Gray failed to establish policies and procedures sufficient to provide reasonable assurance that its personnel complied with applicable professional standards and regulatory requirements.

i. De Visser Gray's System of Quality Control Failed to Provide Reasonable Assurance that the Work Performed by Engagement Personnel Met Professional Standards and Regulatory Requirements.

5. In 2019, PCAOB inspection staff conducted an inspection of the Firm. In connection with the inspection, PCAOB inspection staff informed the Firm of its findings regarding significant deficiencies in the Firm's system of quality control. In particular, PCAOB inspection staff noted that the Firm had obtained its audit methodology and audit practice materials from external service providers. It informed the Firm that the guidance used was only

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3 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

4 *See* Quality Control Standard 20.01 ("QC § 20") at .01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

5 QC § 20.03.

6 QC § 20.17.

7 QC § 20.18.

8 *Id.*

in accordance with Canadian Auditing Standards ("CAS"), rather than PCAOB auditing standards.

6. In 2022, PCAOB inspection staff conducted another inspection of the Firm. In connection with the inspection, PCAOB inspection staff informed the Firm of its findings regarding significant deficiencies in its system of quality control related once again to its use of an external service provider and its audit practice materials. Specifically, PCAOB inspection staff informed the Firm that certain of this guidance, including Professional Engagement Guide ("PEG") audit programs, was only in accordance with CAS, rather than PCAOB auditing standards and rules. In addition, it noted that the Firm had not established policies and procedures to ensure that when engagement teams use the PEG audit programs on issuer audit work, they will address the requirements in PCAOB standards that were not addressed in the PEG audit programs. As a result, for certain audits, the Firm used audit methodology that failed to consider the requirements of PCAOB standards.

7. Despite being on notice of these deficiencies, the Firm continued to use the audit methodology and audit practice materials that were not compliant with PCAOB auditing standards and other regulatory requirements.

8. De Visser Gray therefore failed to establish policies and procedures sufficient to provide it with reasonable assurance that the work performed by the Firm and its engagement personnel complied with applicable professional standards and regulatory requirements, in violation of QC § 20.

ii. De Visser Gray's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Critical Audit Matters.

9. AS 3101, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*, "establishes requirements regarding the content of the auditor's written report when the auditor expresses an unqualified opinion on the financial statements . . . ."[9] Among other things, "[t]he auditor must determine whether there are any critical audit matters in the audit of the current period's financial statements."[10] A CAM is "any matter arising from the audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved especially challenging, subjective, or

[9] AS 3101.01.

[10] AS 3101.11.

complex auditor judgment."[11] For each CAM communicated in the auditor's report, the auditor must: (a) identify the CAM; (b) describe the principal considerations that led the auditor to determine that the matter is a CAM; (c) describe how the CAM was addressed in the audit; and (d) refer to the relevant financial statement accounts or disclosures that related to the CAM.[12]

10. De Visser Gray's system of quality control failed to provide reasonable assurance that its engagement teams properly evaluated potential CAMs. Specifically, the Firm failed to develop sufficient guidance to reasonably assure that engagement teams properly evaluated CAMs. For example, in certain audits, the Firm failed to perform procedures to determine whether matters were CAMs[13] and failed to accurately describe how certain matters, which were identified as CAMs, were addressed during the audit.[14]

11. These failures illustrate that De Visser Gray violated QC § 20 by failing to establish policies and procedures sufficient to provide the Firm with reasonable assurance that it would comply with AS 3101.

iii. De Visser Gray's System of Quality Control Failed to Provide Reasonable Assurance with Respect to the Reporting of Certain Audit Participants.

12. PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*, requires public accounting firms to report information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the Commission,[15] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed with the Commission under the Securities Act of 1933, as amended.[16]

13. During the relevant time period, De Visser Gray's quality control policies and procedures failed to provide reasonable assurance that its personnel would comply with the requirements of PCAOB Rule 3211. During the 2019 inspection of the Firm, PCAOB inspection

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11 *Id.*

12 AS 3101.14.

13 *See* AS 3101.11-.12.

14 AS 3101.14c.

15 PCAOB Rule 3211(b)(1).

16 In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. PCAOB Rule 3211(b)(2).

staff informed the Firm that it had not filed certain Form APs by the relevant deadline. Despite this notice, from November 2021 through January 2024, the Firm again failed to timely file Form APs for certain audit reports issued by the Firm in connection with issuer audits.

14. These failures illustrate that the Firm violated QC § 20 by failing to maintain effective policies and procedures to provide it with reasonable assurance that it would comply with the requirements of PCAOB Rule 3211.

iv. De Visser Gray's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Audit Committee Communications.

15. AS 1301, *Communications with Audit Committees*, requires the auditor to communicate with the issuer's audit committee regarding certain matters concerning the audit.[17] Those matters include, among others, significant risks identified during the auditor's risk assessment procedures[18] and the results of the audit, including, among others, all critical accounting policies and practices;[19] the auditor's evaluation, where applicable, of the issuer's ability to continue as a going concern;[20] and corrected misstatements, other than those that are clearly trivial, related to accounts and disclosures that might not have been detected except through the auditing procedures performed.[21] The auditor should also provide the audit committee with the schedule of uncorrected misstatements.[22]

16. Other required communications to audit committees include all significant deficiencies and material weaknesses in the issuer's internal control over financial reporting that were identified during an audit of financial statements;[23] the auditor's evaluation of the company's identification of, accounting for, and disclosure of its relationships and transactions

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17 AS 1301.01.

18 *See* AS 1301.09-.11.

19 AS 1301.12.b.

20 AS 1301.17.

21 AS 1301.19.

22 AS 1301.18.

23 AS 1305.04, *Communications About Control Deficiencies in an Audit of Financial Statements*.

with related parties;[24] and a copy of management's representation letter, which should be provided by the auditor if management had not already provided it.[25]

17. In addition, PCAOB Rule 3526, *Communication with Audit Committees Concerning Independence*, requires the auditor, prior to accepting an engagement, to describe, in writing, to the audit committee all relationships between the registered public accounting firm or any affiliates of the firm and the potential audit client that, as of the date of the communication, may reasonably be thought to bear on independence, and to discuss with the audit committee the potential effects of those relationships on the independence of the firm.[26] Rule 3526 further provides, with respect to accepted audit clients, that the auditor must, among other things, at least annually affirm to the audit committee, in writing, that, as of the date of the communication, the firm is independent in compliance with Rule 3520.[27]

18. During the 2019 inspection, PCAOB inspection staff informed the Firm that it was not compliant with AS 1301 by failing to make certain required audit committee communications related to issuers' accounting policies and practices, estimates, and significant unusual transactions; the Firm's evaluation of the quality of issuers' financial reporting; and the Firm's evaluation of issuers' ability to continue as a going concern.

19. During the 2022 PCAOB inspection, the PCAOB inspectors again identified instances in which the Firm had failed to make all required audit committee communications despite being on notice of these deficiencies based on the 2019 inspection. Specifically, the Firm failed to make required communications regarding matters such as independence; significant risks; the results of the audit, including critical accounting policies and practices, critical accounting estimates, and the corrected and uncorrected misstatements related to accounts and disclosures; and the Firm's evaluation of the issuer's identification of, accounting for, and disclosure of its relationships and transactions with related parties. The Firm also failed to evaluate whether identified material misstatements resulted from control deficiencies and whether any such control deficiencies, individually or in combination, represented a material weakness or significant deficiency that required communication to management and the audit

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[24] AS 2410.19, *Related Parties*.

[25] AS 2805.05, *Management Representations*.

[26] Rule 3526(a)(1)-(2).

[27] Rule 3526(b)(3). Rule 3520 requires the auditor and its associated persons to be independent of the audit client throughout the audit and professional engagement period.

committee. In addition, the Firm failed to ensure that a copy of the management representation letter was provided to the audit committee.

20. These failures illustrate that the Firm violated QC § 20 by failing to establish policies and procedures sufficient to provide it with reasonable assurance that it would comply with AS 1301, AS 1305, AS 2410, AS 2805, and PCAOB Rule 3526.

v. De Visser Gray's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Independence.

21. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[28] That requirement includes an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB and all other independence criteria set out in the Commission's rules and regulations under the federal securities laws.[29] One such criterion is set out in Rule 2-01(c)(7)(i) of Commission Regulation S-X ("Reg. S-X"), which provides that "[a]n accountant is not independent of an issuer" unless, "[b]efore the accountant is engaged by the issuer . . . to render audit or non-audit services, the engagement is approved by the issuer's . . . audit committee."[30]

22. PCAOB Rule 3524, *Audit Committee Pre-approval of Certain Tax Services*, further requires that, "[i]n connection with seeking audit committee pre-approval to perform for an issuer audit client any permissible tax service, a registered public accounting firm shall . . . describe, in writing, to the audit committee of the issuer," among other things, "the scope of the service, the fee structure for the engagement, and any side letter or other amendment to the engagement letter, or any other agreement . . . between the firm and the audit client, relating to the service . . . ."[31]

23. During the relevant time period, De Visser Gray's quality control policies and procedures failed to provide reasonable assurance that its personnel would abide by PCAOB and SEC independence requirements. Specifically, despite having been put on notice by a

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28 *See* PCAOB Rule 3520, *Auditor Independence*.

29 *See* PCAOB Rule 3520, Note 1; AS 1005.05-.06, *Independence*.

30 17 C.F.R. § 210.2-01(c)(7)(i)(A). The definition of accountant includes "any accounting firm with which the certified public accountant . . . is affiliated." 17 C.F.R. § 210.2-01(f)(1).

31 Rule 3524(a)(1).

similar finding by PCAOB inspection staff in 2019, the Firm failed to obtain audit committee pre-approval before providing tax services to an audit client in 2021.

24. This failure illustrates that De Visser Gray violated QC § 20 by failing to establish policies and procedures sufficient to provide it with reasonable assurance that it would comply with PCAOB Rule 3520, PCAOB Rule 3524, AS 1005, and Rule 2-01(c)(7)(i) of Reg. S-X.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $60,000 is imposed on De Visser Gray.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), De Visser Gray is required:

1. Within ninety (90) days from the date of this Order, to establish quality control policies and procedures, or revise and/or supplement existing quality control policies and procedures, for the purpose of providing the Firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the Firm's standards of quality in compliance with QC Section 20.17;

2. Within ninety (90) days from the date of this Order, to establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable PCAOB rules and standards including critical audit matters, audit committee communications, PCAOB reporting requirements, and independence for all Firm personnel who participate in audit engagements; and

3. Within 120 days of the entry of this Order, to provide a certification, signed by the Firm's managing partner, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with sections IV.C.1 and C.2 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial

actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. De Visser Gray shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

D. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 18, 2024

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of BDO Chartered Accountants & Advisors,

Respondent.

PCAOB Release No. 105-2024-035

June 18, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring BDO Chartered Accountants & Advisors ("BDO UAE," "Firm," or "Respondent");

(2) imposing a $20,000 civil money penalty on BDO UAE; and

(3) requiring BDO UAE to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that BDO UAE failed to disclose certain reportable events to the Board on PCAOB Form 3, *Special Report*, on a timely basis.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **BDO Chartered Accountants & Advisors** is a public accounting firm organized under the laws of the United Arab Emirates (UAE). BDO UAE is headquartered in Dubai and is licensed to practice public accounting by the Dubai Department of Economic Development (License No. 106930). BDO UAE is a member of the BDO International network of firms and is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns BDO UAE's failure to timely disclose to the Board on Form 3 two reportable events regarding a disciplinary proceeding brought against it (and a former partner) by the Auditors Disciplinary Board of the United Arab Emirates Ministry of Economy ("ADB"). PCAOB rules require registered firms, including BDO UAE, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that a registered firm is required to report on Form 3 are a firm becoming aware that it has become a respondent in certain disciplinary proceedings, and the conclusion of such proceedings.

3. On April 11, 2023, the ADB concluded a proceeding involving BDO UAE that was initiated no later than that date and concerned the violation of certain provisions of UAE laws

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

regulating the auditing profession in connection with audit work conducted for a non-issuer client.[2] The proceeding resulted in the imposition of a monetary penalty against the Firm.

4. The initiation and conclusion of the ADB's proceeding against BDO UAE constituted reportable events under Form 3, but BDO UAE failed to file a Form 3 reporting either event until January 11, 2024.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[3] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[4]

6. Another reportable event occurs when a firm has become aware that a reportable proceeding (*i.e.*, a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm or certain of its associated persons.[5]

7. No later than April 11, 2023, BDO UAE became aware that the ADB had initiated and concluded a disciplinary proceeding against the Firm concerning violations of local laws regulating the audit profession in connection with audit work the Firm performed for a non-issuer client.

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[2] The term "issuer" means an issuer as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act"), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

[3] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[4] PCAOB Form 3, at Item 2.7 (italics in the original removed).

[5] *Id.*, at Item 2.10.

8. The initiation and conclusion of the ADB proceeding constituted reportable events under Form 3. Accordingly, BDO UAE was required to report those events to the Board on Form 3 within thirty days of their occurrence, i.e., not later than May 11, 2023.[6] However, BDO UAE failed to file a Form 3 reporting either event until January 11, 2024, approximately eight months after the deadline for doing so.

9. BDO UAE's internal compliance and reporting systems failed to identify, on a timely basis, the initiation and conclusion of the ADB proceeding against the Firm as being reportable to the PCAOB on Form 3. As a result, BDO UAE inappropriately notified the PCAOB of the initiation and conclusion of a relevant disciplinary proceeding after the applicable deadline, in violation of PCAOB Rule 2203.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon BDO UAE.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. BDO UAE shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies BDO UAE as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order

[6] *See* PCAOB Rule 2203(a).

or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K. Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-order interest.

4. With respect to any civil money penalty amounts that BDO UAE shall pay pursuant to this Order, BDO UAE shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of BDO UAE's payment of the civil money penalty pursuant to this Order, in any private action brought against BDO UAE based on substantially the same facts as set out in the findings in this Order.

5. BDO UAE understands that failure to pay the civil money penalty described above may result in summary suspension of BDO UAE's registration, pursuant to PCAOB Rule 5304(a), following written notice to BDO UAE at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), BDO UAE is required:

1. within 90 days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing BDO UAE with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by BDO UAE personnel who participate in BDO UAE's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within 90 days from the date of this Order, to establish policies and procedures to ensure training concerning PCAOB reporting requirements, at

least annually, of any BDO UAE personnel who participate in BDO UAE's PCAOB reporting process;

3. within 90 days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within BDO UAE who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within BDO UAE to fulfill those requirements on behalf of BDO UAE; and

4. within 120 days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, BDO UAE's compliance with paragraphs C.1 through C.3 above. The certification shall identify the actions taken to satisfy the conditions specified above, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. BDO UAE shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***BDO UAE understands that failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 18, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KKM CPA Associates PLLC,

Respondent.

PCAOB Release No. 105-2024-036

June 18, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KKM CPA Associates PLLC, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $25,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm filed an Annual Report on Form 2 with the PCAOB that contained inaccurate information, in violation of PCAOB Rule 2200, *Annual Report.*

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KKM CPA Associates PLLC** is a public accounting firm located in Garden City, New York. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Filed a Form 2 with the PCAOB Containing Inaccurate Information in Violation of PCAOB Rule 2200

2. PCAOB Rule 2200 requires that registered public accounting firms file annual reports with the Board on Form 2 "following the instructions to that form." The instructions to Form 2 require firms to identify and provide certain information relating to any issuer or broker or dealer audit reports issued during the reporting period. They also require that a firm representative certify that the information contained on the Form 2 is accurate and complete.

3. In its 2022 Annual Report, the Firm indicated that it had not issued any audit reports with respect to an issuer during the reporting period. However, filings made with the U.S. Securities and Exchange Commission indicate that the Firm had, in fact, issued an audit report for an issuer, Mystic Holdings, Inc., during the reporting period. The Form 2 contained a certification that it did not "contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading." The Form 2 also contained a certification

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

that the Firm has not "failed to include in this Form any information or affirmation that is required by the instructions to this form."

4. The PCAOB's Division of Registration and Inspections emailed the Firm on four occasions between November 2022 and December 2022 in an attempt to resolve this issue, but the Firm failed to file an amended Form 2 correcting the inaccuracy.

5. The Firm's internal compliance and reporting systems failed to identify the Firm's audit of Mystic Holdings, Inc., as being reportable to the PCAOB. As a result, the Firm inappropriately failed to notify the PCAOB that it issued an audit report for that entity.

6. By filing a Form 2 with the Board that inaccurately stated the Firm had not issued any audit reports with respect to an issuer during the reporting period, the Firm violated PCAOB Rule 2200.

7. On December 19, 2023, after receiving notice of the deficiency from the PCAOB Division of Enforcement and Investigations, the Firm filed an amended Form 2 indicating that the Firm issued an audit report for the issuer, Mystic Holdings, Inc., during the reporting period.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W.,

Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a).

4. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

5. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent agrees not to, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

6. Respondent understands that a breach of this agreement constitutes a violation of the Order and of PCAOB Rule 5000, as well as grounds for the Board to vacate the Order and restore this proceeding to its active docket without prior notice to Respondent.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures to provide reasonable assurance that reportable events are identified by Firm

personnel who participate in the Firm's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 2200, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the actions taken to satisfy the conditions specified above, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. ***The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.***

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 18, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Halpern & Associates, LLC,

Respondent.

PCAOB Release No. 105-2024-041

September 24, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Halpern & Associates, LLC ("Firm" or "Respondent");

(2) imposing a $20,000 civil money penalty on Respondent; and

(3) requiring Respondent to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that Respondent failed to disclose a reportable event to the Board on PCAOB Form 3, *Special Report*.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Halpern & Associates, LLC** is a public accounting firm organized under the laws of Connecticut and located in Wilton, Connecticut. The Firm is licensed to practice public accounting by the Connecticut State Board of Accountancy (License No. 0003520). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns the Firm's failure to disclose to the Board on Form 3 a reportable event regarding a disciplinary proceeding brought against it (and the Firm's president) by the U.S. Securities and Exchange Commission ("Commission"). PCAOB rules require registered firms, including the Firm, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that a registered firm is required to report on Form 3 is a firm becoming aware that it has become a respondent in certain disciplinary proceedings.

3. On March 14, 2022, the Commission initiated a proceeding against the Firm,[2] which involves allegations concerning two audits the Firm conducted of a non-issuer client.[3]

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

[2] *Halpern & Associates LLC and Barbara Halpern, CPA*, Exchange Act Rel. No. 94410 (Mar. 14, 2022).

[3] The term "issuer" means an issuer as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act"), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration

4. The initiation of the Commission's proceeding against the Firm constituted a reportable event under Form 3, but the Firm failed to file a Form 3 reporting the initiation of that proceeding until May 30, 2024—only after being alerted to the reporting failure, and instructed to correct it, by PCAOB staff.

C. Respondent Failed to Disclose A Reportable Event to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[4] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil . . . proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[5]

6. The Commission initiated a proceeding against the Firm (and its president) on March 14, 2022. The proceeding concerns alleged violations of several auditing standards in two annual audits the Firm conducted of private equity fund.

7. The initiation of the Commission proceeding constituted a reportable event under Form 3. Accordingly, the Firm was required to report it to the Board on Form 3 within thirty days, i.e., not later than April 13, 2022.[6] However, the Firm failed to file a Form 3 reporting the initiation of the proceeding for over two years. The Firm did not report the initiation of the proceeding on Form 3 until May 30, 2024, after Board staff raised the delinquency with the Firm and instructed it to file a Form 3.

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statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

[4] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." *Rules on Periodic Reporting by Registered Public Accounting Firms*, PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[5] PCAOB Form 3, at Item 2.7 (italics in the original removed).

[6] *See* PCAOB Rule 2203(a).

8. The Firm's internal compliance and reporting systems failed to identify the initiation of the Commission's proceeding against the Firm as being reportable to the PCAOB on Form 3. As a result, the Firm inappropriately failed to timely notify the PCAOB of the initiation of a relevant disciplinary proceeding, in violation of PCAOB Rule 2203.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed upon Respondent.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K. Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Respondent is required:

1. within 90 days from the date of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, for the purpose of providing Respondent with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Firm personnel who participate in Respondent's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within 90 days from the date of this Order, to establish policies and procedures to ensure training concerning PCAOB reporting requirements, at least annually, of any Firm personnel who participate in Respondent's PCAOB reporting process;

3. within 90 days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within the Firm who possesses adequate knowledge and experience with PCAOB reporting requirements

and sufficient authority within the Firm to fulfill those requirements on behalf of Respondent; and

4. within 120 days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, Respondent's compliance with paragraphs C.1 through C.3 above. The certification shall identify the actions taken to satisfy the conditions specified above, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. Respondent shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

5. Respondent understands that the failure to satisfy any provision of Section IV.C may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 24, 2024

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Grant Thornton LLP,

Respondent.

PCAOB Release No. 105-2024-040

September 24, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Grant Thornton LLP ("Grant Thornton Canada," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $30,000 upon the Firm; and

(3) requiring the Firm to comply with its policies and procedures directed toward ensuring compliance with PCAOB rules and standards for communications with audit committees and the documentation of those communications.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to make certain required written communications and document pre-approval of services by an issuer's audit committee, in violation of PCAOB Rule 3524, *Audit Committee Pre-approval of Certain Tax Services*, and AS 1215, *Audit Documentation*.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Grant Thornton Canada has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Grant Thornton LLP** is a public accounting firm headquartered in Toronto, Canada. It is a member of the Grant Thornton International Ltd. network of firms ("Grant Thornton International"). At all relevant times, Grant Thornton Canada was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for five issuer clients.

B. Issuer

2. **Patagonia Gold Corp.** ("Patagonia") was, at all relevant times, an entity incorporated in British Columbia, Canada, and headquartered in Buenos Aires, Argentina. According to its public filings, it is a mineral exploration and production company. At all relevant times, Patagonia was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Grant Thornton Canada issued an audit report that Patagonia included in its Form 20-F filed with the U.S. Securities and Exchange Commission ("SEC" or "Commission") for the year ended December 31, 2020.

C. Other Relevant Entity

3. **Grant Thornton UK LLP** ("Grant Thornton UK") is a public accounting firm headquartered in London, United Kingdom. It is a member firm of Grant Thornton International. At all relevant times, Grant Thornton UK was registered with the Board pursuant

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

to Section 102 of the Act and PCAOB rules. Grant Thornton UK performed tax return preparation services for the year ended December 31, 2020, for a Patagonia subsidiary.

D. Grant Thornton Canada Failed to Make Certain Required Written Communications and Failed to Document Certain Discussions with an Issuer's Audit Committee, in Violation of PCAOB Rule 3524, and Failed to Document Audit Committee Pre-Approval of Services in Violation of AS 1215

4. Audit documentation is the written record of the basis of the auditor's conclusions, and provides support for the auditor's representation that an audit was conducted in accordance with PCAOB standards.[2] PCAOB standards provide that audit documentation should demonstrate that the engagement complied with the standards of the PCAOB.[3]

5. Thus, documentation of an audit must support that the auditor complied with PCAOB and SEC independence requirements. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client, including by satisfying the independence criteria set out in the Commission's rules and regulations under the federal securities laws.[4] One such criterion is set out in Rule 2-01(c)(7)(i) of Commission Regulation S-X, which provides that "[a]n accountant is not independent of an issuer" unless, "[b]efore the accountant is engaged by the issuer . . . to render audit or non-audit services, the engagement is approved by the issuer's . . . audit committee."[5]

6. PCAOB Rule 3524 provides that, in connection with seeking audit committee pre-approval to perform for an issuer audit client any permissible tax service, a registered public accounting firm shall describe, in writing, to the audit committee of the issuer, among other things, the scope of the service, the fee structure of the engagement, and any side letter or other amendment to the engagement letter, or any other agreement between the firm and the audit client relating to the service. Under Rule 3524, the auditor is also required to "discuss

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[2] *See* AS 1215.02; AS 3101.09, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion* (describing the elements that must be included in the section of the audit report containing the basis for the auditor's opinion).

[3] *See* AS 1215.05(a).

[4] *See* PCAOB Rule 3520, Note 1, *Auditor Independence*; AS 1005.05-.06, *Independence.*

[5] 17 C.F.R. § 210.2-01(c)(7). The definition of "accountant" includes "any accounting firm with which the certified public accountant . . . is affiliated." 17 C.F.R. § 210.2-01(f)(1).

with the audit committee of the issuer the potential effects of the services on the independence of the firm" and to "document the substance of its discussion with the audit committee of the issuer."

7. Grant Thornton Canada audited Patagonia's financial statements for the year ended December 31, 2020, issuing an audit report that Patagonia included in its Form 20-F filed with the Commission on May 5, 2021.

8. During the audit and professional engagement period when Grant Thornton Canada was performing this audit, Grant Thornton Canada's affiliate, Grant Thornton UK, performed tax return preparation services for a subsidiary of Patagonia.

9. Grant Thornton Canada failed to document pre-approval from Patagonia's audit committee for Grant Thornton UK to provide these tax return preparation services.

10. Grant Thornton Canada also failed to describe in writing to Patagonia's audit committee the scope of the tax return preparation services, the fee structure for the engagement, and any oral agreement between Grant Thornton Canada and Patagonia relating to the tax services. Grant Thornton Canada further failed to document the substance of any discussion with Patagonia's audit committee concerning the potential effects of the tax services on the independence of the Firm.

11. Accordingly, Grant Thornton Canada violated Rule 3524 and AS 1215 with respect to the 2020 Patagonia audit.

IV.

12. Grant Thorton Canada has represented to the Board that after May 2021, it has communicated with and provided a training for its partners concerning documentation of pre-approval communications with the audit committees of issuer clients. The Firm also has designed a process whereby engagement teams may seek assistance from the Firm's National Ethics and Independence group regarding compliance with PCAOB rules and standards for communications with audit committees and the documentation of those communications.

V.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006;

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest;

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order; and

5. Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required to comply with its policies and procedures (including those discussed in Section IV) intended to provide reasonable assurance that Firm personnel will comply with PCAOB rules and standards for communications with audit committees and the documentation of those communications.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 24, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Ernst & Young AG,

Respondent.

PCAOB Release No. 105-2024-039

September 24, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Ernst & Young AG ("EY Switzerland," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $45,000 upon the Firm; and

(3) requiring the Firm to comply with its policies and procedures directed toward ensuring compliance with PCAOB standards for communications with audit committees.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to make certain required communications to the audit committee of its issuer audit client, STMicroelectronics N.V. ("STMicroelectronics"), in violation of AS 1301, *Communications with Audit Committees.*

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, EY Switzerland has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Ernst & Young AG** is a public limited liability company with headquarters in Basel, Switzerland, and is a member firm of Ernst & Young Global Limited ("EY Global"). At all relevant times, EY Switzerland was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for six issuer clients.

B. Issuer

2. **STMicroelectronics N.V.** is a corporation organized under the laws of The Netherlands, with its corporate legal seat in Amsterdam, The Netherlands, and executive offices in Schiphol, The Netherlands. Its public filings disclose that it is a semiconductor company that designs, develops, manufactures, and markets a range of products. At all relevant times, STMicroelectronics was an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). On February 24, 2022, EY Switzerland issued an audit opinion on STMicroelectronics' consolidated financial statements that STMicroelectronics included in its Form 20-F filed with the U.S. Securities and Exchange Commission for the year ended December 31, 2021 (the "2021 Audit").

C. Other Relevant Entities

3. **EY & Associes** ("EY France") is a simplified joint stock company headquartered in Courbevoire, France, and is a member firm of EY Global. At all relevant

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

times, EY France was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. EY France performed audit procedures in the 2021 Audit.

4. **Ernst & Young LLP** ("EY Singapore") is a limited liability partnership headquartered in Singapore, and is a member firm of EY Global. At all relevant times, EY Singapore was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. EY Singapore performed audit procedures in the 2021 Audit.

5. **EY S.p.A.** ("EY Italy") is a corporation headquartered in Milan, Italy, and is a member firm of EY Global. At all relevant times, EY Italy was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. EY Italy performed audit procedures in the 2021 Audit.

6. **Ernst & Young LLP** ("EY U.S.") is a limited liability partnership headquartered in New York, New York, and is a member firm of EY Global. At all relevant times, EY US was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. EY US performed audit procedures in the 2021 Audit.

7. **Ernst & Young PLT** ("EY Malaysia") is a partnership headquartered in Kuala Lumpur, Malaysia, and is a member firm of EY Global. At all relevant times, EY Malaysia was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. EY Malaysia performed audit procedures in the 2021 Audit.

8. **Ernst & Young Hua Ming LLP** ("EY Beijing") is a limited liability partnership headquartered in Beijing, China, and is a member firm of EY Global. At all relevant times, EY Beijing was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. EY Beijing performed audit procedures in the 2021 Audit.

9. **SyCip Gorres Velayo & Co.** ("EY Philippines") is a partnership headquartered in Makati City, Philippines, and is a member firm of EY Global. At all relevant times, EY Philippines was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. EY Philippines performed audit procedures in the 2021 Audit.

10. **Ernst & Young Malta Limited** ("EY Malta") is a partnership headquartered in Msida, Malta, and is a member firm of EY Global. At all relevant times, EY Malta was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. EY Malta performed audit procedures in the 2021 Audit.

11. **Ernst & Young Audit** ("EY France Audit") is a limited liability corporation headquartered in Courbevoie, France, and is a member firm of EY Global. At all relevant times, EY France Audit was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. EY France Audit performed audit procedures in the 2021 Audit.

12. **Ernst & Young ShinNihon LLC** ("EY Japan") is a corporation headquartered in

Tokyo, Japan, and is a member firm of EY Global. At all relevant times, EY Japan was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. EY Japan performed audit procedures in the 2021 Audit.

13. **Ernst & Young LLP** ("EY U.K.") is a limited liability partnership headquartered in London, Great Britian, and is a member firm of EY Global. At all relevant times, EY U.K. was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. EY U.K. performed audit procedures in the 2021 Audit.

14. **Ernst & Young Sarl** ("EY Morocco") is headquartered in Casablanca, Morocco, and is a member firm of EY Global. EY Morocco is not currently, and never has been, registered with the Board. EY Morocco performed audit procedures in the 2021 Audit.

15. **Ernst & Young** ("EY Hong Kong") is a partnership headquartered in Hong Kong, China, and is a member firm of EY Global. At all relevant times, EY Hong Kong was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. EY Hong Kong performed audit procedures in the 2021 Audit.

16. **Ernst & Young** ("EY Australia") is a partnership headquartered in Sydney, Australia, and is a member firm of EY Global. At all relevant times, EY Australia was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. EY Australia performed audit procedures in the 2021 Audit.

17. **Ernst & Young Accountants LLP** ("EY Netherlands") is a limited liability partnership headquartered in Rotterdam, Netherlands, and is a member firm of EY Global. At all relevant times, EY Netherlands was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. EY Netherlands performed audit procedures in the 2021 Audit.

18. The entities described in paragraphs 3 through 17 are "public accounting firms," as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii).

D. EY Switzerland Failed to Make Required Audit Committee Communications in Violation of AS 1301

19. Pursuant to PCAOB auditing standards, an auditor should communicate with a company's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[2] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the

[2] AS 1301.01, *Communications with Audit Committees*.

timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment procedures.[3]

20. PCAOB standards specify that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms[4] or other persons, who were not employed by the auditor, that performed audit procedures in the current period audit.[5]

21. In connection with the 2021 Audit, EY Switzerland failed to inform the audit committee of STMicroelectronics of the name, location, and planned responsibilities of the following independent public accounting firms that performed audit procedures in the 2021 Audit: EY France, EY Singapore, EY Italy, EY U.S., EY Malaysia, EY Beijing, EY Philippines, EY Malta, EY France Audit, EY Japan, EY U.K., EY Morocco, EY Hong Kong, EY Australia, and EY Netherlands.

22. Accordingly, EY Switzerland violated AS 1301.10d in connection with the 2021 Audit.

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[3] *Id.* at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301) ("AS 1301 Adopting Release"), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See Auditing Standard No. 16—Communications With Audit Committees; Related Amendments to PCAOB Standards;* and *Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (August 15, 2012).

[4] The term "other independent public accounting firms" includes "firms that perform audit procedures in the current period audit regardless of whether they otherwise have any relationship with the auditor." AS 1301.10d, Note.

[5] *Id.* In the AS 1301 Adopting Release, the Board explained the rationale for identifying other independent public accounting firms for the audit committee as follows: "The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators." AS 1301 Adopting Release at Appendix 4, p. A4-15.

IV.

23. EY Switzerland has represented to the Board that, since this deficiency was identified by the PCAOB during its 2021 inspection, it has implemented updated audit planning and results guidance for communicating the names, locations, and planned responsibilities of other independent public accounting firms performing audit procedures in an audit for the purpose of providing EY Switzerland with reasonable assurance of compliance with PCAOB standards for communications with audit committees.

V.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $45,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), EY Switzerland is required to comply with its audit committee communications policies and procedures, including those intended to provide reasonable assurance that, as part of communicating its overall audit strategy, EY Switzerland communicates with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms or other persons, who were not employed by the auditor, that performed audit procedures in the audit.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 24, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Crowe MacKay LLP,

Respondent.

PCAOB Release No. 105-2024-038

September 24, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Crowe MacKay LLP ("Crowe MacKay," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $30,000 upon the Firm; and

(3) requiring the Firm to comply with its policies and procedures directed toward ensuring compliance with PCAOB rules and standards for communications with audit committees and the documentation of those communications.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to make certain required written communications and document pre-approval of services by two issuers' audit committees, in violation of PCAOB Rule 3524, *Audit Committee Pre-approval of Certain Tax Services*, and AS 1215, *Audit Documentation*.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Crowe MacKay has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Crowe MacKay LLP** is a public accounting firm headquartered in Vancouver, Canada. At all relevant times, Crowe MacKay was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for seven issuer clients.

B. Issuer

2. **GreenPower Motor Company Inc.** ("GreenPower Motor") was, at all relevant times, an entity incorporated in British Columbia and headquartered in Vancouver, Canada. According to its public filings, it designs, builds, and distributes electric vehicles, including buses. At all relevant times, GreenPower Motor was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Crowe MacKay issued audit reports concerning GreenPower Motor's financial statements that GreenPower Motor attached to its Forms 20-F filed with the U.S. Securities and Exchange Commission ("SEC" or "Commission") for the year ended March 31, 2021 and for the year ended March 31, 2022.

3. **Issuer A** was, at all relevant times, an entity incorporated in British Columbia and headquartered in Victoria, Canada. According to its public filings, it develops technologies associated with the development of novel therapeutic antibodies. At all relevant times, Issuer A was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Crowe MacKay issued an audit report concerning Issuer A's financial statements that Issuer A

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

attached to its Form 40-F and Form 40-F/A, filed with the Commission on July 28, 2021, and September 29, 2021, respectively.

C. Crowe MacKay Failed to Make Certain Required Written Communications and Document Audit Committee Pre-Approval of Services in Violation of PCAOB Rule 3524 and AS 1215

4. Audit documentation is the written record of the basis of the auditor's conclusions and provides support for the auditor's representation that an audit was conducted in accordance with PCAOB standards.[2] PCAOB standards provide that audit documentation should demonstrate that the engagement complied with the standards of the PCAOB.[3]

5. Thus, documentation of an audit must support that the auditor complied with PCAOB and SEC independence requirements. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client, including by satisfying the independence criteria set out in the Commission's rules and regulations under the federal securities laws.[4] One such criterion is set out in Rule 2-01(c)(7)(i) of Commission Regulation S-X, which provides that "[a]n accountant is not independent of an issuer" unless, "[b]efore the accountant is engaged by the issuer . . . to render audit or non-audit services, the engagement is approved by the issuer's . . . audit committee."[5]

6. PCAOB Rule 3524 provides that, in connection with seeking audit committee pre-approval to perform for an issuer audit client any permissible tax service, a registered public accounting firm shall describe, in writing, to the audit committee of the issuer, among other things, the scope of the service, the fee structure of the engagement, and any side letter or other amendment to the engagement letter, or any other agreement between the firm and the audit client relating to the service. Under Rule 3524, the auditor is also required to "discuss with the audit committee of the issuer the potential effects of the services on the independence of the firm" and "document the substance of its discussion with the audit committee of the issuer."

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[2] *See* AS 1215.02; AS 3101.09, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion* (describing the elements that must be included in the section of the audit report containing the basis for the auditor's opinion).

[3] *See* AS 1215.05(a).

[4] *See* PCAOB Rule 3520, Note 1, *Auditor Independence*; AS 1005.05-.06, *Independence*.

[5] 17 C.F.R. § 210.2-01(c)(7). The definition of accountant includes "any accounting firm with which the certified public accountant . . . is affiliated." 17 C.F.R. § 210.2-01(f)(1).

i. GreenPower Motor

7. Crowe MacKay audited GreenPower Motor's financial statements for the years ended March 31, 2021 and March 31, 2022, issuing audit reports that GreenPower Motor included in its Forms 20-F filed with the Commission on June 29, 2021 and July 29, 2022.

8. During the time Crowe MacKay performed those audits, it also performed other services for GreenPower Motor, including tax return preparation services and services in connection with its consent to the use of its auditor's report in connection with a Form S-8 registration statement ("consent services").

9. Crowe MacKay failed to document pre-approval from GreenPower Motor's audit committee to provide these tax return preparation and consent services.

10. Crowe MacKay also failed to describe in writing to GreenPower Motor's audit committee the scope of the tax return preparation services, the fee structure for the engagement, and any oral agreement between Crowe MacKay and GreenPower Motor relating to the tax services. Crowe MacKay further failed to document the substance of any discussion with GreenPower Motor's audit committee concerning the potential effects of the tax services on the independence of the Firm.

11. Accordingly, Crowe MacKay violated PCAOB Rule 3524 and AS 1215 with respect to the 2021 and 2022 GreenPower audits.

ii. Issuer A

12. Crowe MacKay audited Issuer A's financial statements for the year ended April 30, 2021, issuing an audit report that Issuer A attached to its Form 40-F and Form 40-F/A, filed with the Commission on July 28, 2021, and September 29, 2021, respectively.

13. Crowe MacKay failed to document pre-approval from Issuer A's audit committee for the audit services.

14. Accordingly, Crowe MacKay violated AS 1215 with respect to the 2021 Issuer A audit.

IV.

15. Crowe MacKay has represented to the Board that it has established and implemented the following changes to its policies and procedures for the purpose of providing it with reasonable assurance of compliance with PCAOB standards for communications with audit committees and the documentation of those communications:

a. Crowe MacKay updated its engagement letter template to include communications required under PCAOB Rule 3524 and to document pre-approval by an issuer's audit committee of audit and non-audit services.

b. Crowe Mackay updated other template work papers to document pre-approval of audit and non-audit services by an issuer's audit committee.

c. Crowe MacKay provided training to Firm personnel that covered the requirements for obtaining and documenting audit committee pre-approval of audit and non-audit services.

V.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006;

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest;

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order; and

5. Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required to comply with its revised policies and procedures, including those intended to provide reasonable assurance that Firm personnel will comply with PCAOB rules and standards for communications with audit committees and the documentation of those communications.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 24, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Accell Audit & Compliance, P.A.,

Respondent.

PCAOB Release No. 105-2024-037

September 24, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Accell Audit & Compliance, P.A. ("Accell," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $40,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to make certain required communications to the audit committee of Fitell Corporation ("Fitell") in violation of AS 1301, *Communications with Audit Committees,* and AS 1305, *Communications About Control Deficiencies in an Audit of Financial Statements*, and to the audit committee of Brain Scientific Inc. ("Brain Scientific") in violation of AS 1301.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Accell has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Accell Audit & Compliance, P.A.** is a corporation headquartered in Tampa, Florida. At all relevant times, Accell was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Accell is licensed to practice public accounting by the Florida Board of Accountancy (license number AD66617), among other state boards. During the period covered by this Order, the Firm annually served as the principal auditor for 28 issuer clients.

B. Issuers

2. **Fitell Corporation** is a Cayman Islands corporation with principal executive offices in Taren Point, Australia. Its public filings disclose that it is an online retailer of gym and fitness equipment and provides other fitness-related services. At all relevant times, Fitell was an "issuer," as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). On November 23, 2022, Accell issued an audit report on Fitell's financial statements for the fiscal year ended June 30, 2022 (the "Fitell Audit") that Fitell included in its Form F-1/A filed with the U.S. Securities and Exchange Commission (the "Commission") on November 29, 2022.

3. **Brain Scientific Inc.** is a corporation incorporated in Nevada with principal executive offices in Lakewood Ranch, Florida. Its public filings disclose that it is a medical technology company with product lines in neurology and motion products. At all relevant times, Brain Scientific was an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). On March 31, 2022, Accell issued an audit report on Brain Scientific's

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

financial statements for fiscal year ending December 31, 2021 (the "Brain Scientific Audit") that Brain Scientific included in its Form 10-K filed with the Commission on March 31, 2022.

C. Other Relevant Entities

4. **Hall Chadwick** is a partnership headquartered in Sydney, Australia. Hall Chadwick is a "public accounting firm," as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii). At all relevant times, Hall Chadwick was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Hall Chadwick performed audit procedures for the Fitell Audit.

D. Accell Failed to Make Required Audit Committee Communications in Violation of AS 1301 and 1305

5. Pursuant to PCAOB auditing standards, an auditor should communicate with a company's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[2] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment procedures.[3]

6. As part of communicating the overall audit strategy, an auditor should also communicate to the audit committee the names, locations, and planned responsibilities of

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[2] AS 1301.01.

[3] *Id.* at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301) ("AS 1301 Adopting Release"), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See Auditing Standard No. 16 – Communications With Audit Committees; Related Amendments to PCAOB Standards;* and *Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (Aug. 15, 2012).

other independent public accounting firms[4] or other persons, who are not employed by the auditor, that perform audit procedures in the current audit period.[5]

7. Further, auditors should communicate to the audit committee, when applicable, the following matters relating to the auditor's evaluation of the company's ability to continue as a going concern:

- If the auditor believes there is substantial doubt about the company's ability to continue as a going concern for a reasonable period of time, the conditions and events that the auditor identified that, when considered in the aggregate, indicate that there is substantial doubt; and

- If the auditor concludes, after consideration of management's plans, that substantial doubt about the company's ability to continue as a going concern for a reasonable period of time remains: the effects, if any, on the financial statements and the adequacy of the related disclosure; and the effects on the auditor's report.[6]

8. PCAOB auditing standards also require an auditor to communicate to the audit committee those corrected misstatements, other than those that are clearly trivial, related to accounts and disclosures that might not have been detected except through the auditing procedures performed, and discuss with the audit committee the implications that such corrected misstatements might have on the company's financial reporting process.[7]

9. In addition, the auditor must communicate in writing to management and the audit committee all significant deficiencies and material weaknesses identified during the audit.

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[4] The term "other independent public accounting firms" includes "firms that perform audit procedures in the current period audit regardless of whether they otherwise have any relationship with the auditor." AS 1301.10d, Note.

[5] *Id.* at .10d. In the AS 1301 Adopting Release, the Board explained the rationale for identifying other independent public accounting firms for the audit committee as follows: "The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators." AS 1301 Adopting Release at Appendix 4, p. A4-15.

[6] AS 1301.17a and .17c.

[7] *Id.* at .19.

The written communication should be made prior to the issuance of the auditor's report on the financial statements.[8]

10. In connection with the Fitell Audit, Accell filed a Form AP that identified Hall Chadwick as another independent public accounting firm that participated in the Fitell Audit. However, Accell did not communicate to Fitell's audit committee as part of its overall audit strategy the name, location, and planned responsibilities of Hall Chadwick.

11. Additionally, the Firm did not communicate to Fitell's audit committee all material weaknesses identified during the Fitell Audit prior to the issuance of the auditor's report on the issuer's financial statements.

12. Accordingly, Accell violated AS 1301.10d and AS 1305.04 in connection with the Fitell Audit.

13. In connection with the Brain Scientific Audit, Accell failed to communicate to Brain Scientific's audit committee: (a) a significant risk Accell identified related to the accounting for options and warrants; and (b) a corrected misstatement related to Brain Scientific's accounting for Paycheck Protection Program loan forgiveness identified by the engagement team through the auditing procedures performed.

14. In addition, although Accell included in its audit report for the Brain Scientific Audit a paragraph stating that certain conditions and events had occurred that raised substantial doubt about the company's ability to continue as a going concern, Accell did not communicate to Brain Scientific's audit committee: (a) the conditions and events that Accell had identified that indicated that there was substantial doubt; and (b) the effects, if any, on Brain Scientific's financial statements and the adequacy of the related disclosure.

15. Accordingly, Accell violated AS 1301.09, .17, and .19 in connection with the Brain Scientific Audit.

IV.

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

Accordingly, it is hereby ORDERED that:

[8] AS 1305.04.

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $40,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that Firm personnel will communicate to audit committees all matters required by AS 1301 and AS 1305; and

2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

3. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 24, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Yusufali & Associates, LLC, and Yusufali Musaji, CPA,

Respondents.

PCAOB Release No. 105-2024-042

October 22, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Yusufali & Associates, LLC ("Firm") and Yusufali Musaji ("Musaji") (collectively, "Respondents");

(2) revoking the Firm's registration;[1]

(3) barring Musaji from being an associated person of a registered public accounting firm;[2]

(4) imposing a civil money penalty in the amount of $50,000, jointly and severally, on the Firm and Musaji;

(5) requiring the Firm to undertake certain remedial actions concerning quality control directed toward satisfying requirements applicable to audits and reviews of issuers before filing, and to provide evidence of such measures with, any future registration application; and

(6) requiring Musaji to complete 50 hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional

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1 The Firm may reapply for registration after three years from the date of this Order.

2 Musaji may file a petition for Board consent to associate with a registered public accounting firm after three years from the date of this Order.

license, before filing any petition for Board consent to associate with a registered public accounting firm.

The Board is imposing these sanctions on the basis of its findings that: (a) Respondents violated PCAOB rules and standards in connection with the audits of the financial statements of two issuer clients; (b) Respondents failed to cooperate with a Board inspection; (c) the Firm violated PCAOB standards by failing to obtain engagement quality reviews in connection with those audits; (d) the Firm failed to file forms required by PCAOB rules; (e) the Firm violated PCAOB quality control standards; and (f) Musaji directly and substantially contributed to the Firm's violations of PCAOB rules and engagement quality review and quality control standards.[3]

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement (the "Offers") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[4]

[3] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

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

III.

On the basis of Respondents' Offers, the Board finds that:[5]

A. Respondents

1. **Yusufali & Associates, LLC** is a limited liability company located in Short Hills, New Jersey. The Firm is, and at all relevant times was, registered with the PCAOB pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accountancy with the state of New Jersey (license no. 20CB00603500).

2. **Yusufali Musaji, CPA** is the owner of the Firm and a certified public accountant licensed by the state of New Jersey (license no. 20CC03225800) and several other states. At all relevant times, Musaji was the sole partner of the Firm and served as the engagement partner on all issuer audits it conducted, including those discussed below. Musaji is, and at all relevant times was, an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuers

3. **Free Flow, Inc.** ("Free Flow") was, at all relevant times, a Delaware corporation headquartered in King George, Virginia. Free Flow's public filings disclose that it was engaged in the business of selling used auto parts. Free Flow was, at all relevant times, an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), including at the time the Firm audited Free Flow's financial statements for the years ended as of December 31, 2020, and December 31, 2021 (the "2020 Free Flow Audit" and "2021 Free Flow Audit," respectively, and collectively, the "Free Flow Audits").

4. **PotNetwork Holdings, Inc.** ("PotNetwork") was, at all relevant times, a Colorado corporation headquartered in Fort Lauderdale, Florida. PotNetwork's public filings disclose that it was engaged in the development and sales of hemp-derived CBD oil containing products. PotNetwork was, at all relevant times, an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), including at the time the Firm audited PotNetwork's

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

financial statements for the years ended and as of December 31, 2019, and December 31, 2020 (the "2019 PotNetwork Audit" and "2020 PotNetwork Audit," respectively, collectively, the "PotNetwork Audits," and together with the "Free Flow Audits," the "Issuer Audits").[6]

C. Summary

5. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Issuer Audits. Specifically, Respondents failed to: (1) obtain sufficient appropriate audit evidence in connection with testing revenue and inventory in the Free Flow Audits; (2) obtain sufficient appropriate audit evidence in connection with testing revenue, convertible notes payable, and advances in the PotNetwork Audits; (3) perform sufficient procedures to address fraud risks in each of the Issuer Audits; (4) determine critical audit matters ("CAMs") during the Free Flow Audits and 2020 PotNetwork Audit; (5) make certain required audit committee communications during the Free Flow Audits and 2019 PotNetwork Audit; (6) comply with audit documentation requirements in each of the Issuer Audits; and (7) cooperate with a Board inspection of the 2021 Free Flow Audit and 2020 PotNetwork Audit by submitting improperly altered audit documentation to PCAOB inspectors.

6. In addition, the Firm violated PCAOB standards by failing to obtain engagement quality reviews for any of the Issuer Audits, and violated PCAOB rules by failing to file Form APs in connection with each of the Issuer Audits.

7. The Firm also violated PCAOB quality control standards because it failed to establish an appropriate system of quality control to provide it with reasonable assurance that (1) work performed by engagement personnel met applicable professional standards and regulatory requirements, and (2) the Firm only undertook engagements that it could reasonably expect to perform with professional competence.

8. Finally, Musaji violated PCAOB rules by knowingly or recklessly, and directly and substantially, contributing to the Firm's violations of PCAOB rules and engagement quality review standards and quality control standards.

D. Respondents Violated PCAOB Rules and Standards

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

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[6] On June 20, 2022, PotNetwork's name was changed to Diamond Wellness Holdings, Inc. The Securities and Exchange Commission ("Commission") revoked the company's registration on June 9, 2023.

Board's auditing and related professional practice standards.[7] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[8] Among other things, PCAOB standards require an auditor to exercise due professional care in the planning and performance of the audit and the preparation of the report, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[9]

10. PCAOB standards require the auditor to address the risks of material misstatement through appropriate overall audit responses and procedures, and specify that the auditor should design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[10] For significant risks, the auditor should perform substantive procedures, including tests of details, that are specifically responsive to the assessed risks.[11]

11. PCAOB standards require that the auditor identify and assess the risks of material misstatement at the financial statement level and the assertion level.[12] PCAOB standards also require the auditor to presume that there is a fraud risk involving improper revenue recognition and evaluate which types of revenue, revenue transactions, or assertions may give rise to such risks.[13] If the auditor has not identified, in a particular circumstance,

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7 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

8 AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

9 *See* AS 1015.01, .07, *Due Professional Care in the Performance of Work*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 1101.03, *Audit Risk*; AS 1105.04, *Audit Evidence*.

10 AS 2301.02, .08.

11 *See id.* at .11.

12 *See* AS 2110.59, *Identifying and Assessing Risks of Material Misstatement*.

13 *See id.* at .68.

improper revenue recognition as a fraud risk, the auditor should document the reasons supporting that conclusion.[14]

12. PCAOB standards further provide that when using information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to: (1) test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information; and (2) evaluate whether the information is sufficiently precise and detailed for purposes of the audit.[15]

13. As described below, Respondents failed to comply with these and other PCAOB rules and standards.

i. Respondents Failed to Obtain Sufficient Appropriate Audit Evidence in Testing Revenue and Inventory in the Free Flow Audits

14. Revenue and inventory both represented significant items on Free Flow's financial statements for the fiscal years audited. As of and for the years ended December 31, 2020, and December 31, 2021, Free Flow reported revenues of approximately $412,000 and $746,000, and inventory of approximately $1.8 million (49% of total assets) and $2.5 million (60% of total assets), respectively.

a. Revenue

15. Although Respondents identified a significant risk related to revenue for all relevant assertions in the 2020 Free Flow Audit and 2021 Free Flow Audit, they failed to perform any audit procedures to address the significant risk, other than tracing revenue balances to the general ledger and obtaining certain company-generated invoices.[16] Moreover, the audit documentation concerning the invoices obtained merely stated that the Respondents "Checked Invoices" without identifying any of the invoices obtained, how the invoices were selected, and what procedures were performed with respect to each invoice.

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[14] AS 2401.83, *Consideration of Fraud in a Financial Statement Audit*.

[15] *See* AS 1105.10.

[16] *See* AS 2301.08, .11 (auditor should perform audit procedures that address the assessed risks of material misstatement for each relevant assertion of each significant account and disclosures).

b. Inventory

16. Respondents failed to identify and assess the risk of material misstatement related to the relevant assertions of inventory in the Free Flow Audits.[17] In addition, in the 2020 Free Flow Audit, Respondents did not perform any procedures to test the existence of inventory. In the 2021 Free Flow Audit, Respondents engaged a contractor who performed a count of physical inventory with respect to a sample of inventory items on December 29 and 30, 2021. However, Respondents failed to sufficiently test the existence assertion because they did not establish a basis to support the number of items selected in the sample and did not test the completeness of the inventory report from which the sampled items were selected.[18]

17. Moreover, in both 2020 and 2021, other than preparing a lead schedule and tracing the total amount to the inventory balance in the financial statements, Respondents failed to perform any procedures to test the valuation of inventory.

18. As a result, Respondents failed to plan and perform audit procedures to obtain sufficient appropriate audit evidence in testing revenue and inventory in the Free Flow Audits, in violation of AS 1105, AS 2110, AS 2301, and AS 2315. Respondents also violated AS 1015 by failing to exercise due professional care, including professional skepticism.

ii. Respondents Failed to Obtain Sufficient Appropriate Audit Evidence in Testing Revenue, Convertible Notes Payable, and Advances in the PotNetwork Audits

19. Revenue, convertible notes payable, and advances all represented significant items on PotNetwork's financial statements for the fiscal years audited. As of and for the years ended December 31, 2019, and December, 31, 2020, PotNetwork reported total revenue of approximately $15.1 million and $9.7 million, convertible notes payable of approximately $4.2 million (71% of total liabilities) and $4.2 million (84% of total liabilities), and advances of approximately $5.1 million (84% of total assets) and $0, respectively.[19]

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[17] *See* AS 2110.59, *Identifying and Assessing Risks of Material Misstatement* (auditor should identify and assess the risks of material misstatement at the financial statement level and the assertion level).

[18] *See* AS 2315.23, .23A, *Audit Sampling* (setting forth the factors an auditor should take into account to determine the number of items to be selected in a sample for a particular substantive test of details); *see also* AS 1105.10.

[19] The issuer disclosed in its Forms 10-K that it fulfilled all customer orders under a drop shipment fulfillment model whereby a third-party supplier (or the drop shipper) ships the merchandise directly to

a. Revenue

20. In the 2019 PotNetwork Audit, Respondents failed to design and perform any audit procedures to address the assessed risk of material misstatement for each relevant assertion of revenue despite identifying the account as a significant risk.[20]

21. In the 2020 PotNetwork Audit, Respondents failed to identify and assess the risk of material misstatement at the financial statement level and assertion level for revenue.[21] Specifically, Respondents failed as part of the 2020 PotNetwork Audit to identify a fraud risk involving improper revenue recognition – even though PCAOB standards require the auditor to presume such a risk – or to document how Respondents overcame such presumptions.[22] Respondents also failed to design and perform sufficient procedures to test revenue, as they did not perform any procedures other than tracing revenue amounts to the general ledger and obtaining some company-generated invoices.[23] Moreover, the audit documentation concerning the invoices obtained merely stated that the Respondents "Checked Invoices" without identifying any of the invoices obtained, how the invoices were selected, and what procedures were performed with respect to each invoice.

b. Convertible Notes Payable

22. In the 2019 PotNetwork Audit, Respondents failed to design and perform any audit procedures to address the assessed risk of material misstatement for each relevant assertion of convertible notes payable despite identifying the account as a significant risk.

23. In the 2020 PotNetwork Audit, Respondents failed to identify and assess the risk of material misstatement at the financial statement level and assertion level for convertible notes payable. Respondents performed certain limited procedures: (1) prepared a lead schedule and agreed the total to the convertible notes payable amount per trial balance; (2) obtained copies of various convertible notes payable agreements and securities purchase

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each customer. As of December 31, 2019, the issuer reported advances paid to the drop shipper of $5.1 million. For the year-ended December 31, 2020, the issuer reported a write-off of advances paid to the drop shipper of approximately $3 million and an ending net balance for advances of $0 as of December 31, 2020.

20 *See* AS 2301.08, .11

21 *See* AS 2110.59.

22 *See* AS 2110.68; AS 2401.83.

23 *See* AS 2301.08, .11.

agreements; (3) obtained transaction logs recording accrued interest; and (4) recalculated interest accruals.

24. Other than performing those limited procedures, however, Respondents failed to perform any procedures in the 2020 PotNetwork Audit to test the valuation of the convertible notes payable and PotNetwork's reported loss of $695,000 from debt settlements by share issuances.[24]

c. Advances

25. In the 2019 PotNetwork Audit, Respondents failed to design and perform any audit procedures to address the assessed risk of material misstatement for each relevant assertion of advances paid to the drop shipper despite identifying the account as a significant risk.[25]

26. In the 2020 PotNetwork Audit, Respondents failed to identify and assess the risk of material misstatement at the financial statement level and assertion level for an impairment loss recorded for drop shipper advances. As of December 31, 2020, the gross balance of advances paid to the drop shipper was approximately $3 million. However, PotNetwork disclosed that for the year ended December 31, 2020, it wrote off, as a non-recurring impairment loss, the full amount of this asset held by the drop shipper due to a drop in sales in connection with the Covid-19 pandemic. Respondents failed to perform any procedures to evaluate the appropriateness of the impairment of the full amount of advances to the drop shipper, other than agreeing the total on a lead schedule to the trial balance and obtaining various transaction logs and journal entries showing transactions related to the drop shipper.[26]

27. As a result, in the PotNetwork Audits, Respondents failed to perform audit procedures to obtain sufficient appropriate audit evidence in testing revenue, convertible notes payable, and advances, in violation of AS 1105, AS 2110, AS 2301, and AS 2401. Respondents also violated AS 1015 by failing to exercise due professional care, including professional skepticism.

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24 *Id.*

25 *See supra* note 19 (describing drop shipment model).

26 *Id.*

iii. Respondents Failed to Perform Sufficient Procedures to Address Fraud Risks in Each of the Issuer Audits

28. PCAOB standards require the auditor to inquire of the audit committee, management, and others within the issuer about the risks of material misstatement, including fraud.[27] PCAOB standards also require the auditor to perform procedures to specifically address the risk of management override of controls, including obtaining an understanding of the entity's financial reporting process and the related controls over journal entries and other adjustments, and identifying and selecting journal entries and other adjustments for testing.[28]

29. In the Issuer Audits, Respondents failed to perform sufficient procedures to address the risk of management override of controls because they did not obtain an understanding of the issuers' financial reporting processes and the controls over journal entries and other adjustments, and did not identify and select journal entries and other adjustments for testing. Respondents also did not inquire of the issuers' audit committees or equivalents, and management, regarding the risks of material misstatement, including fraud.

30. Moreover, in the 2019 PotNetwork Audit, Respondents were aware that PotNetwork had purportedly paid approximately $3 million in marketing expenses to a marketing agency, but the issuer could not provide supporting documents for these marketing expenses. In the 2020 PotNetwork Audit, Respondents obtained American Express corporate credit card transaction logs indicating that PotNetwork intermingled personal expenses on the corporate card. Nevertheless, Respondents failed to identify fraud risks related to the potential misappropriation of assets and address that risk.

31. Therefore, Respondents violated AS 2110 and AS 2401, and violated AS 1015 by failing to exercise due professional care, including professional skepticism.

iv. Respondents Failed to Determine CAMs during the Free Flow Audits and 2020 PotNetwork Audit

32. AS 3101 "establishes requirements regarding the content of the auditor's written report when the auditor expresses an unqualified opinion on the financial statements."[29] Among other things, "[t]he auditor must determine whether there are any critical audit matters

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27 *See* AS 2110.54 -.58.

28 *See* AS 2401.58.

29 AS 3101.01.

in the audit of the current period's financial statements."[30] A CAM is "any matter arising from the audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved especially challenging, subjective, or complex auditor judgment."[31]

33. During the Free Flow Audits and the 2020 PotNetwork Audit, Respondents failed to determine whether there were CAMs in the audits. Specifically, Respondents failed to evaluate whether significant risks and other matters that were required to be communicated to the issuers' audit committees were CAMs, *i.e.*, whether the matters were material to the financial statements and involved especially challenging, subjective, or complex auditor judgment.[32]

34. As a result, Respondents violated AS 3101.

v. Respondents Failed to Make Required Audit Committee Communications

35. PCAOB standards require the auditor to communicate certain matters related to the conduct of an audit to the issuer's audit committee.[33] These matters include, among other things, the overall audit strategy; the significant risks identified during the auditor's risk assessment procedures; significant and critical accounting policies and practices; critical accounting estimates; and the results of the auditor's evaluation of the quality of the company's financial reporting.[34]

36. In connection with the Free Flow Audits and the 2019 PotNetwork Audit, Respondents failed to make required communications to the audit committees related to: (1) the significant risks identified during the engagement team's risk assessment procedures; (2) significant accounting policies and practices; (3) critical accounting policies and practices; (4) critical accounting estimates; and (5) the results of Respondents' evaluation of the quality of the issuers' financial reporting.

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30 *Id*. at .11.

31 *Id.*

32 *Id.*

33 AS 1301.01, *Communications with Audit Committees*.

34 *Id*. at .09, .12-.13.

37. PCAOB rules also require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[35] PCAOB rules require that a registered firm, at least annually for each audit client, describe in writing to the audit committee of an audit client relationships between the firm and the client that may reasonably be thought to bear on independence.[36]

38. With respect to the Free Flow Audits and the PotNetwork Audits, the Firm failed to make any communication in writing to the Free Flow or PotNetwork audit committees about all relationships between the Firm and the issuers that may reasonably be thought to bear on independence.

39. Accordingly, Respondents violated AS 1301 and the Firm violated PCAOB Rule 3526.

vi. Respondents Violated Audit Documentation Standards and Failed to Cooperate with the Board's Inspection

40. PCAOB Rule 4006 states, in part: "Every registered public accounting firm, and every associated person of a registered public accounting firm, shall cooperate with the Board in the performance of any Board inspection."[37] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information" to the Board's inspectors.[38]

41. PCAOB standards require that the auditor "prepare audit documentation in connection with each engagement conducted pursuant to the standards of the PCAOB."[39] PCAOB standards further provide that "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[40] In addition, although "[c]ircumstances may require

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35 *See* PCAOB Rule 3520, *Auditor Independence.*

36 PCAOB Rule 3526, *Communication with Audit Committees Concerning Independence.*

37 PCAOB Rule 4006, *Duty to Cooperate with Inspectors*.

38 *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), *petition for review denied*, *Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018); *see also* PCAOB Staff Audit Practice Alert No. 14, at *3 (Apr. 21, 2016) ("This duty to cooperate includes an obligation not to provide improperly altered documents or misleading information in connection with the Board's inspection processes." (citations omitted)).

39 AS 1215.04, *Audit Documentation*.

40 *Id*. at .15.

additions to audit documentation after the report release date[,]" any documentation added "must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[41]

42. In connection with each of the Issuer Audits, Respondents failed to assemble a complete and final set of audit documentation by the documentation completion dates.[42] Musaji maintained audit documentation for the Issuer Audits in various locations on an external hard drive, as well as in emails and other locations, rather than appropriately and timely assembling the documentation for retention.

43. In August 2022, the PCAOB's Division of Registration and Inspections performed an inspection of the Firm. In advance of the inspection, on July 8, 2022, the Board's inspectors informed Musaji that they would inspect the Firm's 2020 PotNetwork Audit and 2021 Free Flow Audit. The documentation completion date for the 2020 PotNetwork Audit was November 11, 2021, and the documentation completion date for the 2021 Free Flow Audit was June 23, 2022.

44. During the inspection, Musaji provided to the Board's inspectors dozens of work papers containing metadata showing that the documents were created or modified after the relevant documentation completion dates for both the inspected 2020 PotNetwork Audit and 2021 Free Flow Audit, as well as after the date that Musaji was informed of the audits selected for inspection. When the inspectors asked Musaji about the metadata during the inspection, he acknowledged changing the audit documentation after the documentation completion dates while assembling documentation for the inspection. On multiple occasions before this acknowledgement, Musaji failed to disclose to the Board's inspection staff the changes to audit documentation.

45. Moreover, the Firm's audit work papers for the 2020 PotNetwork Audit and 2021 Free Flow Audit failed to document the date of any additions to the audit documentation, the name of who prepared the additional documentation, and the reason for adding it to the work papers, in violation of PCAOB standards.[43]

46. Respondents' actions—providing improperly altered audit documentation to the Board's inspection staff without timely disclosing the alterations prior to being asked about

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41 *Id.* at .16.

42 *See id.* at .15.

43 *Id.* at .16.

them—violated PCAOB audit documentation standards and constituted a failure to cooperate with a PCAOB inspection as required by PCAOB Rule 4006.[44]

E. The Firm Violated PCAOB Standards Relating to Engagement Quality Reviews

47. PCAOB standards require that an engagement quality review be performed on all audits.[45] A firm may grant permission to a client to use the audit report only after an engagement quality reviewer provides concurring approval of issuance of the report.[46] An engagement quality reviewer from the firm that issues the engagement report must be a partner or another individual in an equivalent position.[47]

48. The Firm failed to obtain engagement quality reviews for any of the Issuer Audits, and improperly permitted FreeFlow and PotNetwork to use its audit reports for the Issuer Audits without having obtained concurring approval of issuance from an engagement quality reviewer.

49. As a result, the Firm violated AS 1220.

F. The Firm Violated PCAOB Rules by Failing to File Form APs

50. PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*, requires every registered public accounting firm to file a Form AP for each audit report it issues for an issuer, and to include the identity of the engagement partner and certain information about the issuer and other accounting firms that participated in the audit.

51. A Form AP must be filed by the 35th day after the date a firm's audit report is first included in a document filed with the Commission or, in the case of a registration statement under the Securities Act of 1933, by the tenth day after the date the audit report is first included in a document filed with the Commission.[48]

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44 *See id.*; PCAOB Rule 4006.

45 AS 1220.01, *Engagement Quality Review*.

46 *Id*. at .13.

47 *Id.* at .03.

48 PCAOB Rule 3211(b).

52. The Firm failed to file a Form AP in connection with each of the Issuer Audits. As a result, the Firm violated PCAOB Rule 3211.

G. The Firm Violated PCAOB Rules and Quality Control Standards

53. PCAOB rules require a registered public accounting firm and its associated persons to comply with PCAOB quality control standards.[49] These standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice.[50] "A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and procedures established to provide the firm with reasonable assurance of complying with professional standards."[51]

54. As described below, the Firm failed to establish policies and procedures sufficient to provide reasonable assurance that its personnel would (i) comply with applicable professional standards and regulatory requirements, and (ii) undertake only those engagements that it could reasonably expect to complete with professional competence.

i. The Firm's System of Quality Control Failed to Provide Reasonable Assurance That Audit Work Performed by Firm Personnel Met Professional Standards and Regulatory Requirements

55. A firm's system of quality control should include policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[52] To the extent appropriate and as required by applicable professional standards, these policies and procedures should cover, among other things, planning, performing, and documenting the results of each engagement, and should address engagement quality reviews.[53]

56. First, the Firm lacked sufficient policies and procedures to provide it with reasonable assurance that the Firm's audits would be planned and performed in accordance with PCAOB standards. Respondents' multiple audit violations in connection with the Issuer

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49 *See* PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

50 *See* QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

51 *Id.* at .04.

52 *Id.* at .17.

53 *Id.*

Audits demonstrate that the Firm's system of quality control did not provide reasonable assurance that the Firm's audits would be performed consistent with PCAOB standards.

57. Second, the Firm lacked sufficient policies and procedures to provide it with reasonable assurance that it would comply with AS 1215's requirements regarding the assembly and retention of audit documentation. The Firm had a policy requiring that audit documentation be assembled for retention not more than 60 days after the report release date, which was inconsistent with AS 1215's requirement that audit documentation be assembled for retention not more than 45 days after the report release date. In addition, as described above, the Firm failed to assemble for retention a complete and final set of audit documentation as of the documentation completion date for each of the Issuer Audits.

58. Third, the Firm lacked sufficient policies and procedures to provide it with reasonable assurance that engagement quality reviews would be performed on all audits in accordance with PCAOB standards.[54] Specifically, the Firm's policies and procedures failed to provide reasonable assurance that each issuer audit would be subject to an engagement quality review and that the Firm would obtain concurring approval from an engagement quality reviewer prior to issuing an audit report, as required by AS 1220.

59. Fourth, the Firm lacked sufficient policies and procedures to provide it with reasonable assurance that the Firm would timely comply with PCAOB reporting requirements for the filing of Form AP. As described above, the Firm repeatedly failed to file Form AP in connection with each of the Issuer Audits.

60. As a result, the Firm violated QC § 20.

ii. The Firm's System of Quality Control Failed to Provide Reasonable Assurance With Respect to Client Acceptance and Continuance

61. PCAOB quality control standards require that a firm establish policies and procedures "for deciding whether to accept or continue a client relationship and whether to perform a specific engagement for that client."[55] Those policies and procedures should also provide reasonable assurance that the firm "[u]ndertakes only those engagements that the firm can reasonably expect to be completed with professional competence."[56]

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54 *Id.*

55 *Id*. at .14.

56 *Id.* at .15.

62. At all relevant times, the Firm failed to maintain policies and procedures that provided reasonable assurance that it would only undertake engagements that it could complete with professional competence. This was evidenced by the Firm accepting issuer engagements despite lacking the necessary proficiency to perform the audits in compliance with PCAOB rules and standards.

63. As a result, the firm violated QC § 20.

H. Musaji Directly and Substantially Contributed to the Firm's Violations

64. PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, states that "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."

65. Musaji is, and at all relevant times was, the Firm's sole owner and partner and served as the engagement partner for each of the Issuer Audits. Accordingly, Musaji was responsible for ensuring that the Firm complied with PCAOB rules and standards. He was also responsible for developing and maintaining quality control policies and procedures applicable to the Firm's auditing practice. As evidenced by the numerous audit and quality control violations described above, Musaji repeatedly failed to carry out those responsibilities.

66. Musaji knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's violations of AS 1220, PCAOB Rules 3211 and 3526, and PCAOB quality control standards described above. As a result, Musaji violated PCAOB Rule 3502.

IV.

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

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

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

C. After three years from the date of this Order, the Firm may reapply for registration by filing an application for registration pursuant to PCAOB Rule 2101;

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Musaji is barred from being an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[57]

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

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed, jointly and severally, on the Firm and Musaji;

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondents shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the Firm and Musaji as respondents in these proceedings, sets forth the title and PCAOB release number of

[57] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Musaji. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondents shall pay pursuant to this Order, Respondents shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondents' payment of the civil money penalty pursuant to this Order, in any private action brought against either Respondent based on substantially the same facts as set out in the findings in this Order.

5. By consenting to this Order, the Firm acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any reapplication for registration pursuant to PCAOB Rule 2101.

6. By consenting to this Order, Musaji acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b).

G. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Before filing with the Board any future registration application, to establish, revise, or supplement, as necessary, policies and procedures to provide the Firm with reasonable assurance that: (a) Firm personnel will comply with PCAOB standards when conducting issuer audits; (b) Firm personnel will obtain, and adequately document, engagement quality reviews for all issuer audits in accordance with applicable

professional standards; (c) the Firm will properly assemble for retention complete and final sets of audit documentation in accordance with professional standards; and (d) the Firm will comply with PCAOB reporting requirements on a timely basis, including with respect to Form AP.

2. To provide with any future registration application a written certification, signed by the individual ultimately responsible for the Firm's system of quality control, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.G.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

H. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Musaji is required to complete, prior to filing any petition to terminate his bar and for Board consent to reassociate with a registered public accounting firm, 50 hours of continuing professional education and training relating to PCAOB auditing standards (such hours shall be in addition to, and shall not be counted in, the continuing professional education he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 22, 2024

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of JTC Fair Song CPA Firm,

Respondent.

PCAOB Release No. 105-2024-043

November 8, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring JTC Fair Song CPA Firm ("JTC Fair Song," "Firm," or "Respondent"); and

(2) revoking the registration of the Firm.[1]

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*; violated PCAOB Rule 2201, *Time for Filing of Annual Report*; and failed to cooperate with a PCAOB investigation under PCAOB Rule 5110, *Noncooperation with an Investigation*.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) and (3).

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[1] The Board determined to accept Respondent's offer of settlement, which does not require it to pay a civil money penalty, after considering the Firm's financial resources. Based on the Firm's conduct, the Board would have imposed a civil money penalty of $50,000 on the Firm in this settlement if it had not taken the Firm's financial resources into consideration.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **JTC Fair Song CPA Firm** is a public accounting firm located in Shenzhen, the People's Republic of China ("PRC"). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Issuer

2. **LNPR Group Inc.** ("LNPR Group") is a Colorado corporation. Its public filings disclose that LNPR Group is focused on developing AI-powered products concentrating on digital English learning. At all relevant times, LNPR Group was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

C. Summary

3. This matter involves JTC Fair Song's failure to timely file: (1) Form APs, in violation of PCAOB Rule 3211; and (2) its annual reports for 2021, 2022, and 2023, in violation of PCAOB Rule 2201.

4. Additionally, JTC Fair Song failed to cooperate with the Division of Enforcement and Investigations' (the "Division") formal investigation into the above violations by failing to respond to an Accounting Board Demand ("ABD") requiring the production of information. The Firm's failure to respond to the ABD occurred despite repeated communications from Division staff reminding the Firm of its obligation to cooperate with the investigation.

D. The Firm Failed to Timely File Form APs in Violation of PCAOB Rule 3211

5. PCAOB Rule 3211 provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission ("SEC" or "Commission"),[4] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[5]

6. The Firm audited the financial statements of LNPR Group as of and for the year ended December 31, 2022. The Firm issued an audit report dated May 18, 2022, which was included in LNPR Group's Form 10-12G/A filed with the SEC on May 18, 2022. The Firm also issued an audit report dated March 31, 2023, which was included in LNPR Group's Form 10-K filed with the SEC on March 31, 2023.

7. The Firm failed to file the required Form APs for the above filings by the 35th day after the date the audit reports were first included with the filings made with the SEC.

8. The Firm belatedly filed the aforementioned Form APs on June 25, 2024, after receiving notice of the deficiencies from the Division.

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[4] *See* PCAOB Rule 3211(b)(1).

[5] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* PCAOB Rule 3211(b)(2).

9. As a result of its failure to timely file the required Form APs, the Firm violated PCAOB Rule 3211.

E. The Firm Failed to Timely File Annual Reports in Violation of PCAOB Rule 2201

10. Section 102(d) of the Act states that "[e]ach registered public accounting firm shall submit an annual report to the Board." PCAOB Rule 2200, *Annual Report*, states that "[e]ach registered public accounting firm must file with the Board an annual report on Form 2." PCAOB Rule 2201 requires that the annual report be filed "no later than June 30 of each year."

11. The Firm failed to timely file the following annual reports: its annual report on Form 2 for reporting period 2021 by June 30, 2021, for reporting period 2022 by June 30, 2022, and for reporting period 2023 by June 30, 2023.

12. The Firm belatedly filed the aforementioned Form 2s on June 25, 2024, after receiving notice of the deficiencies from the Division.

13. As a result of its failure to timely file the required annual reports, the Firm violated PCAOB Rule 2201.

F. The Firm Failed to Cooperate with a Division Investigation

14. The Board may conduct investigations pursuant to Section 105(b) of the Act and PCAOB rules into acts or practices that may violate any provision of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.

15. The Act authorizes the Board to sanction a registered accounting firm or any associated person who "refuses to testify, produce documents, or otherwise cooperate with the Board in connection with an investigation."[6] PCAOB rules similarly authorize sanctions for a registered accounting firm or any associated person who "has failed to comply with an accounting board demand. . . or has otherwise failed to cooperate in an investigation."[7]

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[6] Section 105(b)(3)(A) of the Act, 15 U.S.C. § 7215(b)(3)(A).

[7] PCAOB Rule 5300(b), *Sanctions*; *see also* PCAOB Rule 5110(a)(1), (4), *Noncooperation with an Investigation*.

16. On July 30, 2021, during an informal inquiry the Division had opened concerning the Firm, Division staff emailed the Firm a letter informing it that the Division believed the Firm violated PCAOB Rule 3211 by failing to file a Form AP, and that the Firm should show good cause as to why the Division should not recommend that disciplinary action be taken against it for the failure.

17. On August 9, 2021, Division staff emailed the Firm and asked that the Firm confirm receipt of its prior email and letter. On August 16, 2021, the Firm replied that the email and letter had been received. On August 30, 2021, Division staff emailed the Firm and asked whether the Firm would be responding to the July 30, 2021 letter. On September 13, 2021, the Firm responded, "Due to the continuous adverse impact of the pandemic, we should be grateful if we could make a response by September 30, 2021." The Firm never emailed that response, despite follow-up emails from Division staff on September 30, 2021, and January 7, 2022.

18. On March 8, 2022, the Board issued an Order of Formal Investigation ("OFI") authorizing the Division to investigate, among other things, the Firm's possible violations of the Act, PCAOB rules, and PCAOB standards. On March 14, 2022, pursuant to the OFI, Division staff emailed an ABD to the Firm.[8] The staff's cover email explained that the ABD required the Firm to provide Division staff with certain information. It also noted that Division staff would consider "a failure to produce all responsive information by the due date or extended due date to be a failure to cooperate under Board Rule 5110," and that "the staff will take appropriate action under such circumstances."

19. On March 29, 2022, the Firm emailed Division staff a letter requesting an extension of time for the Firm to respond to the ABD, to April 15, 2022, stating that the Firm's operations had been "greatly interrupted" by "the recent lockdown of Shenzhen, China and the strict anti-epidemic measures imposed by the Government." The Division granted this request. On April 15, 2022, the Firm emailed Division staff requesting a second extension of time to April 25, 2022, noting that "the lockdown of [Shenzhen] is only partially released" and the Firm needed "a bit more time" to finalize its response. The Division granted this request but

[8] The ABD required the Firm to provide certain information to the Division by March 28, 2022, and included the following language: "FAILURE TO COMPLY WITH THIS DEMAND MAY SUBJECT YOU TO SANCTIONS UNDER SECTION 105(b)(3) OF THE SARBANES-OXLEY ACT OF 2002, AS AMENDED, (15 U.S.C. § 7215(b)(3)(A)) AND PCAOB RULE 5300(b)." The ABD also enclosed PCAOB Form ENF-1, which explains the consequences of failing to comply with an ABD or otherwise cooperate with an investigation.

informed the Firm that the Division would be unable to accommodate any further extension requests.

20. On May 3, 2022, after receiving no response from the Firm by the extended deadline, Division staff emailed a letter to the Firm stating that the Firm had failed to respond to the ABD and must produce the requested information "immediately." The May 3, 2022 letter reiterated the consequences of failing to comply with an ABD or otherwise cooperate with an investigation.[9] Division staff continued to reach out to the Firm to no avail.

21. To date, the Firm has not provided the information called for by the ABD, nor has it responded to the May 3, 2022 letter. Accordingly, the Firm has failed to cooperate with an investigation under PCAOB Rule 5110.

IV.

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

A. Pursuant to Section 105(b)(3)(A)(iii) and (c)(4)(E) of the Act and PCAOB Rules 5300(a)(5) and 5300(b)(1), JTC Fair Song is hereby censured.

B. Pursuant to Section 105(b)(3)(A)(ii) and (c)(4)(A) of the Act and PCAOB Rules 5300(a)(1) and 5300(b)(1), the registration of JTC Fair Song is hereby revoked.

C. JTC Fair Song acknowledges that the determination to accept its Offer, without imposing a civil money penalty, is contingent upon the accuracy and completeness of the financial information the Firm provided to the Division. JTC Fair Song also acknowledges that, if at any time following this settlement, the Division obtains information indicating that any financial information provided by the Firm—including, but not limited to, any information concerning assets, income, liabilities, or net worth—was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such information was

[9] The May 3, 2022 letter stated as follows: "Division staff hereby reminds the Firm of the importance of cooperation with a formal investigation, as required by PCAOB Rule 5110, *Noncooperation with an Investigation*. Conduct constituting noncooperation includes, among other things, failing to comply with an Accounting Board Demand. Under Section 105(b)(3) of the Sarbanes-Oxley Act of 2002, as amended, if a registered public accounting firm refuses to cooperate, the Board may suspend or revoke the registration of the firm or invoke such lesser sanctions as the Board considers appropriate. PCAOB Rules 5110 and 5300(b) implement this authority."

provided, then at any time following entry of this Order (1) the Board may institute a disciplinary proceeding for noncooperation with an investigation under PCAOB Rule 5110 and/or (2) the Division may petition the Board to (a) reopen this matter to consider whether JTC Fair Song provided accurate and complete financial information at the time such information was provided to the Division; and (b) seek an order directing payment of the maximum civil money penalty allowable under the law or any lesser amount determined to be appropriate. No other issue shall be considered in connection with this petition other than whether the financial information provided by the Firm was fraudulent, misleading, inaccurate, or incomplete in any material respect; and, if so, whether a civil money penalty should be ordered up to the maximum civil money penalty allowable under the law. JTC Fair Song may not, by way of defense to any such petition: (i) contest the findings in this Order; (ii) assert that payment of a civil money penalty should not be ordered; (iii) contend that the amount of the civil money penalty to be ordered should be less than $50,000, which is specified herein as the amount the penalty would have been, based on its conduct and without consideration of the Firm's financial resources; or (iv) put forward any other contention or assert any defense to liability or remedy, including, but not limited to, any defense based on statute of limitations or any other time-related defense, other than to contend (a) that it did not provide financial information that was fraudulent, misleading, inaccurate, or incomplete in any material respect, or (b) that a civil money penalty should not be ordered in an amount higher than $50,000. For any disciplinary proceeding for noncooperation with an investigation under PCAOB Rule 5110, JTC Fair Song consents for purposes of effectuating service to be served using the email account used by the Firm for communications with the Division during the investigation.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 8, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of RSM Brasil Auditores Independentes Sociedade Simples,

Respondent.

PCAOB Release No. 105-2024-045

November 19, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("PCAOB" or "Board") is:

(1) censuring RSM Brasil Auditores Independentes Sociedade Simples ("RSM Brazil," "Firm," or "Respondent");

(2) imposing a $25,000 civil money penalty on RSM Brazil; and

(3) requiring RSM Brazil to undertake certain remedial measures, including measures to establish policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that RSM Brazil failed to disclose certain reportable events to the PCAOB on Form 3, *Special Report*, on a timely basis.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has

determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **RSM Brazil** is a public accounting firm organized under the laws of Brazil and headquartered in São Paulo, Brazil. RSM Brazil is a member of the RSM International network and is licensed to practice public accounting by the São Paulo Regional Accounting Council (license no. CRC 2SP030002/O-7). RSM Brazil is, and at all relevant times was, registered with the PCAOB pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns RSM Brazil's failure to timely disclose to the PCAOB on Form 3 four reportable events concerning four disciplinary proceedings initiated against the Firm by the Securities and Exchange Commission of Brazil (the Comissão de Valores Mobiliários ("CVM")). PCAOB rules require registered firms, including RSM Brazil, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that RSM Brazil is required to report on Form 3 are the Firm becoming aware that it has become a respondent in certain disciplinary proceedings.

3. Between May 24, 2023 and August 30, 2023, the CVM notified RSM Brazil that it had initiated four separate disciplinary proceedings against the Firm. Each of those proceedings pertained to audit work conducted by RSM Brazil for real estate funds that were not issuers.[2] The initiation of each of the proceedings constituted a reportable event under Form 3.

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

[2] The term "issuer" means an issuer (as defined in Section 3 of the Securities Exchange Act of 1934 ("Exchange Act")), the securities of which are registered under Section 12 of the Exchange Act, or that is required to file reports under Section 15(d) of the Exchange Act, or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933, and that it has not withdrawn. *See* PCAOB Rule 1001(i)(iii).

However, RSM Brazil failed to report those events on Form 3 until after the applicable deadlines.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the PCAOB, in Violation of PCAOB Rules

4. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[3] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[4]

5. Between May 2023 and August 2023, RSM Brazil became aware that the CVM initiated multiple proceedings against the Firm concerning audits the Firm conducted for various real estate fund clients. Specifically:

- On May 24, 2023, the Firm became aware that the CVM initiated a proceeding concerning audits the Firm conducted of a real estate fund for the years ended June 30, 2019, June 30, 2020, and June 30, 2021;
- On June 8, 2023, the Firm became aware that the CVM initiated a proceeding concerning an audit the Firm conducted of a real estate fund for the year ended December 31, 2020;
- On August 28, 2023, the Firm became aware that the CVM initiated a proceeding concerning an audit the Firm conducted of a real estate fund for the year ended June 30, 2021; and
- On August 30, 2023, the Firm became aware that the CVM initiated a proceeding concerning an audit the Firm conducted of a real estate fund for the year ended December 31, 2020.

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[3] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." *Rules on Periodic Reporting by Registered Public Accounting Firms*, PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[4] PCAOB Form 3, at Item 2.7 (italics in the original removed).

6. The initiation of each of the CVM proceedings constituted a reportable event under Form 3. Accordingly, the Firm was required to report the initiation of those proceedings to the PCAOB on Form 3 within thirty days of the Firm learning of them.[5] However, RSM Brazil failed to report any of the proceedings prior to filing a Form 3 on June 27, 2024—well after the applicable reporting deadlines.[6]

7. RSM Brazil's internal compliance and reporting systems failed to identify the initiation of the CVM proceedings as being reportable to the PCAOB on Form 3 on a timely basis. As a result, RSM Brazil inappropriately failed to notify the PCAOB of reportable events concerning relevant disciplinary proceedings by the applicable deadline, in violation of PCAOB Rule 2203.

IV.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon RSM Brazil.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. RSM Brazil shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by PCAOB staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies RSM Brazil as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is

[5] *See* PCAOB Rule 2203(a).

[6] RSM Brazil filed a Form 3 on September 6, 2024 timely reporting the conclusion of the CVM proceeding that was initiated on May 24, 2023.

made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that RSM Brazil shall pay pursuant to this Order, RSM Brazil shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of RSM Brazil's payment of the civil money penalty pursuant to this Order, in any private action brought against RSM Brazil based on substantially the same facts as set out in the findings in this Order.

5. RSM Brazil understands that failure to pay the civil money penalty described above may result in summary suspension of RSM Brazil's registration, pursuant to PCAOB Rule 5304(a), following written notice to RSM Brazil at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), RSM Brazil is required:

1. within 90 days from the date of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, for the purpose of providing RSM Brazil with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by RSM Brazil personnel who participate in RSM Brazil's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. within 90 days from the date of this Order, to establish policies and procedures to ensure training concerning PCAOB reporting requirements, at least annually, of any RSM Brazil personnel who participate in RSM Brazil's PCAOB reporting process;

3. within 90 days from the date of this Order, to assign the role of compliance with PCAOB reporting matters to an individual within RSM Brazil who possesses adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within RSM Brazil to fulfill those requirements on behalf of RSM Brazil; and

4. within 120 days from the date of this Order, to have the individual referenced in paragraph C.3 above certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, RSM Brazil's compliance with paragraphs C.1 through C.3 above. The certification shall identify the actions taken to satisfy the conditions specified above, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. RSM Brazil shall also submit such additional evidence and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

5. RSM Brazil understands that the failure to satisfy any provision of Section IV.C may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 19, 2024

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of Crowe Hussain Chaudhury & Co,

Respondent.

PCAOB Release No. 105-2024-048

November 19, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring Crowe Hussain Chaudhury & Co, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $25,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Crowe Hussain Chaudhury & Co** is a public accounting firm located in Lahore, Pakistan (1865). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211 provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission ("SEC"),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm performed audits of the financial statements of GlobalTech Corp ("GLTK") for the year ended December 31, 2022. For GLTK's 2022 financial statements, the Firm issued five audit reports, which are described below:

i. an audit report dated March 30, 2023, which was included in GLTK's Form 10-K filed with the SEC on March 31, 2023;

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

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

ii. an audit report dated July 10, 2023, which was included in GLTK's Form 10-K/A filed with the SEC on July 14, 2023;

iii. an audit report dated August 15, 2023, which was included in GLTK's Form 10-K/A filed with the SEC on August 16, 2023;

iv. an audit report dated September 7, 2023, which was included in GLTK's Form 10-K/A filed with the SEC on September 11, 2023; and

v. an audit report dated September 20, 2023, which was included in GLTK's Form 10-K/A filed with the SEC on September 21, 2023.

4. The Firm failed to file five required Form APs for the above filings by the 35th day after the date the audit reports were first included with the filings made with the SEC, in violation of PCAOB Rule 3211(b)(1).

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W.

Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that the failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including that Form APs are filed in a timely and complete manner pursuant to PCAOB Rule 3211;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C.

20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request. The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

November 19, 2024

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of Bush & Associates CPA LLC,

Respondent.

PCAOB Release No. 105-2024-046

November 19, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring Bush & Associates CPA LLC, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $50,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial measures to establish policies and procedures directed toward ensuring future compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Bush & Associates CPA LLC** is a public accounting firm located in Henderson, Nevada (6797). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211 provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission ("SEC"),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm performed an audit of the financial statements of Medical Industries of the Americas ("MIA") for the year ended December 31, 2022. For MIA's 2022 financial statements, the Firm issued an audit report dated October 25, 2023, which was included in MIA's Form S-1/A filed with the SEC on October 27, 2023.

4. The Firm performed audits of the financial statements of Lucent, Inc. ("Lucent") for the years ended May 31, 2021, and May 31, 2022, which are described below:

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

[2] *See* Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* Rule 3211(b)(2).

i. for Lucent's 2021 financial statements, the Firm issued an audit report dated September 6, 2022, which was included in Lucent's Form 10-12G/A filed with the SEC on February 1, 2023; and

ii. for Lucent's 2022 financial statements, the Firm issued an audit report dated September 6, 2022, which was included in Lucent's Form 10-12G filed with the SEC on January 19, 2023.

5. The Firm performed audits of the financial statements of Medies Inc. ("Medies") for the year ended February 28, 2022. For Medies' 2022 financial statements, the Firm issued three audit reports, which are described below:

i. an audit report dated May 20, 2022, which was included in Medies' Form S-1/A filed with the SEC on June 21, 2022;

ii. an audit report dated July 8, 2022, which was included in Medies' Form S-1/A filed with the SEC on July 11, 2022; and

iii. an audit report dated July 18, 2022, which was included in Medies' Form S-1/A filed with the SEC on July 19, 2022. The Firm belatedly filed the Form AP for the Medies July 18, 2022, audit report on December 12, 2022, 136 days after it was due.

6. The Firm performed audits of the financial statements of Richtech Robotics Inc. ("Richtech") for the years ended September 30, 2022, and September 30, 2023, which are described below:

i. for Richtech's 2022 financial statements, the Firm issued an audit report dated June 13, 2023. Subsequently, the Firm issued a consent on September 1, 2023, to include the Firm's June 13, 2023, audit report in a Form S-1/A that Richtech filed with the SEC on September 1, 2023; and

ii. for Richtech's 2023 financial statements, the Firm issued an audit report dated January 4, 2023[4] [sic], which was included in Richtech's Form 10-K filed with the SEC on January 11, 2024. The Firm belatedly filed the Form AP for the Richtech January 4, 2024, audit report on April 29, 2024, 75 days after it was due.

7. The Firm performed an audit of the financial statements of Apex 11 Inc. ("Apex") for the year ended December 31, 2022. For Apex's 2022 financial statements, the Firm issued

[4] The January 4, 2023, Richtech audit report date appears to be a typographical error and the intended date was January 4, 2024.

an audit report dated March 27, 2023, which was included in Apex's Form 10-K filed with the SEC on April 17, 2023. The Firm belatedly filed the Form AP for the Apex March 27, 2023, audit report on August 19, 2023, 89 days after it was due.

8. The Firm failed to file the required Form APs by the applicable deadlines for the above-identified audits, in violation of PCAOB Rule 3211(b).

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or

accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that the failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. within ninety (90) days from the date of this Order, to establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB reporting requirements, including that Form APs are filed in a timely and complete manner pursuant to PCAOB Rule 3211;

2. within ninety (90) days from the date of this Order, to establish policies to ensure training concerning PCAOB reporting requirements, including PCAOB Rule 3211, at least annually, of any Firm personnel who participate in the Firm's PCAOB reporting process; and

3. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraphs C(1) and C(2) above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

4. The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

November 19, 2024

PCAOB
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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of Barton CPA PLLC,

Respondent.

PCAOB Release No. 105-2024-047

November 19, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring Barton CPA PLLC, a registered public accounting firm (the "Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $25,000 upon the Firm; and

(3) requiring the Firm to comply with its policies and procedures directed toward ensuring compliance with PCAOB requirements for reporting audit participants.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to timely file required Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*.

I.

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

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer that the Board has determined to accept. Solely for

purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Barton CPA PLLC** is a public accounting firm located in Cypress, Texas. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

2. PCAOB Rule 3211 provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission (SEC),[2] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[3]

3. The Firm performed an audit of the financial statements of Envirotech Vehicles, Inc. ("Envirotech") for the year ended December 31, 2022 (the "Envirotech Audit"). For Envirotech's 2022 financial statements, the Firm issued an audit report dated September 25, 2023, which was included in Envirotech's Form 10-K filed with the SEC on the same day. The Firm belatedly filed the Form AP for the Envirotech Audit, on February 5, 2024, 98 days after it was due.

4. The Firm performed an audit of the financial statements of Golden Sand Holdings Corp. ("GSHC") for the year ended December 31, 2022 (the "GSHC Audit"). For GSHC's 2022 financial statements, the Firm issued an audit report dated May 5, 2023, which was

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

[2] *See* PCAOB Rule 3211(b)(1).

[3] In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* PCAOB Rule 3211(b)(2).

included in GSHC's Form S-1/A filed with the SEC on May 12, 2023. The Firm belatedly filed the Form AP for the GSHC Audit, on February 5, 2024, 259 days after it was due.

5. The Firm performed an audit of the financial statements of Signing Day Sports, Inc. ("SDS") for the year ended December 31, 2022 (the "SDS Audit"). For SDS's 2022 financial statements, the Firm issued an audit report dated April 27, 2023. Subsequently, the Firm issued a consent on June 30, 2023, to include the Firm's April 27, 2023, audit report in a Form S-1/A that SDS filed with the SEC on June 30, 2023. The Firm belatedly filed the Form AP for the SDS Audit, on February 5, 2024, 210 days after it was due.

6. The Firm failed to file the required Form AP by the 35th day after the date its audit report was first included with the above-described filing Envirotech made with the SEC, in violation of PCAOB Rule 3211(b)(1). The Firm also failed to file required Form APs by the 10th day after the dates its audit reports were first included in the above-described registration statements GSHC and SDS filed with the SEC, in violation of PCAOB Rule 3211(b)(2).

IV.

The Firm has represented to the Board that, since the PCAOB identified the above violations, the Firm has established and implemented the following changes to its policies and procedures for the purpose of providing the Firm with reasonable assurance of compliance with PCAOB requirements for reporting audit participants.

A. The Firm has implemented updated guidance and policies directed toward ensuring compliance with PCAOB Rule 3211.

B. The Firm's updated guidance and policies include:

   i. designating a compliance officer who will maintain a compendium of audit engagements that details the audit engagements to which PCAOB Rule 3211 applies;

   ii. utilizing a conclusion checklist to document that engagement teams complete Form AP for the audit engagements to which PCAOB Rule 3211 applies;

   iii. utilizing a filing calendar to track filing deadlines to provide reasonable assurance of timely submissions; and

   iv. regularly auditing the compliance process to provide reasonable assurance of adherence to the Firm's policies.

C. The Firm has communicated this updated guidance and policies to relevant personnel and has provided relevant training to partners and staff. The Firm has also updated its policies to require annual trainings on compliance requirements and filing procedures. Further, the Firm will maintain a checklist documenting that partners and staff have performed the annual training on compliance requirements and filing procedures.

V.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not

limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that the failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required to comply with its policies and procedures, including those intended to provide reasonable assurance that PCAOB reporting requirements are complied with, including timely filing auditor reports of certain audit participants pursuant to PCAOB Rule 3211.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

November 19, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of B S R & Co. LLP,

Respondent.

PCAOB Release No. 105-2024-044

November 19, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring B S R & Co. LLP ("BSR," "Firm," or "Respondent");

(2) imposing a $25,000 civil money penalty on BSR; and

(3) requiring BSR to comply with its policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that BSR failed to disclose certain reportable events to the PCAOB on Form 3, *Special Report*, on a timely basis.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or

denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **B S R & Co. LLP** is a public accounting firm organized under the laws of India. BSR is headquartered in Mumbai and is licensed to practice public accounting by the Institute of Chartered Accountants of India (license no. 101248W/W-100022). BSR is a member firm of the KPMG International Limited network and is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns BSR's failure to timely disclose to the PCAOB on Form 3 three reportable events concerning three disciplinary proceedings brought against it and certain firm personnel by a local regulator (the "Regulator").[2] PCAOB rules require registered firms, including BSR, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that BSR is required to report on Form 3 are the Firm becoming aware that it or certain of its personnel have become respondents in certain disciplinary proceedings.

3. Between December 2020 and January 2024, the Regulator initiated three separate disciplinary proceedings against the Firm and/or Firm personnel pertaining to audit work they performed.

4. The initiation of each of these proceedings constituted a reportable event under Form 3, but BSR failed to report them on Form 3 until after the applicable deadlines.

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

[2] Pursuant to PCAOB Rule 2300(b)(1), a registered accounting firm "may request confidential treatment of information on" Form 3. BSR requested confidential treatment of certain information concerning the relevant proceedings initiated by the Regulator when belatedly filing a Form 3 to report those proceedings on June 26, 2024. Accordingly, the Board has anonymized the regulator and clients involved in the proceedings.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[3] One such specified event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[4]

6. Another reportable event occurs when a firm "has become aware that, in a matter arising out of his or her conduct in the course of providing professional services for a client, a partner, shareholder, principal, owner, member, or audit manager of the Firm who provided at least ten hours of audit services for any issuer, broker, or dealer during the Firm's current fiscal year or its most recently completed fiscal year has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in a administrative or disciplinary proceeding other than a Board disciplinary proceeding."[5]

7. In December 2020, the Regulator initiated a disciplinary proceeding against a member of the Firm pertaining to professional services performed in connection with an audit ("December 2020 Proceeding").

8. In September 2023, the Regulator initiated a disciplinary proceeding against the Firm and two of its members pertaining to professional services performed for a Firm client ("September 2023 Proceeding").

9. In January 2024, the Regulator initiated a disciplinary proceeding against a member of the Firm pertaining to professional services performed in connection with an audit ("January 2024 Proceeding").

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[3] *See* PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." *Rules on Periodic Reporting by Registered Public Accounting Firms*, PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[4] PCAOB Form 3, at Item 2.7 (italics in the original removed).

[5] PCAOB Form 3, at Item 2.9 (italics in the original removed).

10. The initiation of each of these proceedings constituted a reportable event under Form 3. Accordingly, the Firm was required to report those events to the PCAOB on Form 3 within thirty days of their occurrence.[6] However, despite learning of the initiation of each proceeding on or around the date it was initiated, the Firm failed to report each of these events until June 26, 2024. That filing came over 3 years after the initiation of the December 2020 Proceeding, 8 months after the initiation of the September 2023 Proceeding, and 4 months after the January 2024 Proceeding.

11. BSR's internal compliance and reporting systems failed to identify the initiation of the three proceedings as being reportable to the PCAOB on Form 3 on a timely basis. As a result, BSR inappropriately failed to notify the PCAOB of three reportable events concerning relevant disciplinary proceedings by the applicable deadline, in violation of PCAOB Rule 2203.

IV.

12. BSR has represented to the Board that, since the events described in this Order, it has established and implemented the following changes to its policies and procedures for the purpose of providing BSR with reasonable assurance of compliance with PCAOB reporting requirements:

a. BSR has supplemented its policies and procedures and initiated a process to further enhance its internal documentation and reference materials for the purpose of providing BSR with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by the personnel who participate in BSR's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. BSR has provided additional education on Form 3 reporting requirements to personnel who participate in BSR's PCAOB reporting process and will ensure training concerning PCAOB reporting requirements is provided, at least annually, to any personnel who participate in BSR's PCAOB reporting process; and

c. BSR has assigned the role of compliance with PCAOB reporting matters to a team of individuals that support BSR and who possess adequate knowledge and experience with PCAOB reporting requirements and sufficient authority to fulfill those requirements on behalf of BSR.

[6] *See* PCAOB Rule 2203(a).

V.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon BSR.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. BSR shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by PCAOB staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies BSR as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that BSR shall pay pursuant to this Order, BSR shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of

compensatory damages, by the amount of any part of BSR's payment of the civil money penalty pursuant to this Order, in any private action brought against BSR based on substantially the same facts as set out in the findings in this Order.

5. BSR understands that failure to pay the civil money penalty described above may result in summary suspension of BSR's registration, pursuant to PCAOB Rule 5304(a), following written notice to BSR at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), BSR is required to comply with its PCAOB reporting policies and procedures, including:

1. those intended to provide reasonable assurance that reportable events are identified by the personnel who participate in BSR's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. those ensuring training concerning PCAOB reporting requirements, at least annually, of any personnel who participate in BSR's PCAOB reporting process; and

3. those assigning the role of compliance with PCAOB reporting matters to a team of individuals that support BSR and possess adequate knowledge and experience with PCAOB reporting requirements and sufficient authority to fulfill those requirements on behalf of BSR.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

November 19, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of William Fischer, CPA,

Respondent.

PCAOB Release No. 105-2024-052

December 3, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring William Fischer, CPA ("Fischer" or "Respondent");

(2) barring Fischer from being associated with a registered public accounting firm;[1] and

(3) imposing a $75,000 civil money penalty on Fischer.

The Board is imposing these sanctions on the basis of its findings that Fischer: (a) violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, by directly and substantially contributing to violations by Raines & Fischer LLP ("Raines & Fischer" or the "Firm") of PCAOB rules and standards in connection with two inspections; (b) violated PCAOB Rule 3502 by directly and substantially contributing to the Firm's violations of quality control standards; and (c) violated PCAOB rules and standards in connection with seven broker-dealer engagements.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c)

[1] Fischer may file a petition for Board consent to associate with a registered public accounting firm after three years from the date of this Order.

of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **William Fischer** is, and at all relevant times was, a partner at Raines & Fischer and a certified public accountant licensed by the state of New York (license no. 038129). During the relevant period, Fischer was the Firm's Managing Partner, Partner in Charge of the Audit Department, and Quality Control Partner. At all relevant times, Fischer was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Fischer served as the engagement quality review ("EQR") partner for the following engagements:

- Raines & Fischer's audits of the financial statements and accompanying supplemental information, and reviews of the exemption reports, for Drexel Hamilton, LLC ("Drexel") for the fiscal years ended December 31, 2020 ("2020 Drexel Engagement"), December 31, 2021 ("2021 Drexel Engagement"), and

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

[3] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of "intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard."

December 31, 2022 ("2022 Drexel Engagement") (collectively, the "Drexel Engagements");

- Raines & Fischer's audits of the financial statements and accompanying supplemental information, and examinations of the compliance reports, for Hold Brothers Capital, LLC ("Hold Brothers") for the fiscal years ended December 31, 2020 ("2020 Hold Brothers Engagement"), December 31, 2021 ("2021 Hold Brothers Engagement"), and December 31, 2022 ("2022 Hold Brothers Engagement") (collectively, the "Hold Brothers Engagements"); and

- Raines & Fischer's audit of the financial statements and accompanying supplemental information, and review of the exemption report, for Third Seven Capital, LLC ("Third Seven") for the fiscal year ended December 31, 2019 ("2019 Third Seven Engagement").

B. Relevant Entities and Individuals

2. **Raines & Fischer LLP** is a public accounting firm located in New York, New York, and licensed to practice public accounting under the laws of New York (license no. 024631). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.[4]

3. **Drexel Hamilton, LLC** is a Pennsylvania limited liability company headquartered in New York, New York, and registered with the U.S. Securities and Exchange Commission ("Commission") as a broker-dealer in securities. At all relevant times, Drexel was a "broker" and "dealer," as those terms are defined in Sections 110(3) and (4) of the Act and PCAOB Rules 1001(b)(iii) and (d)(iii).

4. **Hold Brothers Capital, LLC** is a New Jersey limited liability company headquartered in New York, New York, and registered with the Commission as a broker-dealer in securities. At all relevant times, Hold Brothers was a "broker" and "dealer," as those terms are defined in Sections 110(3) and (4) of the Act and PCAOB Rules 1001(b)(iii) and (d)(iii). At all relevant times, Hold Brothers was a "carrying" broker-dealer (i.e., a broker-dealer that maintains custody of customer funds or securities) and therefore had to file a compliance report attesting that it satisfied certain requirements under the Commission's "financial

[4] *See Raines & Fischer LLP*, PCAOB Rel. No. 105-2024-049 (Dec. 3, 2024).

responsibility rules" including requirements concerning net capital and the protection of customer assets.[5]

5. **Third Seven Capital, LLC** is a Delaware limited liability company headquartered in New York, New York, and registered with the Commission as a broker-dealer in securities. At all relevant times, Third Seven was a "broker" and "dealer," as those terms are defined in Sections 110(3) and (4) of the Act and PCAOB Rules 1001(b)(iii) and (d)(iii).

6. **Brian Uhlman** ("Uhlman") is, and at all relevant times was, a partner at Raines & Fischer and a certified public accountant licensed by the state of New York (license no. 080064). Uhlman served as the engagement partner for the Drexel Engagements and Hold Brothers Engagements.[6]

7. **Steven Sarrel** ("Sarrel") is, and at all relevant times was, a partner at Raines & Fischer and a certified public accountant licensed by the state of New York (license no. 110521). Sarrel served as the engagement partner for the 2019 Third Seven Engagement.[7]

C. Summary

8. This matter concerns Fischer's direct and substantial contribution to the Firm's: (a) violation of audit documentation standards and failure to cooperate with two PCAOB inspections; and (b) violation of PCAOB quality control standards. This matter also concerns Fischer's failure to comply with PCAOB rules and standards in connection with seven broker-dealer engagements for which he served as the EQR partner.[8]

9. Specifically, Fischer was aware that Firm personnel improperly created and modified work papers for the 2019 Third Seven Engagement after the applicable documentation completion date,[9] and in advance of a 2020 inspection of the Firm by the

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[5] *See, e.g.*, Commission Rules 15c3-1, 17 C.F.R. § 240.15c3-1, 15c3-3, 17 C.F.R. § 240.15c3-3, and 17a-5(d) and 17a-13, 17 C.F.R. §§ 240.17a-5(d) and 240.17a-13, under the Securities Exchange Act of 1934 ("Exchange Act").

[6] *See Brian Uhlman, CPA*, PCAOB Rel. No. 105-2024-050 (Dec. 3, 2024).

[7] *See Steven Sarrel, CPA*, PCAOB Rel. No. 105-2024-051 (Dec. 3, 2024).

[8] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the conduct discussed herein.

[9] *See* AS 1215.15, *Audit Documentation* (defining "documentation completion date" as a date not more than 45 days after an auditor releases an audit report).

PCAOB's Division of Registration and Inspections ("DRI"). Fischer was also aware that Firm personnel improperly created and modified work papers for the 2021 Drexel Engagement and the 2021 Hold Brothers Engagement after the applicable documentation completion dates, and in advance of a 2022 inspection by DRI. Despite his position as the Firm's Managing Partner, Partner in Charge of the Audit Department, and Quality Control Partner, Fischer took no action when he learned of the improper work paper alterations in advance of either inspection.

10. During the relevant period, multiple areas of the Firm's quality control policies and procedures were deficient, including with respect to integrity, audit documentation, EQRs, monitoring, assignment of personnel, and PCAOB reporting requirements. As Raines & Fischer's partner in charge of quality control, Fischer directly and substantially contributed to the Firm's failure to maintain an adequate quality control system with respect to its audit practice.

11. Fisher served as the EQR partner on the 2019 Third Seven Engagement and each of the Drexel Engagements and Hold Brothers Engagements. Fischer failed to perform adequate EQRs in accordance with AS 1220, *Engagement Quality Review*, in connection with those seven broker-dealer engagements.

12. Accordingly, and as described below, Fischer violated PCAOB Rule 3502 and AS 1220.

D. Fischer Contributed to Raines & Fischer's Violations of PCAOB Rules and Standards

13. PCAOB rules require that a person associated with a registered public accounting firm shall not take or omit to take an action "knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[10]

i. Firm Audit Documentation Violations and Failure to Cooperate with the 2020 and 2022 PCAOB Inspections

14. The PCAOB's audit documentation standard states, in part: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Audit documentation

[10] PCAOB Rule 3502.

must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[11]

15. PCAOB standards require that audit documentation "contain sufficient information to enable an experienced auditor, having no previous connection with the engagement," to understand, among other things, the timing of the procedures performed, evidence obtained, and conclusions reached, and to determine not just who performed and reviewed the work but also "the date such work was completed" and "the date of such review."[12] PCAOB standards also require the auditor to identify all significant findings or issues in an engagement completion document.[13]

16. PCAOB Rule 4006 requires registered public accounting firms and their associated persons to "cooperate with the Board in the performance of any Board inspection."[14] Implicit in that cooperation obligation is a requirement not to provide misleading documents or information in connection with, or otherwise to interfere with, the Board's inspection processes.[15]

17. On August 10, 2020, DRI informed Raines & Fischer that the 2019 Third Seven Engagement had been selected for review during DRI's impending inspection, for which fieldwork was expected to start on October 26, 2020. After learning that DRI would be reviewing the 2019 Third Seven Engagement, and after the documentation completion date, Sarrel, the engagement partner for the 2019 Third Seven Engagement, and other Firm personnel improperly created or modified multiple work papers for that engagement and

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[11] AS 1215.15-.16.

[12] *Id.* at .06.

[13] *Id.* at .13.

[14] PCAOB Rule 4006, *Duty to Cooperate With Inspectors*.

[15] *See, e.g., Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018) (sustaining Board finding that respondents failed to cooperate with an inspection where improper work paper alterations "interfered with the PCAOB's ability to fulfill its regulatory function of ensuring that auditors comply with their professional responsibilities"); *Hay & Watson*, PCAOB Rel. No. 105-2022-017, at 5 (Sept. 13, 2022) (PCAOB Rule 4006 "includes an obligation not to provide misleading documents or information in connection with, or otherwise to interfere with, the Board's inspection processes"); *Dale Arnold Hotz, CPA*, PCAOB Rel. No. 105-2012-008, at 4 (Nov. 13, 2012) (same).

added the newly created and modified work papers to the audit file. They also backdated signoffs and applied other individuals' signoffs, both within certain work papers themselves as well as in the signoff fields in the Firm's audit documentation software, to make it appear that the work papers had been prepared and reviewed at the time of the 2019 Third Seven Engagement.

18. Notwithstanding the numerous modifications to the work papers after the documentation completion date for the 2019 Third Seven Engagement, the Firm failed to properly document who added the information to the work papers, as well as when and why the information was added.

19. Ultimately, Firm personnel created or modified approximately 40 work papers after the documentation completion date that were included in the set of work papers for the 2019 Third Seven Engagement that the Firm provided to DRI, along with a work paper index printed from the Firm's audit software that contained backdated signoffs.

20. Similar conduct occurred prior to fieldwork for DRI's 2022 inspection of Raines & Fischer. On September 13, 2022, DRI informed the Firm that the 2021 Drexel Engagement and the 2021 Hold Brothers Engagement had been selected for review, for which fieldwork was expected to start on November 14, 2022.

21. Uhlman, the engagement partner for both engagements, and those working at his direction, improperly created or modified over 100 total work papers for the two engagements and added the newly created or modified work papers to the corresponding audit file after the documentation completion dates. When doing so, they backdated signoffs and applied other individuals' signoffs, both within certain work papers themselves as well as in the signoff fields in the Firm's audit documentation software, to make it appear that the work papers had been prepared and reviewed at the time of each engagement.

22. Notwithstanding those modifications to the work papers after the applicable documentation completion dates, the Firm failed to properly document who added the information to the work papers, as well as when and why the information was added.

23. The newly created and modified workpapers were included in the sets of work papers for the 2021 Drexel Engagement and 2021 Hold Brothers Engagement that the Firm provided to DRI, along with a work paper index printed from the Firm's audit software for each engagement that contained backdated signoffs.

24. During the relevant period, Fischer was the Firm's Managing Partner, Partner in Charge of the Audit Department, and the Quality Control Partner. At the time of DRI's 2020 and

2022 inspections, Fischer was aware that work papers had been improperly created or modified after the documentation completion dates and in advance of both inspections and then provided to the DRI inspectors. Fischer, however, took no action in response to the improper alterations and, in particular, failed to prevent the improperly altered documentation from being provided to PCAOB inspectors.

25. Accordingly, Fischer violated PCAOB Rule 3502 by knowingly or recklessly, and directly and substantially, contributing to the Firm's violations of AS 1215 and PCAOB Rule 4006 in connection with the 2020 and 2022 inspections.

ii. Quality Control Violations

26. PCAOB rules require that a registered firm comply with PCAOB quality control standards, which mandate that a firm "shall have a system of quality control for its accounting and auditing practice" and describe "elements of quality control and other matters essential to the effective design, implementation, and maintenance of the system."[16] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[17]

27. PCAOB quality control standards require that a registered public accounting firm establish quality control policies and procedures for deciding whether to accept or continue a client relationship and whether to perform a specific engagement for that client.[18] Such policies and procedures should provide reasonable assurance that the firm undertakes only those engagements that the firm can reasonably expect to be completed with professional competence, and appropriately considers the risks associated with providing professional services in the particular circumstances.[19] In addition, policies and procedures should be established to provide the firm with reasonable assurance that work is assigned to personnel having the degree of proficiency required under the circumstances.[20]

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[16] PCAOB Rule 3400T; QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[17] QC § 20.17.

[18] *Id.* at .14.

[19] *Id.* at .15.

[20] *Id.* at .13; QC § 40.02, *The Personnel Management Element of a Firm's System of Quality Control–Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

28. In addition, as part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[21]

29. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[22] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[23] Monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[24]

30. Raines & Fischer's quality control policies and procedures were not suitably designed or effectively applied to provide reasonable assurance that Firm personnel would comply with applicable standards concerning the timely assembly of a complete and final set of audit documentation by the applicable documentation completion date. Raines & Fischer failed to timely assemble complete and final sets of audit documentation by the applicable documentation completion dates for the 2019 Third Seven Engagement, as well as each of the Drexel Engagements and Hold Brothers Engagements. For the 2020 Drexel Engagement, the 2022 Drexel Engagement, the 2020 Hold Brothers Engagement, and the 2022 Hold Brothers Engagement, the assembled work paper files lack signoffs on certain work papers indicating who prepared and reviewed the documentation, and when they did so.[25] In addition, the engagement teams failed to include multiple work papers in the audit files necessary to evidence the Firm's compliance with auditing and attestation standards, including work papers concerning the Firm's planning of the engagements, risk assessment procedures, and engagement completion.[26]

31. The Firm also lacked sufficient policies and procedures to provide reasonable assurance that personnel would perform all professional responsibilities with integrity and specifically that they would refrain from improperly altering audit documentation and providing the improperly altered documentation to PCAOB inspectors. As described above, Firm

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21 QC § 20.09.

22 *Id.* at .08.

23 *Id*.; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

24 *See* QC § 20.20(d); QC § 30.02(d).

25 *See* AS 1215.06.

26 *See* AS 2101.10, *Audit Planning*; AS 1215.13.

personnel repeatedly created and modified work papers after the documentation completion date and in advance of PCAOB inspections and provided those improperly altered documents to PCAOB inspectors.

32. Raines & Fischer's quality control policies and procedures with respect to EQRs were also deficient and failed to provide reasonable assurance that Firm personnel would conduct EQRs in compliance with PCAOB standards. Specifically, as detailed below, those policies and procedures failed to provide reasonable assurance that adequate EQRs were performed for the 2019 Third Seven Engagement and each of the Drexel Engagements and Hold Brothers Engagements.

33. Raines & Fischer also lacked policies and procedures to provide reasonable assurance that it would only accept those engagements that it could reasonably expect to complete with professional competence or to provide reasonable assurance that Firm personnel in charge of engagements possessed the requisite competencies. Hold Brothers was the Firm's only carrying broker-dealer client. While Uhlman and Fischer, the engagement partner and EQR partner for the Hold Brothers Engagements, had prior experience auditing non-carrying broker-dealers, neither had prior experience auditing carrying broker-dealers or sufficient training to enable them to complete such an engagement in compliance with relevant standards. As a result, during the 2021 Hold Brothers Engagement, the engagement team failed to sufficiently plan and perform the Firm's examination to obtain sufficient appropriate evidence about assertions made by Hold Brothers in its compliance report.[27]

34. In addition, Raines & Fischer lacked policies and procedures to obtain reasonable assurance of compliance with reporting requirements. Specifically, Raines & Fischer filed its annual reports with the PCAOB on Form 2 for each year from 2020 through 2023 after the applicable deadlines.[28]

35. Moreover, Raines & Fischer lacked policies and procedures for monitoring its quality control system and its compliance with PCAOB rules and standards, including audit documentation standards and PCAOB reporting requirements. The Firm's monitoring policies

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[27] *See* Attestation Standard No. 1, *Examination Engagements Regarding Compliance Reports of Brokers and Dealers.*

[28] PCAOB Rule 2200, *Annual Report*, requires that registered public accounting firms file annual reports with the Board on Form 2. PCAOB Rule 2201, *Time for Filing of Annual Report*, provides that "[e]ach registered public accounting firm must file the annual report on Form 2 no later than June 30 of each year."

and procedures did not provide the Firm with reasonable assurance that Firm personnel performed all professional responsibilities with integrity.

36. As the Firm's Quality Control Partner, Fischer was responsible for the Firm's system of quality control. Notwithstanding his responsibilities, Fischer knowingly or recklessly failed to take steps to adequately address the substantial deficiencies in the Firm's quality control system described above.

37. Accordingly, Fischer violated PCAOB Rule 3502 by knowingly or recklessly, and directly and substantially, contributing to the Firm's violations of PCAOB quality control standards.

E. Fischer Failed to Perform Adequate Engagement Quality Reviews for Seven Broker-Dealer Engagements

38. PCAOB rules require that, in connection with the preparation or issuance of an audit report, registered public accounting firms and their associated persons comply with the PCAOB's auditing and related professional practice standards.[29]

39. PCAOB standards require that an EQR be performed on all audits, and certain attestation engagements, including examinations of a broker-dealer's compliance report and reviews of a broker-dealer's exemption report, that are conducted pursuant to PCAOB standards.[30] In an audit, the EQR should, among other things: (a) evaluate the significant judgments that relate to engagement planning; (b) evaluate the engagement team's assessment of, and audit responses to, significant risks; (c) review the engagement completion document; and (d) review the financial statements.[31]

40. Documentation of an EQR should be included in the engagement documentation, and should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the EQR partner.[32]

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[29] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*; PCAOB Rule 3300T, *Interim Attestation Standards*.

[30] AS 1220.01.

[31] *Id.* at .10; *see also* AS 1215.13.

[32] AS 1220.19-.20.

41. None of the work papers for the 2019 Third Seven Engagement, the Drexel Engagements, or the Hold Brothers Engagements reflect signoffs by Fischer, the EQR partner for each of the engagements, with the exception of certain work papers that were improperly prepared and backdated in advance of the 2020 and 2022 PCAOB inspections. Thus, the work papers for those engagements lack sufficient information to enable an experienced auditor, having no previous connection with the engagements, to understand what, if any, procedures were performed by the EQR partner, the documentation reviewed by the EQR partner, and the date the EQR partner provided concurring approval of issuance.[33]

42. Moreover, among the work papers for the 2019 Third Seven Engagement, 2021 Drexel Engagement, and 2021 Hold Brothers Engagement that were created after the applicable documentation completion dates and in advance of the 2020 and 2022 PCAOB inspections were those relating to planning, risk assessment, and engagement completion. Fischer, therefore, could not have reviewed that documentation at the time of the relevant engagements to evaluate the engagement team's judgments about materiality, or its assessment of and audit response to significant risks, and whether the documentation supported the engagement team's related conclusions. Nor could Fischer have reviewed the engagement completion document. Accordingly, Fischer failed to complete steps that are required of an EQR partner under PCAOB standards.[34]

43. Additionally, in connection with the 2021 Hold Brothers Engagement, Fischer failed to identify that the Possession or Control Schedule ("Schedule") included as supplemental information accompanying Hold Brothers' financial statements was not in compliance with Rule 17a-5(d)(2)(ii) of the Exchange Act.[35] Specifically, the Schedule omitted the market valuation and the number of items of customers' fully paid and excess margin securities not in Hold Brothers' possession or control as of the report date, but for which the required action was not taken by Hold Brothers within specified time frames.[36] The Schedule also omitted the market valuation and number of items of customers' fully paid and excess margin securities for which instructions to reduce possession or control had not been issued as of the report date.[37]

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[33] *Id.*

[34] *See id.* at .09-.11, .18A.

[35] *See* AS 1220.10(f).; *see also* AS 2701, *Auditing Supplemental Information Accompanying Audited Financial Statements*.

[36] *See* Commission Rule 17a-5(d)(2)(ii), 17 C.F.R. §§ 240.17a-5(d)(2)(ii); *see also* Commission Form X-17A-5.

[37] *See id.*

44. Accordingly, Fischer violated AS 1220 in connection with the 2019 Third Seven Engagement, the Drexel Engagements, and the Hold Brothers Engagements.

IV.

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

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), William Fischer is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[38]

C. Pursuant to PCAOB Rule 5302(b), Fischer may file a petition for Board consent to associate with a registered public accounting firm after the expiration of three years from the date of this Order.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $75,000 is imposed upon William Fischer.

    1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

    2. Respondent shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff, or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance,

[38] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act, 15 U.S.C. § 7215(c)(7)(B), will apply with respect to Fischer. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies William Fischer as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

5. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 3, 2024

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Weinstein International CPA and Idan Weinstein,

Respondents.

PCAOB Release No. 105-2024-053

December 3, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Weinstein International CPA (the "Firm"), a registered public accounting firm, and Idan Weinstein ("Weinstein" and, together with the Firm, "Respondents");

(2) revoking the Firm's registration;[1]

(3) requiring the Firm to undertake certain remedial measures prior to submitting any future registration application; and

(4) barring Weinstein from being an associated person of a registered public accounting firm.[2]

The Board is imposing these sanctions on the basis that (1) Respondents violated PCAOB rules and standards in connection with the audits of three issuers; (2) the Firm violated PCAOB rules and quality control standards, and (3) Weinstein directly and substantially contributed to the Firm's quality control violations.[3]

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[1] The Firm may reapply for registration after three years from the date of this Order.

[2] Weinstein may file a petition for Board consent to associate with a registered public accounting firm after three years from the date of this Order.

[3] The Board determined to accept Respondents' offers of settlement, which do not require them to pay a civil money penalty, after considering their financial resources. Based on Respondents' conduct,

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (together, the "Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents each consent to the entry of this Order as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds that:[5]

A. Respondents

1. **Weinstein International CPA** is a public accounting firm organized under the laws of Israel and headquartered in Tel Aviv, Israel. The Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules since September 23, 2019.

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the Board would have imposed a civil money penalty of $75,000 on them, jointly and severally, in this settlement, if it had not taken their financial resources into consideration.

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

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

2. **Idan Weinstein** was, at all relevant times, the owner of Weinstein International and an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuers

3. **OBITX, Inc. (n/k/a Everything Blockchain, Inc.)**[6] ("OBITX"), was, at all relevant times, a Delaware corporation headquartered in Fleming Island, Florida. According to its public filings, OBITX was engaged in digital cryptocurrency and blockchain development and consulting during the time period relevant to this Order. At all relevant times, OBITX was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. **BOTS, Inc.** ("BOTS") was, at all relevant times, a Puerto Rico corporation headquartered in San Juan, Puerto Rico. According to its public filings, BOTS was a seller of electronic cigarettes, vaporizers, and cannabis accessories during the time period relevant to this Order. At all relevant times, BOTS was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. **Global Warming Solutions, Inc.** ("GWSO") was, at all relevant times, an Oklahoma corporation headquartered in Temecula, California. According to its public filings, GWSO was engaged in the development of technologies to mitigate global warming and in the retail sale of CBD products during the time period relevant to this Order. At all relevant times, GWSO was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

6. This matter concerns Respondents' violations of PCAOB rules and standards in connection with three issuer audits.

7. During the audit of OBITX's financial statements for the fiscal year ended January 31, 2021, Respondents failed to exercise due professional care, including professional skepticism, and failed to perform an appropriate evaluation of, and to obtain sufficient appropriate audit evidence with respect to, OBITX's related party transactions.

8. During the audit of BOTS's financial statements for the fiscal year ended April 30, 2020, Respondents failed to exercise due professional care, including professional skepticism,

[6] The company changed its name from OBITX, Inc. to Everything Blockchain, Inc. effective May 23, 2021.

and failed to obtain sufficient appropriate audit evidence with respect to the existence and valuation of a material intangible asset.

9. During the audit of GWSO's financial statements for the fiscal year ended December 31, 2020, Respondents failed to exercise due professional care, including professional skepticism, and failed to obtain sufficient appropriate audit evidence with respect to the existence and valuation of intangible assets and rights to cash.

10. This matter also concerns the Firm's violations of PCAOB quality control standards. Specifically, the Firm failed to design, implement, and monitor adequate policies and procedures to provide reasonable assurance that Firm personnel would comply with applicable professional standards and would receive appropriate technical training. As the Firm's owner, Weinstein directly and substantially contributed to the Firm's quality control violations.

D. Respondents Violated PCAOB Rules and Standards

11. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[7]

12. PCAOB standards require the auditor to "plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion."[8] "The auditor should design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure."[9] "The auditor should perform substantive procedures for each relevant assertion of each significant account and disclosure."[10]

13. PCAOB standards further provide that "[d]ue professional care is to be exercised in the planning and performance of the audit and the preparation of the report. . . . Due professional care requires the auditor to exercise *professional skepticism*."[11]

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[7] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the relevant conduct.

[8] AS 1105.04, *Audit Evidence*.

[9] AS 2301.08, *The Auditor's Responses to the Risks of Material Misstatement*.

[10] *Id.* at .36.

[11] AS 1015.01, .07, *Due Professional Care in the Performance of Work*.

i. Respondents Failed to Appropriately Evaluate Multiple Related Party Transactions During the OBITX Audit

14. On May 13, 2021, the Firm issued an audit report on OBITX's financial statements for the fiscal year ended January 31, 2021. OBITX included the Firm's audit report in a Form 10-K that it filed with the U.S. Securities and Exchange Commission ("Commission") on May 17, 2021.

15. Weinstein served as engagement partner for the fiscal year 2021 OBITX audit. Weinstein and the Firm failed in several respects to perform adequate audit procedures over related party transactions.

16. AS 2410 requires the auditor to evaluate "whether the company has properly identified its related parties and relationships and transactions with related parties" and requires the auditor to perform procedures "to test the accuracy and completeness of the related parties and relationships and transactions with related parties identified by the company, taking into account the information gathered during the audit."[12] Further, "[t]he auditor must evaluate whether related party transactions have been properly accounted for and disclosed in the financial statements."[13]

17. "The auditor should perform procedures to obtain an understanding of the company's relationships and transactions with its related parties," which "includes obtaining an understanding of the nature of the relationships between the company and its related parties and of the terms and business purposes (or the lack thereof) of the transactions involving related parties."[14]

18. The Firm's work papers for the fiscal year 2021 OBITX audit contained a settlement agreement that OBITX and BOTS, a related party, purportedly entered into in April 2020. Pursuant to the settlement agreement, BOTS purportedly forgave a $218,257 debt in exchange for OBITX returning certain proprietary software to BOTS. Then, in September 2020, OBITX purportedly transferred 27 million cryptocurrency tokens to BOTS in return for the cancellation of a $218,257 debt—the same amount that BOTS had purportedly forgiven five months earlier. Respondents failed to perform any audit procedures to test whether the debt

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[12] AS 2410.14, *Related Parties*.

[13] *Id*. at .17.

[14] *Id*. at .03 & note thereto; *see also id.* at .12 (the auditor should "[r]ead the underlying documentation and evaluate whether the terms and other information about the transaction are consistent with explanations from inquiries and other audit evidence about the business purpose (or the lack thereof) of the transaction").

purportedly cancelled in the September 2020 related party transaction had already been forgiven pursuant to the April 2020 settlement agreement.

19. Also in April 2020, OBITX issued 150,000 shares of Series B preferred stock to another related party ("Individual A") in exchange for 60 cryptocurrency automated teller machines ("ATMs"). OBITX's outside valuation specialist valued the preferred stock that was issued at $6.5 million. OBITX disclosed in its 2021 Form 10-K that it believed the ATMs it received in the transaction had no retail or book value. In accounting for its transfer of the $6.5 million in stock to Individual A, OBITX recorded additional paid in capital for the full purported value of the stock of $6.5 million. However, because OBITX believed the ATMs had no value, it recorded these assets at the stock's total par value of $15 and recorded an expense of $6.5 million.

20. In the prior fiscal year (ended January 31, 2020), OBITX had transferred the very same cryptocurrency ATMs to BOTS in return for the cancellation of approximately $408,000 of debt—a value that far exceeded the $15 valuation OBITX recorded for the ATMs when it re-acquired them the following year.[15] Yet Respondents failed to perform any procedures during the fiscal year 2021 OBITX audit to test the existence and valuation of the cryptocurrency ATMs that OBITX purportedly re-acquired in April 2020.

21. Moreover, as part of multiple related party transactions, OBITX received or transferred various cryptocurrencies during fiscal year 2021. For example, OBITX received approximately 2 million BIT tokens, 123 million BIT tokens, and 2 million PRES tokens from a related party ("Company A") in April 2020, May 2020, and September 2020, respectively.

22. OBITX then transferred approximately 104 million BIT tokens to BOTS, Individual A, and other related parties in five transactions in September 2020. For four of the transactions, OBITX represented that the cryptocurrencies were transferred as payment for various services provided by these related parties. The fifth transfer purportedly was made to settle the $218,257 debt OBITX owed to BOTS.[16]

23. As part of recording the transfers, OBITX recognized revenue for the purported fair value of the cryptocurrencies transferred. As a result, OBITX recognized a total of approximately $866,000 in revenue related to these five cryptocurrency transfers, representing

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[15] BOTS subsequently purported to transfer the ATMs to Individual A (from whom OBITX purchased the ATMs), also as settlement of $408,000 of debt. Respondents were aware of this transaction as they were also BOTS' auditors for the fiscal periods during which the ATMs purportedly were transferred from OBITX to BOTS, from BOTS to Individual A, and from Individual A to OBITX.

[16] *See* ¶ 18 above.

93% of its reported revenue for fiscal year 2021.[17] Respondents failed to perform any evaluation of whether OBITX properly accounted for the cryptocurrency transactions under U.S. generally accepted accounting principles ("U.S. GAAP") when it recognized revenue in connection with them.

24. In addition, Respondents failed to determine whether any of the above-referenced related party transactions had any business purpose, much less evaluate whether the terms of the transactions and other audit evidence were consistent with a business purpose.

25. Accordingly, Respondents violated AS 2410 by failing to appropriately evaluate the company's related party transactions, AS 2301 and AS 1105 by failing to obtain sufficient appropriate audit evidence concerning the related party transactions, and AS 1015 by failing to exercise due professional care and professional skepticism in auditing the related party transactions.

ii. Respondents Failed to Appropriately Audit Intangible Assets During the BOTS Audit

26. On March 9, 2021, the Firm issued an audit report on BOTS' financial statements for the fiscal year ended April 30, 2020. BOTS included the Firm's audit report in a Form 10-K that it filed with the Commission on April 19, 2021.

27. Weinstein served as engagement partner for the fiscal year 2020 BOTS audit. Weinstein and the Firm failed to perform any audit procedures when confronted with inconsistent audit evidence concerning the intangible assets recorded in BOTS' financial statements.

28. BOTS reported approximately $400,000 in intangible assets in its fiscal year 2020 financial statements. A majority of BOTS' intangible assets was attributed to a so-called "Cannabis License" with a recorded value of $228,085, representing approximately 25% of BOTS' total assets.

29. As support for the $228,085 "Cannabis License," Respondents obtained an unsigned agreement dated in 2018. On its face, the 2018 agreement purported to concern a

[17] In its fiscal year 2022 Form 10-K, OBITX made certain "reclassifications" to its fiscal year 2021 financial statements and disclosed it "determined that the more appropriate place to record sales of cryptocurrency and the associated costs, and fair market value adjustments to cryptocurrency was other income and not revenue and cost of sales."

purchase of vacant land in exchange for $225,000; it made no reference to any cannabis license.

30. PCAOB standards provide that, "[i]f audit evidence obtained from one source is inconsistent with that obtained from another, or if the auditor has doubts about the reliability of information to be used as audit evidence, the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit."[18]

31. Respondents failed to perform any procedures to address the contradiction between BOTS' purported $228,085 "Cannabis License" and the audit evidence Respondents obtained that referred to a land purchase, not a cannabis license. Nor did they perform any other procedures to test the existence or valuation of the "Cannabis License" intangible asset.

32. Accordingly, Respondents violated AS 2301, AS 1105, and AS 1015 by failing to exercise due professional care and professional skepticism, and by failing to obtain sufficient appropriate audit evidence to support the existence and valuation of the "Cannabis License" intangible asset.

iii. Respondents Failed to Appropriately Audit Intangible Assets and Cash During the GWSO Audit

33. On March 22, 2021, the Firm issued an audit report on GWSO's financial statements for the year ended December 31, 2020. GWSO included the Firm's audit report in a Form 10-12G/A that it filed with the Commission on April 7, 2021.

34. Weinstein served as engagement partner for the fiscal year 2020 GWSO audit. Weinstein and the Firm failed to perform adequate audit procedures over the intangible assets and cash recorded in GWSO's financial statements.

35. First, GWSO reported intangible assets of $63,889, representing 84% of total assets, as of December 31, 2020.

36. Respondents knew that GWSO purportedly had acquired certain of the intangible assets from related parties for $100,000 in October 2019. However, Respondents failed to perform any procedures other than management inquiries to test the existence and valuation of GWSO's intangible assets.[19]

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[18] AS 1105.29.

[19] *See* AS 2805.02, *Management Representations* ("representations from management are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application

37. Second, GWSO reported cash of $12,450, representing 16% of total assets, as of December 31, 2020.

38. Respondents obtained a bank confirmation to test GWSO's cash balance. However, the confirmation listed a separate entity, not GWSO, as the account owner. Respondents failed to adequately address this contradictory audit evidence and failed to obtain sufficient appropriate audit evidence to support GWSO's purported rights to the cash in the bank account.

39. Accordingly, Respondents violated AS 1105 and AS 1015 by failing to obtain sufficient appropriate audit evidence of the existence and valuation of GWSO's intangible assets, or of the company's rights to the cash reported in its financial statements.

E. The Firm Violated PCAOB Rules and Quality Control Standards

40. PCAOB rules require registered public accounting firms to comply with the Board's quality control standards.[20] PCAOB quality control standards, in turn, require each registered firm to effectively design, implement, and maintain a system of quality control to provide reasonable assurance that its personnel comply with applicable professional standards.[21]

41. As part of this requirement, an accounting firm should establish quality control policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[22] The firm also should establish quality control policies and procedures to provide reasonable assurance that audit work is assigned to personnel who have an appropriate degree of technical training and proficiency.[23]

42. As evidenced by the audit violations discussed above, the Firm's quality control policies and procedures did not provide reasonable assurance that relevant Firm personnel would comply with applicable professional standards.

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of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit").

[20] *See* PCAOB Rule 3400T, *Interim Quality Control Standards*.

[21] QC §§ 20.01-.03, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[22] *Id.* at .17.

[23] *Id.* at .13.

43. The Firm also lacked policies and procedures to provide reasonable assurance that personnel assigned to issuer audits would receive appropriate technical training related to U.S. GAAP, PCAOB standards, and Commission reporting requirements, rules, and regulations.

44. Accordingly, the Firm violated QC § 20.

45. PCAOB quality control standards further provide that policies and procedures for monitoring "should be established to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied,"[24] and that "its system of quality control is effective."[25] A firm's monitoring procedures may include inspection procedures.[26]

46. At all relevant times, the Firm lacked any process to monitor its quality control system. For example, the Firm failed to perform any internal inspection procedures since it first registered with the PCAOB in 2019, and never performed other evaluations to assess whether the work performed by its engagement personnel on issuer audits met applicable professional standards, regulatory requirements, and the Firm's standards of quality.

47. Because the Firm's quality control system failed to provide reasonable assurance that the Firm was effectively monitoring its issuer auditing practice, the Firm also violated QC § 30.

F. Weinstein Directly and Substantially Contributed to the Firm's Quality Control Violations

48. "A person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[27]

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[24] *Id*. at .20.

[25] QC § 30.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

[26] *Id*.; *see also id. at* .04-.09, .11.

[27] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

49. Weinstein directly and substantially contributed to the Firm's violations of PCAOB rules and quality control standards. As the Firm's owner and sole partner, Weinstein was responsible for developing and maintaining quality control policies and procedures applicable to the Firm's issuer auditing practice.

50. Weinstein knew or was reckless in not knowing that the Firm's system of quality control was inadequate. His failure to adequately address these deficiencies directly and substantially contributed to the Firm's violations of QC § 20 and QC § 30. As a result, Weinstein violated PCAOB Rule 3502.

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm and Weinstein are censured.

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

C. Pursuant to PCAOB Rule 2101, after three years from the date of this Order, the Firm may reapply for registration.

D. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

    1. before filing with the Board any future registration application, to (a) establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable professional standards, regulatory requirements, and the Firm's standards of quality; (b) establish policies and procedures to provide reasonable assurance that the Firm will only assign audit work to personnel who have an appropriate degree of technical training and proficiency; and (c) establish monitoring procedures that determine corrective actions to be taken and improvements to be made in the Firm's quality control system.

    2. with any future application of the Firm for registration, to certify in writing to the Director of the Division of Enforcement and Investigations (the "Division"), Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C.

20006, the Firm's compliance with paragraph IV.D.1 above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Registration and Inspections may reasonably request.

E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Weinstein is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[28]

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

G. The Firm and Weinstein acknowledge that the determination to accept their Offers, without imposing a civil money penalty, is contingent upon the accuracy and completeness of the financial information they provided to the Division. The Firm and Weinstein also acknowledge that, if at any time following this settlement, the Division obtains information indicating that any financial information provided by the Firm and Weinstein—including, but not limited to, any information concerning assets, income, liabilities, or net worth—was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such information was provided, then at any time following entry of this Order (1) the Board may institute a disciplinary proceeding for noncooperation with an investigation under PCAOB Rule 5110; and/or (2) the Division may petition the Board to (a) reopen this matter to consider whether the Firm and Weinstein provided accurate and complete financial information at the time such information was provided to the Division; and (b) seek an order directing payment of the maximum civil money penalty allowable under the law or any lesser amount determined to be appropriate. No other issue shall be considered in connection with this petition other than whether the financial information provided by the Firm and Weinstein was fraudulent, misleading, inaccurate, or incomplete in any material respect; and, if so, whether a civil money penalty should be ordered up to the maximum

[28] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Weinstein. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

civil money penalty allowable under the law. The Firm and Weinstein may not, by way of defense to any such petition: (i) contest the findings in this Order; (ii) assert that payment of a civil money penalty should not be ordered; (iii) contend that the amount of the civil money penalty to be ordered should be less than $75,000, which is specified herein as the amount the penalty would have been, based on their conduct and without consideration of the Firm's and Weinstein's financial resources; or (iv) put forward any other contention or assert any defense to liability or remedy, including, but not limited to, any defense based on statute of limitations or any other time-related defense, other than to contend (a) that they did not provide financial information that was fraudulent, misleading, inaccurate, or incomplete in any material respect, or (b) that a civil money penalty should not be ordered in an amount higher than $75,000.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 3, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Steven Sarrel, CPA,

Respondent.

PCAOB Release No. 105-2024-051

December 3, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Steven Sarrel, CPA ("Sarrel" or "Respondent");

(2) barring Sarrel from being associated with a registered public accounting firm;[1] and

(3) imposing a $65,000 civil money penalty on Sarrel.

The Board is imposing these sanctions on the basis of its findings that Sarrel failed to cooperate with the PCAOB's 2020 inspection of a broker-dealer audit and review, including by directing the improper alteration of audit documentation and providing the altered documentation to PCAOB inspectors.

I.

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

[1] Sarrel may file a petition for Board consent to associate with a registered public accounting firm after three years from the date of this Order.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Steven Sarrel** is, and at all relevant times was, a partner at Raines & Fischer LLP ("Raines & Fischer" or "Firm") and a certified public accountant licensed by the state of New York (license no. 110521). At all relevant times, Sarrel was an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Sarrel served as the engagement partner for Raines & Fischer's audit of the financial statements and accompanying supplemental information, and review of the exemption report, for Third Seven Capital, LLC ("Third Seven") for the fiscal year ended December 31, 2019 ("2019 Third Seven Engagement").

B. Relevant Entities

2. **Raines & Fischer LLP** is a public accounting firm located in New York, New York, and licensed to practice public accounting under the laws of New York (license no. 024631). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.[4]

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

[3] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of "intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard."

[4] *See Raines & Fischer LLP*, PCAOB Rel. No. 105-2024-049 (Dec. 3, 2024).

3. **Third Seven Capital, LLC** is a Delaware limited liability company headquartered in New York, New York, and registered with the U.S. Securities and Exchange Commission ("Commission") as a broker-dealer in securities. At all relevant times, Third Seven was a "broker" and "dealer," as those terms are defined in Sections 110(3) and (4) of the Act, and PCAOB Rules 1001(b)(iii) and (d)(iii). At all relevant times, Third Seven was a "non-carrying" broker-dealer (i.e., a broker-dealer that does not maintain custody of customer funds or securities).[5]

C. Summary

4. This matter concerns Sarrel's failure to cooperate with the PCAOB's 2020 inspection of the 2019 Third Seven Engagement and related violations of PCAOB audit documentation standards.[6]

5. Specifically, approximately four months after the documentation completion date[7] for the 2019 Third Seven Engagement, Sarrel learned that the PCAOB's Division of Registration and Inspections ("DRI") would be reviewing the 2019 Third Seven Engagement as part of an inspection of Raines & Fischer. In advance of the inspection, Sarrel, and Firm personnel acting under his direction, improperly created or modified multiple work papers for the 2019 Third Seven Engagement. As Sarrel was aware, those improperly altered work papers were then provided to DRI, after which Sarrel participated in discussions with PCAOB inspectors about the documentation for the 2019 Third Seven Engagement without disclosing the improper alterations.

6. Accordingly, and as described below, Respondent violated PCAOB Rule 4006, *Duty to Cooperate With Inspectors*, AS 1215, and ET § 102, *Integrity and Objectivity*.

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[5] For 2019, Third Seven claimed an exemption pursuant to paragraph (k)(1) of Rule 15c3-3 under the Securities Exchange Act of 1934 ("Exchange Act"), 17 C.F.R. § 240.15c3-3(k)(1).

[6] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the conduct discussed herein.

[7] *See* AS 1215.15, *Audit Documentation* (defining "documentation completion date" as a date not more than 45 days after an auditor releases an audit report).

D. Respondent Violated PCAOB Rules and Standards in Connection with the 2019 Third Seven Engagement and the Board's 2020 Inspection

i. Relevant Rules and Standards

7. Rule 17a-5 of the Exchange Act ("Rule 17a-5")[8] generally requires a broker-dealer that claims it was exempt from Exchange Act Rule 15c3-3[9] throughout the most recent fiscal year to file annually with the Commission: (a) a financial report containing certain financial statements and supporting schedules (i.e., supplemental information);[10] (b) an exemption report;[11] (c) a report prepared by an independent public accountant based on an examination of the financial report;[12] and (d) a report prepared by an independent public accountant based on a review of the statements made by the broker-dealer in the exemption report.[13] Rule 17a-5 also requires that audits and reviews of broker-dealers be performed in accordance with PCAOB standards.[14]

8. PCAOB rules require that registered public accounting firms and their associated persons comply with the Board's auditing and related professional practice standards.[15] PCAOB rules also require that associated persons of registered public accounting firms comply with the ethics standards adopted by the Board.[16]

9. The PCAOB's audit documentation standard states, in part: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information

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8 17 C.F.R. § 240.17a-5.

9 17 C.F.R. § 240.15c3-3.

10 *See* Rule 17a-5(d)(1)(i)(A), (d)(2); *see also* SEC Form X-17A-5; 17 C.F.R. § 249.617.

11 *See* Rule 17a-5(d)(1)(i)(B)(2), (d)(4).

12 *See* Rule 17a-5(d)(1)(i)(C), (g)(1).

13 *See* Rule 17a-5(d)(1)(i)(C), (g)(2)(ii).

14 *See* Rule 17a-5(g).

15 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; *see also* PCAOB Rule 3200, *Auditing Standards*.

16 *See* PCAOB Rule 3500T, *Interim Ethics and Independence Standards*.

was added, the name of the person who prepared the additional documentation, and the reason for adding it."[17]

10. PCAOB standards require that audit documentation "contain sufficient information to enable an experienced auditor, having no previous connection with the engagement," to understand, among other things, the timing of the procedures performed, evidence obtained, and conclusions reached, and to determine not just who performed and reviewed the work but also "the date such work was completed" and "the date of such review."[18]

11. PCAOB Rule 4006 requires registered public accounting firms and their associated persons to "cooperate with the Board in the performance of any Board inspection." Implicit in that cooperation obligation is a requirement not to provide misleading documents or information in connection with, or otherwise to interfere with, the Board's inspection processes.[19] An auditor provides misleading information if he or she participates in discussions with inspectors about documentation that the auditor knows has been improperly altered and does not disclose the alterations.[20]

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[17] *See* AS 1215.15-.16.

[18] *See* AS 1215.06.

[19] *See, e.g.*, *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018) (sustaining Board finding that respondents failed to cooperate with an inspection where improper work paper alterations "interfered with the PCAOB's ability to fulfill its regulatory function of ensuring that auditors comply with their professional responsibilities"); *Hay & Watson*, PCAOB Rel. No. 105-2022-017, at 5 (Sept. 13, 2022) (PCAOB Rule 4006 "includes an obligation not to provide misleading documents or information in connection with, or otherwise to interfere with, the Board's inspection processes"); *Dale Arnold Hotz, CPA*, PCAOB Rel. No. 105-2012-008, at 4 (Nov. 13, 2012) (same).

[20] *See, e.g.*, *Edward Turner, CPA*, PCAOB Rel. No. 105-2023-009 (July 18, 2023) (respondent failed to cooperate with an inspection both by providing improperly altered documents to inspectors and participating in a discussion with inspectors about those documents without disclosing the alterations); *Elliot D. Kim, CPA*, PCAOB Rel. No. 105-2018-010 (May 23, 2018) (respondent failed to cooperate with an inspection when he remained silent during a discussion with inspectors of a document that he had improperly altered); *José Fernandez Alves*, PCAOB Rel. No. 105-2016-039 (Dec. 5, 2016) (respondent failed to cooperate when he participated in a discussion with PCAOB inspectors without informing them that the discussion was based on documents he knew had been improperly altered); *Renata Coelho de Sousa Castelli*, PCAOB Rel. No. 105-2016-040 (Dec. 5, 2016) (same).

12. PCAOB ethics standards provide, in part, that an associated person "shall maintain objectivity and integrity" and "shall not knowingly misrepresent facts" in the performance of professional services.[21] An associated person knowingly misrepresents facts in violation of ET § 102 when, for example, he or she knowingly: (a) makes, or permits or directs another to make, materially false and misleading entries in an entity's records; or (b) signs, or permits or directs another to sign, a document containing materially false and misleading information.[22]

ii. Sarrel Violated PCAOB Audit Documentation and Ethics Standards and Failed to Cooperate with the PCAOB's Inspection of the 2019 Third Seven Engagement

13. As the engagement partner for the 2019 Third Seven Engagement, Sarrel authorized the issuance of Raines & Fischer's audit and review reports dated February 27, 2020. The documentation completion date for the 2019 Third Seven Engagement was, therefore, April 12, 2020 (45 days after the release date of the Firm's reports). However, Sarrel failed to assemble a complete and final set of audit documentation for retention by that date.

14. On August 10, 2020, DRI informed the Firm that the 2019 Third Seven Engagement had been selected for review during DRI's impending inspection, for which fieldwork was expected to start on October 26, 2020. Raines & Fischer personnel prepared and assembled work papers for the 2019 Third Seven Engagement in electronic form as part of an audit software database. After learning that DRI would be reviewing the 2019 Third Seven Engagement, Sarrel, and those working at his direction, improperly created or modified multiple work papers for that engagement and added the newly created and modified work papers to the audit software.

15. Sarrel and junior staff changed the clocks on their computers to the time of the 2019 Third Seven Engagement to make it appear that the work papers they were creating had been prepared prior to the audit report date in February 2020. However, during their efforts, Sarrel realized that, despite having changed the computers' clocks, certain work papers still indicated that changes had been made in August 2020, in anticipation of DRI's inspection.

16. When Sarrel raised that issue with the junior staff who were assisting him with the creation and modification of the work papers, they informed him that they were denied access to Microsoft Word and Excel if they changed their clocks, but suggested as a "work around" printing Word documents to PDFs with the dates changed. Sarrel then instructed the

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[21] *See* ET § 102.01.

[22] *See id.* at .02(a), (c).

junior staff to adopt that plan and print the Word documents to PDF to avoid the work papers reflecting their actual creation and modification in advance of the inspection.

17. Additionally, Sarrel and those acting under his supervision backdated signoffs and applied signoffs of other individuals who worked on the 2019 Third Seven Engagement to the newly created or modified work papers, both within certain work papers themselves as well as in the signoff fields in the Firm's audit documentation software, to make it appear that the work papers had been prepared and reviewed at the time of the 2019 Third Seven Engagement.

18. Notwithstanding the numerous modifications to the work papers after the documentation completion date for the 2019 Third Seven Engagement, Sarrel failed to properly document who added the information to the work papers, as well as when and why the information was added.

19. Ultimately, Sarrel and those acting under his supervision created or modified approximately 40 work papers after the documentation completion date. Those improperly altered work papers were included in the set of work papers provided to DRI, along with a work paper index printed from the Firm's audit software that contained the backdated signoffs.

20. Sarrel participated in multiple meetings with DRI staff about the 2019 Third Seven Engagement during the 2020 inspection of Raines & Fischer. However, he failed to disclose to inspectors that numerous work papers for the 2019 Third Seven Engagement had been improperly created or modified after the documentation completion date and that signoffs had been backdated.

21. Accordingly, Sarrel violated AS 1215, PCAOB Rule 4006, and ET § 102.

IV.

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

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Steven Sarrel is barred from being an "associated person of a registered public

accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[23]

C. Pursuant to PCAOB Rule 5302(b), Steven Sarrel may file a petition for Board consent to associate with a registered public accounting firm after three years from the date of this Order.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $65,000 is imposed upon Steven Sarrel.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff, or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Steven Sarrel as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

[23] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act, 15 U.S.C. § 7215(c)(7)(B), will apply with respect to Sarrel. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

4. Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

5. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 3, 2024

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Raines & Fischer LLP,

Respondent.

PCAOB Release No. 105-2024-049

December 3, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Raines & Fischer LLP ("Raines & Fischer," the "Firm," or "Respondent");

(2) permanently revoking the Firm's registration; and

(3) imposing a $200,000 civil money penalty on the Firm.

The Board is imposing these sanctions on the basis of its findings that the Firm: (a) violated PCAOB rules and standards in connection with seven broker-dealer engagements; (b) failed to cooperate with two PCAOB inspections; (c) failed to timely file forms required by PCAOB rules; and (d) violated PCAOB quality control standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or

denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Raines & Fischer LLP** is a public accounting firm located in New York, New York, and licensed to practice public accounting under the laws of New York (license no. 024631). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Raines & Fischer conducted the following engagements:

- the audits of the financial statements and accompanying supplemental information, and reviews of the exemption reports, for Drexel Hamilton, LLC ("Drexel") for the fiscal years ended December 31, 2020 ("2020 Drexel Engagement"), December 31, 2021 ("2021 Drexel Engagement"), and December 31, 2022 ("2022 Drexel Engagement") (collectively, the "Drexel Engagements");

- the audits of the financial statements and accompanying supplemental information, and examinations of the compliance reports, for Hold Brothers Capital, LLC ("Hold Brothers") for the fiscal years ended December 31, 2020 ("2020 Hold Brothers Engagement"), December 31, 2021 ("2021 Hold Brothers Engagement"), and December 31, 2022 ("2022 Hold Brothers Engagement") (collectively, the "Hold Brothers Engagements"); and

- the audit of the financial statements and accompanying supplemental information, and review of the exemption report, for Third Seven Capital, LLC ("Third Seven") for the fiscal year ended December 31, 2019 ("2019 Third Seven Engagement").

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

[2] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of "intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard."

B. Relevant Entities and Individuals

2. **Drexel Hamilton, LLC** is a Pennsylvania limited liability company headquartered in New York, New York, and registered with the U.S. Securities and Exchange Commission ("Commission") as a broker-dealer in securities. At all relevant times, Drexel was a "broker" and "dealer," as those terms are defined in Sections 110(3) and (4) of the Act and PCAOB Rules 1001(b)(iii) and (d)(iii).

3. **Hold Brothers Capital, LLC** is a New Jersey limited liability company headquartered in New York, New York, and registered with the Commission as a broker-dealer in securities. At all relevant times, Hold Brothers was a "broker" and "dealer," as those terms are defined in Sections 110(3) and (4) of the Act and PCAOB Rules 1001(b)(iii) and (d)(iii). At all relevant times, Hold Brothers was a "carrying" broker-dealer (i.e., a broker-dealer that maintains custody of customer funds or securities) and therefore had to file a compliance report attesting that it satisfied certain requirements under the Commission's "financial responsibility rules" including requirements concerning net capital and the protection of customer assets.[3]

4. **Third Seven Capital, LLC** is a Delaware limited liability company headquartered in New York, New York, and registered with the Commission as a broker-dealer in securities. At all relevant times, Third Seven was a "broker" and "dealer," as those terms are defined in Sections 110(3) and (4) of the Act and PCAOB Rules 1001(b)(iii) and (d)(iii).

5. **Brian Uhlman** ("Uhlman") is, and at all relevant times was, a partner at Raines & Fischer and a certified public accountant licensed by the state of New York (license no. 080064). Uhlman served as the engagement partner for the Drexel Engagements and the Hold Brothers Engagements.[4]

6. **Steven Sarrel** ("Sarrel") is, and at all relevant times was, a partner at Raines & Fischer and a certified public accountant licensed by the state of New York (license no. 110521). Sarrel served as the engagement partner for the 2019 Third Seven Engagement.[5]

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[3] *See, e.g.*, Commission Rules 15c3-1, 17 C.F.R. § 240.15c3-1, 15c3-3, 17 C.F.R. § 240.15c3-3, and 17a-5(d) and 17a-13, 17 C.F.R. §§ 240.17a-5(d) and 240.17a-13, under the Securities Exchange Act of 1934 ("Exchange Act").

[4] *See Brian Uhlman, CPA*, PCAOB Rel. No. 105-2024-050 (Dec. 3, 2024).

[5] *See Steven Sarrel, CPA*, PCAOB Rel. No. 105-2024-051 (Dec. 3, 2024).

7. **William Fischer** ("Fischer") is, and at all relevant times was, a partner at Raines & Fischer and a certified public accountant licensed by the state of New York (license no. 038129). During the relevant period, Fischer was Raines & Fischer's Managing Partner, Partner in Charge of the Audit Department, and Quality Control Partner. Fischer served as the engagement quality review ("EQR") partner for the 2019 Third Seven Engagement, the Drexel Engagements, and Hold Brothers Engagements.[6]

C. Summary

8. This matter concerns the Firm's failure to comply with PCAOB rules and standards in connection with seven broker-dealer engagements and its failure to cooperate with two PCAOB inspections.[7]

9. Specifically, the Firm failed to timely assemble complete and final sets of audit documentation for the 2019 Third Seven Engagement and each of the Drexel Engagements and Hold Brothers Engagements.

10. Firm personnel also improperly created or modified work papers for the 2019 Third Seven Engagement in advance of a 2020 inspection of Raines & Fischer by the PCAOB's Division of Registration and Inspections ("DRI"). Similarly, Firm personnel improperly created or modified work papers for the 2021 Drexel Engagement and 2021 Hold Brothers Engagement in advance of DRI's 2022 inspection of Raines & Fischer.

11. As exemplified by these violations, Raines & Fischer's policies and procedures failed to provide reasonable assurance that Firm personnel would comply with applicable standards concerning timely assembly of a complete and final set of audit documentation. The Firm's policies and procedures also failed to provide reasonable assurance that its personnel would act with integrity and refrain from improperly altering audit documentation in advance of PCAOB inspections.

12. Further, Raines & Fischer's system of quality control did not provide it with reasonable assurance that EQRs performed by Firm personnel would comply with PCAOB standards or that the Firm would accept only those engagements it could reasonably expect to be completed with professional competence.

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[6] *See William Fischer, CPA*, PCAOB Rel. No. 105-2024-052 (Dec. 3, 2024).

[7] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the conduct discussed herein.

13. Moreover, the Firm repeatedly failed to timely file its annual reports on Form 2, *Annual Report*, with the PCAOB.

D. Raines & Fischer Violated PCAOB Rules and Standards

14. PCAOB rules require that, in connection with the preparation or issuance of an audit report, registered public accounting firms comply with applicable auditing and related professional practice standards.[8] As detailed below, Raines & Fischer violated multiple PCAOB rules and standards.

i. Raines & Fischer Violated PCAOB Audit Documentation Standards and Failed to Cooperate with the PCAOB's 2020 and 2022 Inspections

15. The PCAOB's audit documentation standard states, in part: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[9]

16. PCAOB standards require that audit documentation "contain sufficient information to enable an experienced auditor, having no previous connection with the engagement," to understand, among other things, the timing of the procedures performed, evidence obtained, and conclusions reached, and to determine not just who performed and reviewed the work but also "the date such work was completed" and "the date of such review."[10] PCAOB standards also require the auditor to identify all significant findings or issues in an engagement completion document.[11]

17. PCAOB Rule 4006 requires registered public accounting firms and their associated persons to "cooperate with the Board in the performance of any Board inspection."[12] Implicit in that cooperation obligation is a requirement not to provide misleading

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8 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards;* PCAOB Rule 3200, *Auditing Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

9 *See* AS 1215.15-.16, *Audit Documentation*.

10 *Id.* at .06.

11 *Id.* at .13.

12 PCAOB Rule 4006, *Duty to Cooperate With Inspectors*.

documents or information in connection with, or otherwise to interfere with, the Board's inspection processes.[13]

18. Raines & Fischer failed to timely assemble complete and final sets of audit documentation by the applicable documentation completion dates for seven engagements: the 2019 Third Seven Engagement, as well as each of the Drexel Engagements and Hold Brothers Engagements. Raines & Fischer personnel prepared and assembled the work papers for those engagements in electronic form as part of an audit software database. Though the software database had a feature that, when activated, made an audit file "read-only"—allowing it to be opened and viewed, but not modified—Raines & Fischer personnel did not routinely use that software feature, and did not activate that feature for the work papers assembled for the 2019 Third Seven Engagement, the Drexel Engagements, and the Hold Brothers Engagements.

19. For four of the seven engagements—the 2020 Drexel Engagement, the 2022 Drexel Engagement, the 2020 Hold Brothers Engagement, and the 2022 Hold Brothers Engagement—the assembled work paper files lack signoffs on certain work papers indicating who prepared the documentation and when, as well as who reviewed the documentation and when. In addition, the Raines & Fischer engagement teams failed to include multiple work papers necessary to evidence the Firm's compliance with auditing and attestation standards in the Firm's assembled set of audit documentation with respect to each of the four engagements. For example, each of the assembled sets of audit documentation failed to contain work papers relating to the Firm's planning of the engagements, including risk assessment procedures, or an engagement completion document.[14]

20. For the other three engagements—the 2019 Third Seven Engagement, the 2021 Drexel Engagement, and the 2021 Hold Brothers Engagement—Firm personnel continued to prepare and modify audit documentation for those engagements after the relevant documentation completion dates and in anticipation of PCAOB inspections.

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[13] *See, e.g., Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018) (sustaining Board finding that respondents failed to cooperate with an inspection where improper work paper alterations "interfered with the PCAOB's ability to fulfill its regulatory function of ensuring that auditors comply with their professional responsibilities"); *Hay & Watson*, PCAOB Rel. No. 105-2022-017, at 5 (Sept. 13, 2022) (PCAOB Rule 4006 "includes an obligation not to provide misleading documents or information in connection with, or otherwise to interfere with, the Board's inspection processes"); *Dale Arnold Hotz, CPA*, PCAOB Rel. No. 105-2012-008, at 4 (Nov. 13, 2012) (same).

[14] *See* AS 2101.10, *Audit Planning*; AS 1215.13.

21. On August 10, 2020, DRI informed Raines & Fischer that the 2019 Third Seven Engagement had been selected for review during DRI's impending inspection, for which fieldwork was expected to start on October 26, 2020. After learning that DRI would be reviewing the 2019 Third Seven Engagement, Sarrel and other Firm personnel improperly created or modified multiple work papers for that engagement and added the newly created and modified work papers to the audit software. When doing so, they changed the clocks on their computers to the time of the 2019 Third Seven Engagement to make it appear that the work papers they were creating had been prepared prior to the audit report date in February 2020. They also backdated signoffs and applied other individuals' signoffs, both within certain work papers themselves as well as in the signoff fields in the Firm's audit documentation software, to make it appear that the work papers had been prepared and reviewed at the time of the 2019 Third Seven Engagement.

22. Notwithstanding those modifications to the work papers after the documentation completion date, the Firm failed to properly document who added the information to the work papers, as well as when and why the information was added.

23. Ultimately, Firm personnel created or modified approximately 40 work papers after the documentation completion date that were included in the set of work papers for the 2019 Third Seven Engagement that the Firm provided to DRI, along with a work paper index printed from the Firm's audit software that contained backdated signoffs. At the time of the 2020 inspection, Sarrel, Fischer, and Uhlman, along with other professionals at the firm, were aware that work papers had been improperly created or modified, but Firm staff who participated in meetings with DRI—including Sarrel and Uhlman—failed to inform DRI of the improper alterations during meetings at which the 2019 Third Seven Engagement was discussed.

24. Similar conduct occurred prior to fieldwork for DRI's 2022 inspection of Raines & Fischer after DRI informed the Firm, on September 13, 2022, that the 2021 Drexel Engagement and 2021 Hold Brothers Engagement had been selected for review, including Uhlman contacting Drexel and Hold Brothers to obtain information which was used to perform additional audit procedures prior to the inspection fieldwork.

25. Uhlman, the engagement partner for both engagements, and those working at his direction improperly created or modified over 100 total work papers for the 2021 Drexel Engagement and 2021 Hold Brothers Engagement—including to document the additional procedures they performed after learning of DRI's impending inspection—and added the newly created or modified work papers to the corresponding audit file. When doing so, they backdated signoffs and applied other individuals' signoffs, both within certain work papers themselves as well as in the signoff fields in the Firm's audit documentation software, to make

it appear that the work papers had been prepared and reviewed at the time of each engagement.

26. Notwithstanding those modifications to the work papers after the applicable documentation completion dates, the Firm failed to properly document who added the information to the work papers, as well as when and why the information was added.

27. The newly created and modified workpapers were included in the sets of work papers for the 2021 Drexel Engagement and 2021 Hold Brothers Engagement that the Firm provided to DRI, along with a work paper index printed from the Firm's audit software for each engagement that contained backdated signoffs. At the time of the 2022 inspection, Uhlman and Fischer were aware that work papers were improperly created or modified—and Uhlman participated in meetings with DRI about the two engagements—but they failed to notify DRI of the improper alterations.

28. Accordingly, the Firm violated AS 1215 and PCAOB Rule 4006.

ii. Raines & Fischer Violated PCAOB Rules by Failing to Timely File Annual Reports on Form 2

29. PCAOB Rule 2200 requires that registered public accounting firms file annual reports with the PCAOB on Form 2.[15] PCAOB Rule 2201 provides that "[e]ach registered public accounting firm must file the annual report on Form 2 no later than June 30 of each year."[16]

30. Raines & Fischer filed its annual reports for each year from 2020 through 2023 after the applicable deadline. Specifically, the Firm's annual reports were filed on November 23, 2020, November 23, 2021, December 19, 2022, and November 13, 2023.

31. Accordingly, the Firm repeatedly violated PCAOB Rule 2201.

iii. Raines & Fischer Violated PCAOB Rules and Quality Control Standards

32. PCAOB rules require that a registered firm comply with PCAOB quality control standards, which mandate that a firm "shall have a system of quality control for its accounting and auditing practice" and describe "elements of quality control and other matters essential to the effective design, implementation, and maintenance of the system."[17] As part of this

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[15] PCAOB Rule 2200, *Annual Report*.

[16] PCAOB Rule 2201, *Time for Filing of Annual Report*.

[17] PCAOB Rule 3400T; QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[18]

33. PCAOB quality control standards require that a registered public accounting firm establish quality control policies and procedures for deciding whether to accept or continue a client relationship and whether to perform a specific engagement for that client.[19] Such policies and procedures should provide reasonable assurance that the firm undertakes only those engagements that the firm can reasonably expect to be completed with professional competence, and appropriately considers the risks associated with providing professional services in the particular circumstances.[20] In addition, policies and procedures should be established to provide the firm with reasonable assurance that work is assigned to personnel having the degree of proficiency required under the circumstances.[21]

34. In addition, as part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[22]

35. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[23] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[24] Monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[25]

36. Raines & Ficher's quality control policies and procedures were not suitably designed or effectively applied to provide reasonable assurance that Firm personnel would

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18 QC § 20.17.

19 *Id.* at .14.

20 *Id.* at .15.

21 *Id.* at .13; QC § 40.02, *The Personnel Management Element of a Firm's System of Quality Control–Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

22 QC § 20.09.

23 *Id.* at .08.

24 *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

25 *See* QC § 20.20(d); QC § 30.02(d).

comply with applicable standards concerning the timely assembly of a complete and final set of audit documentation by the applicable documentation completion date. The Firm also lacked sufficient policies and procedures to provide reasonable assurance that personnel would perform all professional responsibilities with integrity and specifically that they would refrain from improperly altering audit documentation and providing the improperly altered documentation to PCAOB inspectors. As discussed above, the Firm failed to timely assemble a complete and final set of audit documentation for seven engagements over the course of four years; Firm personnel repeatedly created and modified work papers after the documentation completion date, and in advance of PCAOB inspections; and Firm personnel repeatedly provided those improperly altered documents to PCAOB inspectors.

37. Raines & Fischer's quality control policies and procedures with respect to EQRs were also deficient and failed to provide reasonable assurance that Firm personnel would conduct EQRs in compliance with PCAOB standards.

a. None of the work papers for the 2019 Third Seven Engagement, the Drexel Engagements, or the Hold Brothers Engagements reflect signoffs by Fischer, the EQR partner for each of those engagements, with the exception of certain work papers that were improperly prepared and backdated in advance of the 2020 and 2022 PCAOB inspections. Thus, the work papers for those engagements lack sufficient information to enable an experienced auditor, having no previous connection with the engagements, to understand what, if any, procedures were performed by the EQR partner, the documents reviewed by the EQR partner, and the date the EQR partner provided concurring approval of issuance.[26]

b. Moreover, among the work papers for the 2019 Third Seven Engagement, the 2021 Drexel Engagement, and the 2021 Hold Brothers Engagement that were created after the applicable documentation completion dates and in advance of PCAOB inspections were those relating to planning, risk assessment, and engagement completion. Fischer, therefore, could not have (1) reviewed that documentation at the time of the relevant engagements to evaluate the engagement team's assessment of and audit response to significant risks and whether the documentation supported the engagement team's related conclusions; or (2) reviewed the engagement completion document—steps that are required of an EQR partner under PCAOB standards.[27]

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[26] *See* AS 1220.19-.20, *Engagement Quality Review*.

[27] *See id.* at .09-.11, .18A.

c. Finally, in connection with the 2021 Hold Brothers Engagement, Fischer failed to identify that the Possession or Control Schedule ("Schedule") included as supplemental information accompanying Hold Brothers' financial statements was not in compliance with Rule 17a-5(d)(2)(ii) of the Exchange Act.[28] Specifically, the Schedule omitted the market valuation and the number of items of customers' fully paid and excess margin securities not in Hold Brother's possession or control as of the report date, but for which the required action was not taken by Hold Brothers within specified time frames.[29] The Schedule also omitted the market valuation and number of items of customers' fully paid and excess margin securities for which instructions to reduce possession or control had not been issued as of the report date.[30]

38. Raines & Fischer also lacked policies and procedures to provide reasonable assurance that it would only accept those engagements that it could reasonably expect to complete with professional competence or to provide reasonable assurance that Firm personnel in charge of engagements possessed the requisite competencies. Hold Brothers was the Firm's only carrying broker-dealer client. While Uhlman and Fischer, the engagement partner and EQR partner for the Hold Brothers Engagements, had prior experience auditing non-carrying broker-dealers, neither had prior experience auditing carrying broker-dealers or sufficient training to enable them to complete such an engagement in compliance with relevant standards. As a result, during the 2021 Hold Brothers Engagement, the engagement team failed to sufficiently plan and perform the Firm's examination to obtain sufficient appropriate evidence about assertions made by Hold Brothers in its compliance report.[31] The assignment of Uhlman and Fischer to the Hold Brothers audit illustrates that the quality control policies and procedures were not adequate to provide reasonable assurance that work was assigned to personnel having the degree of technical training and proficiency required in the circumstances.[32]

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[28] *See* AS 1220.10(f); *see also* AS 2701, *Auditing Supplemental Information Accompanying Audited Financial Statements.*

[29] *See* Commission Rule 17a-5(d)(2)(ii), 17 C.F.R. § 240.17a-5(d)(2)(ii); *see also* Commission Form X-17A-5.

[30] *See id.*

[31] *See* Attestation Standard No. 1, *Examination Engagements Regarding Compliance Reports of Brokers and Dealers.*

[32] *See* QC § 40.02.

39. Raines & Fischer's system of quality control failed to provide it with reasonable assurance that the Firm would comply with the PCAOB's annual reporting requirements on a timely basis.[33]

40. Moreover, the Firm lacked policies and procedures for monitoring its quality control system and its compliance with PCAOB rules and standards, including audit documentation standards and PCAOB reporting requirements. The Firm's monitoring policies and procedures did not provide the Firm with reasonable assurance that Firm personnel performed all professional responsibilities with integrity.

41. Accordingly, Raines & Fischer violated QC §§ 20, 30, and 40.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. In imposing these sanctions, the Board took into consideration that, after Board staff raised questions about potential noncooperation with an inspection, Raines & Fischer commissioned an internal investigation and self-reported certain of the violations discussed above.
Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), Raines & Fischer's registration is revoked.

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $200,000 is imposed upon Raines & Fischer.

   1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

   2. Respondent shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff, or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public

[33] *See* PCAOB Rule 2200; PCAOB Rule 2201.

Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Raines & Fischer LLP as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. By consenting to this Order, Raines & Fischer acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny a request for leave pursuant to PCAOB Rule 5302(c) to file an application for registration or to deny an application for registration pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

December 3, 2024

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Brian Uhlman, CPA,

Respondent.

PCAOB Release No. 105-2024-050

December 3, 2024

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Brian Uhlman, CPA ("Uhlman" or "Respondent");

(2) barring Uhlman from being associated with a registered public accounting firm;[1]

(3) imposing a $125,000 civil money penalty on Uhlman; and

(4) requiring Uhlman to complete an additional 40 hours of continuing professional education ("CPE") before filing any petition for Board consent to associate with a registered public accounting firm.

The Board is imposing these sanctions on the basis of its findings that Uhlman: (a) violated PCAOB rules and standards in connection with the audit and examination of a broker-dealer; (b) violated PCAOB audit and attestation documentation standards in connection with six broker-dealer engagements; and (c) failed to cooperate with the PCAOB's 2020 and 2022 inspections of Raines & Fischer LLP ("Raines & Fischer" or the "Firm"), including by directing the improper alteration of work papers for two broker-dealer engagements selected for review during the 2022 inspection.

[1] Uhlman may file a petition for Board consent to associate with a registered public accounting firm after five years from the date of this Order.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Brian Uhlman** is, and at all relevant times was, a partner at Raines & Fischer and a certified public accountant licensed by the state of New York (license no. 080064). At all relevant times, Uhlman was an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Uhlman served as the engagement partner for the following engagements:

- Raines & Fischer's audits of the financial statements and accompanying supplemental information, and reviews of the exemption reports, for Drexel Hamilton, LLC ("Drexel") for the fiscal years ended December 31, 2020 ("2020 Drexel Engagement"), December 31, 2021 ("2021 Drexel Engagement"), and

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

[3] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of "intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard."

December 31, 2022 ("2022 Drexel Engagement") (collectively, the "Drexel Engagements"); and

- Raines & Fischer's audits of the financial statements and accompanying supplemental information, and examinations of the compliance reports, for Hold Brothers Capital, LLC ("Hold Brothers") for the fiscal years ended December 31, 2020 ("2020 Hold Brothers Engagement"), December 31, 2021 ("2021 Hold Brothers Engagement"), and December 31, 2022 ("2022 Hold Brothers Engagement") (collectively, the "Hold Brothers Engagements").

B. Relevant Entities and Individuals

2. **Raines & Fischer LLP** is a public accounting firm located in New York, New York, and licensed to practice public accounting under the laws of New York (license no. 024631). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.[4]

3. **Drexel Hamilton, LLC** is a Pennsylvania limited liability company headquartered in New York, New York, and registered with the U.S. Securities and Exchange Commission ("Commission") as a broker-dealer in securities. At all relevant times, Drexel was a "broker" and "dealer," as those terms are defined in Sections 110(3) and (4) of the Act and PCAOB Rules 1001(b)(iii) and (d)(iii).

4. **Hold Brothers Capital, LLC** is a New Jersey limited liability company headquartered in New York, New York, and registered with the Commission as a broker-dealer in securities. At all relevant times, Hold Brothers was a "broker" and "dealer," as those terms are defined in Sections 110(3) and (4) of the Act, respectively, and PCAOB Rules 1001(b)(iii) and (d)(iii), respectively. At all relevant times, Hold Brothers was a "carrying" broker-dealer (i.e., a broker-dealer that maintains custody of customer funds or securities).

5. **Third Seven Capital, LLC** ("Third Seven") is a Delaware limited liability company headquartered in New York, New York, and registered with the Commission as a broker-dealer in securities. At all relevant times, Third Seven was a "broker" and "dealer," as those terms are defined in Sections 110(3) and (4) of the Act, respectively, and PCAOB Rules 1001(b)(iii) and (d)(iii), respectively.

6. **Steven Sarrel** ("Sarrel") is, and at all relevant times was, a partner at Raines & Fischer and a certified public accountant licensed by the state of New York (license no. 110521). Sarrel served as the engagement partner for Raines & Fischer's audit of the financial statements

[4] *See Raines & Fischer LLP,* PCAOB Rel. No. 105-2024-049 (Dec. 3, 2024).

and accompanying supplemental information, and review of the exemption report, for Third Seven for the fiscal year ended December 31, 2019 ("2019 Third Seven Engagement").[5]

C. Summary

7. This matter concerns Uhlman's failure to comply with PCAOB rules and standards in connection with six broker-dealer engagements and to cooperate with two Board inspections.[6]

8. Specifically, in the 2021 Hold Brothers Engagement, Uhlman violated PCAOB rules and Attestation Standard No. 1 ("AT No. 1"), *Examination Engagements Regarding Compliance Reports of Brokers and Dealers*, when performing the examination of the statements made by Hold Brothers in its compliance report filed with the Commission pursuant to Rule 17a-5 of the Securities Exchange Act of 1934 ("Rule 17a-5").[7] In particular, Uhlman failed to identify and test Hold Brothers' key internal controls over compliance with Commission rules for safeguarding certain customer assets held by Hold Brothers.

9. Uhlman also violated PCAOB rules and auditing standards in the 2021 Hold Brothers Engagement by failing, in the audit of Hold Brothers' financial statements and accompanying supporting schedules, to perform sufficient procedures to test supplemental information included by Hold Brothers.

10. Uhlman also failed to timely assemble complete and final sets of audit documentation for each of the Drexel Engagements and Hold Brothers Engagements.

11. Additionally, after Uhlman learned—approximately five months after the documentation completion dates[8] for the 2021 Drexel Engagement and the 2021 Hold Brothers Engagement—that the PCAOB's Division of Registration and Inspections ("DRI") would be reviewing both of those engagements as part of an inspection of Raines & Fischer, Uhlman, and Firm personnel acting under his direction, improperly created and modified numerous work papers for those engagements. Uhlman then caused the improperly altered documentation for

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[5] *See Steven Sarrel, CPA*, PCAOB Rel. No. 105-2024-051 (Dec. 3, 2024).

[6] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the conduct discussed herein.

[7] 17 C.F.R. § 240.17a-5.

[8] *See* AS 1215.15, *Audit Documentation* (defining "documentation completion date" as a date not more than 45 days after an auditor releases an audit report).

those engagements to be provided to DRI staff without disclosing to them that any work papers had been created or altered in advance of the 2022 inspection.

12. Moreover, Uhlman was aware that Firm personnel improperly created and modified work papers for the 2019 Third Seven Engagement after the applicable documentation completion date and in advance of DRI's 2020 inspection of the Firm. As the Firm's primary contact with DRI, Uhlman attended meetings with DRI staff at which the 2019 Third Seven Engagement was discussed. Uhlman participated in discussions about the 2019 Third Seven Engagement without informing DRI staff that the discussions were based on documentation that had been improperly altered in advance of the 2020 inspection.

13. Accordingly, and as described below, Uhlman violated AT No. 1; AS 2701, *Auditing Supplemental Information Accompanying Audited Financial Statements*; AS 1215; PCAOB Rule 4006, *Duty to Cooperate With Inspectors*; and ET § 102, *Integrity and Objectivity*.

D. Uhlman Violated PCAOB Attestation and Auditing Standards in the 2021 Hold Brothers Engagement

i. Certain Commission Reporting Requirements for Carrying Broker-Dealers

14. Under the Commission's "financial responsibility rules,"[9] Hold Brothers had to satisfy certain requirements relating to net capital and the protection of customer assets.[10] Additionally, Rule 17a-5 required Hold Brothers to file with the Commission an annual report containing: (a) a financial report that included financial statements and supporting schedules (*i.e.*, supplemental information),[11] (b) a compliance report concerning, among other things, the effectiveness of Hold Brothers' internal control over compliance[12] ("ICOC") with the financial

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[9] The term "financial responsibility rules" includes Commission Rules 15c3-1, 17 C.F.R. § 240.15c3-1 ("Net Capital Rule"), 15c3-3, 17 C.F.R. § 240.15c3-3 ("Rule 15c3-3"), and 17a-13, 17 C.F.R. § 240.17a-13, under the Securities Exchange Act of 1934 ("Exchange Act"), and any rule of a broker's or dealer's designated examining authority that requires account statements to be sent to the customers of the broker or dealer. The financial responsibility rules are the same as the rules cited in Rule 17a-5(d)(3)(ii).

[10] Although some broker-dealers qualify for exemption from Rule 15c3-3, Hold Brothers did not because it was a carrying broker-dealer. *See* Rule 15c3-3(k).

[11] *See* Rule 17a-5(d)(1)(i)(A), (d)(2). The supporting schedules required to be included in Hold Brothers' financial report included a Computation of Net Capital, a Computation for Determination of the Reserve Requirements, and Information Relating to the Possession or Control Requirements for Customers. The financial report, including the required supporting schedules, were required to be in a format consistent with the statements contained in Commission Form X-17A-5.

[12] Rule 17a-5(d)(3)(ii) provides: "The term *Internal Control Over Compliance* means internal controls that have the objective of providing the broker or dealer with reasonable assurance that non-compliance with § 240.15c3-1, § 240.15c3-3, § 240.17a-13, or any rule of the designated examining

responsibility rules;[13] (c) a report prepared by an independent public accountant based on an examination of the financial report;[14] and (d) a report prepared by an independent public accountant based on an examination of the statements made by Hold Brothers in the compliance report.[15] Rule 17a-5 also required that the audit of the financial report and the examination of the compliance report be performed in accordance with PCAOB standards.[16]

15. In the compliance report, Hold Brothers was required to make certain statements about its compliance with the financial responsibility rules, including that: (a) its ICOC was effective during the most recent fiscal year; (b) its ICOC was effective as of the end of the most recent fiscal year; and (c) it was in compliance with the Net Capital Rule and Commission Rule 15c3-3(e) ("Reserve Requirements Rule")[17] as of the end of the most recent fiscal year.[18]

ii. Relevant PCAOB Rules and Standards

16. PCAOB rules require that, in connection with the preparation or issuance of an audit report (including an examination report), registered public accounting firms and their associated persons comply with the PCAOB's auditing and related professional practice standards, including attestation standards adopted by the Board.[19]

17. AT No. 1 provides that, in performing an examination of the assertions made by a broker or dealer in a compliance report, the auditor's objective is to express an opinion regarding whether those assertions are fairly stated, in all material respects.[20] AT No. 1 also provides that, to express such an opinion, the auditor must plan and perform the examination engagement to obtain appropriate evidence sufficient to obtain reasonable assurance about whether: (a) one or more material weaknesses existed during the most recent fiscal year

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authority of the broker or dealer that requires account statements to be sent to the customers of the broker or dealer (an 'Account Statement Rule') will be prevented or detected on a timely basis."

13 *See* Rule 17a-5(d)(1)(i)(B)(1), (d)(3).

14 *See* Rule 17a-5(d)(1)(i)(C), (g)(1).

15 *See* Rule 17a-5(d)(1)(i)(C), (g)(2)(i).

16 *See* Rule 17a-5(g).

17 *See* Rule 15c3-3(e).

18 *See* Rule 17a-5(d)(3)(i)(A).

19 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*; PCAOB Rule 3300T, *Interim Attestation Standards*.

20 AT No. 1 at ¶ 3.

specified in the broker's or dealer's assertion;[21] (b) one or more material weaknesses existed as of the end of the most recent fiscal year specified in the broker's or dealer's assertion; and (c) one or more instances of non-compliance with the Net Capital Rule or the Reserve Requirements Rule existed as of the end of the most recent fiscal year specified in the broker's or dealer's assertion.[22]

18. AT No. 1 also provides that the auditor must exercise due professional care, which includes application of professional skepticism, in planning and performing the examination and preparation of the report, and that the engagement partner is responsible for proper planning and supervision of work for the engagement.[23]

19. PCAOB standards require that, when the auditor is engaged to perform audit procedures and report on supplemental information accompanying audited financial statements, the auditor should perform audit procedures to obtain appropriate audit evidence that is sufficient to support the auditor's opinion regarding whether the supplemental information is fairly stated, in all material respects, in relation to the financial statements as a whole.[24] In doing so, the auditor should, among other things, obtain an understanding of the criteria that management used to prepare the supplemental information, including relevant regulatory requirements.[25] The auditor should also perform procedures to test the completeness and accuracy of the information presented in the supplemental information to the extent it was not tested as part of the audit of financial statements, and should evaluate whether the supplemental information complies with relevant regulatory requirements or other applicable criteria, if any.[26] The Board's standard on auditing supplement information also specifies that an auditor should obtain certain written representations from management.[27]

iii. Uhlman Failed to Sufficiently Test Assertions in the Compliance Report and Supplemental Information Accompanying the Financial Statements

20. For fiscal year 2021, Hold Brothers filed a compliance report, dated March 1, 2022, pursuant to Rule 17a-5 (the "Compliance Report"). Following the 2021 Hold Brothers Engagement, Uhlman authorized the Firm's issuance of an examination report on Hold

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21 The term "material weakness" is defined in AT No. 1, at Appendix A ¶ A4.

22 AT No. 1 at ¶ 4.

23 *See id.* at ¶¶ 6(d), 7.

24 *See* AS 2701.02-.03.

25 *Id.* at .04(a).

26 *See id.* at .04(e)-(f).

27 *See id.* at .05.

Brothers' Compliance Report, stating that the Firm examined the statements in the Compliance Report and that, in the Firm's opinion, those statements were fairly stated, in all material respects.

21. However, Uhlman failed to plan and perform adequate procedures to obtain appropriate evidence sufficient to provide reasonable assurance about whether material weaknesses existed in Hold Brothers' ICOC during, and as of the end of, the fiscal year.[28] In particular, Uhlman failed to perform any procedures to (a) obtain an understanding of Hold Brothers' ICOC or (b) test controls that were important to the Firm's conclusion about whether Hold Brothers maintained effective ICOC, including by obtaining evidence that those controls were designed and operating effectively.[29]

22. During the Firm's examination of the Compliance Report, Uhlman also failed to obtain sufficient appropriate audit evidence to identify potential instances of non-compliance with the Net Capital Rule and Reserve Requirements Rule as of the end of the fiscal year.[30] Although he performed procedures to test the existence of cash segregated for the exclusive benefit of Hold Brothers' customers and obtained certain representations from management, Uhlman nevertheless performed insufficient procedures to support the conclusion that Hold Brothers was in compliance with the Net Capital Rule and Reserve Requirements Rule as of the end of the fiscal year.[31]

23. Further, as part of the Firm's audit of Hold Brothers' 2021 financial statements, Uhlman failed to sufficiently test any of the three schedules included as supplemental information accompanying the financial statements—the Computation of Net Capital under the Net Capital Rule ("Net Capital Computation"), the Computation for Determination of Reserve Requirements under the Reserve Requirements Rule ("Customer Reserve Schedule"), and Information for Possession or Control Requirements ("Possession or Control Schedule").[32]

24. Despite obtaining certain representations from management and testing the existence of cash segregated for the exclusive benefit of its customers included in its Customer Reserve Schedule, the engagement team performed insufficient procedures to test the supplemental information. For example, Uhlman failed to obtain an understanding of the criteria management used to prepare it, including relevant regulatory requirements. Uhlman

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28 *See* AT No. 1 at ¶ 4.

29 *See id.* at ¶¶ 9, 11.

30 *See id.* at ¶¶ 9-10, 21-22.

31 *See id.* at ¶¶ 21-23.

32 *See* AS 2701.04.

also failed to determine whether the supplemental information reconciled to the applicable underlying accounting and other records or to the financial statements.[33]

25. As a result, Uhlman failed to identify that Hold Brothers omitted certain information required by the Exchange Act from its Possession or Control Schedule. Specifically, Uhlman failed to identify that Hold Bothers omitted (a) the market valuation and the number of items of customers' fully paid and excess margin securities not in Hold Brothers' possession or control as of the report date, but for which the required action was not taken by Hold Brothers within the time frames specified under Rule 15c3-3; and (b) the market valuation and the number of items of customers fully paid and excess margin securities for which instructions to reduce possession or control had not been issued as of the report date.[34]

26. With respect to the audit of Hold Brothers' supplemental information, Uhlman also failed to obtain certain required written representations from management.[35] Specifically, the management representation letter obtained from Hold Brothers included certain representations relating to the Net Capital Computation. However, the representation letter failed to include required representations relating to the Customer Reserve Schedule or Possession or Control Schedule.

27. Accordingly, Uhlman violated AT No. 1 and AS 2701 in connection with the 2021 Hold Brothers Engagement.

E. Uhlman Violated PCAOB Auditing and Ethics Standards and Failed to Cooperate with Two PCAOB Inspections

i. Relevant PCAOB Rules and Standards

28. PCAOB rules require that, in connection with the preparation or issuance of an audit report, registered public accounting firms and their associated persons comply with both auditing and ethics standards adopted by the Board.[36]

29. The PCAOB's audit documentation standard states, in part: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Audit documentation must not be deleted or discarded after the documentation completion date, however,

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33 *Id.*

34 *See* Rule 17a-5(d)(2)(ii); *see also* Commission Form X-17A-5.

35 *See* AS 2701.05.

36 *See* PCAOB Rule 3100; PCAOB Rule 3200; PCAOB Rule 3500T, *Interim Ethics and Independence Standards*.

information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[37]

30. PCAOB standards require that audit documentation "contain sufficient information to enable an experienced auditor, having no previous connection with the engagement," to understand, among other things, the timing of the procedures performed, evidence obtained, and conclusions reached, and to determine not just who performed and reviewed the work but also "the date such work was completed" and "the date of such review."[38] PCAOB standards also require the auditor to identify all significant findings or issues in an engagement completion document.[39]

31. PCAOB Rule 4006 requires registered public accounting firms and their associated persons to "cooperate with the Board in the performance of any Board inspection." Implicit in that cooperation obligation is a requirement not to provide misleading documents or information in connection with, or otherwise to interfere with, the Board's inspection processes.[40] An auditor provides misleading information if he or she participates in discussions with inspectors about documentation that the auditor knows has been improperly altered and does not disclose the alterations.[41]

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[37] AS 1215.15-.16.

[38] *Id.* at .06.

[39] *Id.* at .13.

[40] *See, e.g.*, *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), *petition for review denied, Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018) (sustaining Board finding that respondents failed to cooperate with an inspection where improper work paper alterations "interfered with the PCAOB's ability to fulfill its regulatory function of ensuring that auditors comply with their professional responsibilities"); *Hay & Watson*, PCAOB Rel. No. 105-2022-017, at 5 (Sept. 13, 2022) (PCAOB Rule 4006 "includes an obligation not to provide misleading documents or information in connection with, or otherwise to interfere with, the Board's inspection processes"); *Dale Arnold Hotz, CPA*, PCAOB Rel. No. 105-2012-008, at 4 (Nov. 13, 2012) (same).

[41] *See, e.g.*, *Edward Turner, CPA*, PCAOB Rel. No. 105-2023-009 (July 18, 2023) (respondent failed to cooperate with an inspection both by providing improperly altered documents to inspectors and participating in a discussion with inspectors about those documents without disclosing the alterations); *Elliot D. Kim, CPA*, PCAOB Rel. No. 105-2018-010 (May 23, 2018) (respondent failed to cooperate with an inspection when he remained silent during a discussion with inspectors of a document that he had improperly altered); *José Fernandez Alves*, PCAOB Rel. No. 105-2016-039 (Dec. 5, 2016) (respondent failed to cooperate when he participated in a discussion with PCAOB inspectors without informing them that the discussion was based on documents he knew had been improperly altered); *Renata Coelho de Sousa Castelli*, PCAOB Rel. No. 105-2016-040 (Dec. 5, 2016) (same).

32. PCAOB ethics standards provide, in part, that an associated person "shall maintain objectivity and integrity" and "shall not knowingly misrepresent facts" in the performance of professional services.[42] An associated person knowingly misrepresents facts in violation of ET § 102 when, for example, he or she knowingly: (a) makes, or permits or directs another to make, materially false and misleading entries in an entity's records; or (b) signs, or permits or directs another to sign, a document containing materially false and misleading information.[43]

ii. Uhlman Violated PCAOB Audit Documentation and Ethics Standards and Failed to Cooperate with the Board's 2020 and 2022 Inspections

33. Raines & Fischer personnel prepared and assembled the work papers for the Drexel Engagements and Hold Brothers Engagements in electronic form as part of an audit software database. Though the software database had a feature that, when activated, made an audit file "read-only"—allowing it to be opened and viewed, but not modified—Uhlman and other Raines & Fischer personnel did not routinely use that software feature, and did not activate that feature for the work papers assembled for the Drexel Engagements and Hold Brothers Engagements.

34. Uhlman failed to timely assemble complete and final sets of audit documentation for four engagements—the 2020 Drexel Engagement, the 2022 Drexel Engagement, the 2020 Hold Brothers Engagement, and the 2022 Hold Brothers Engagement. Certain assembled work papers for those engagements lack signoffs indicating who prepared the documentation and when, as well as who reviewed the documentation and when. In addition, Uhlman and the engagement teams failed to include multiple work papers necessary to evidence the Firm's compliance with auditing and attestation standards in the Firm's assembled set of audit documentation with respect to each of the four engagements. For example, each of the assembled sets of audit documentation failed to contain work papers relating to the Firm's planning of the engagements, including risk assessment procedures, or an engagement completion document.[44]

35. Furthermore, Uhlman failed to cooperate with, and violated PCAOB ethics standards in connection with, two separate PCAOB inspections. As the engagement partner for the 2021 Drexel Engagement, Uhlman authorized the issuance of Raines & Fischer's audit and review reports dated March 1, 2022. Additionally, as the engagement partner for the Firm's 2021 Hold Brothers Engagement, Uhlman authorized the issuance of Raines & Fischer's audit and examination reports, which were also dated March 1, 2022. Therefore, the documentation

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42 *See* ET § 102.01.

43 *Id.* at .02(a), (c).

44 *See* AS 2101.10, *Audit Planning*; AS 1215.13.

completion date for both of those engagements was no later than April 15, 2022 (45 days after the release date of the Firm's reports). However, Uhlman failed to assemble a complete and final set of audit documentation for both engagements by that date.

36. On September 13, 2022, DRI informed the Firm that the 2021 Drexel Engagement and 2021 Hold Brothers Engagement had been selected for review during DRI's impending inspection, for which fieldwork was expected to start on November 14, 2022. After learning that DRI would be reviewing the 2021 Drexel Engagement and 2021 Hold Brothers Engagement, Uhlman contacted Drexel and Hold Brothers to obtain information that he and those working at his direction used to perform additional audit procedures.

37. Uhlman, and junior Firm staff, improperly created or modified over 100 work papers for the 2021 Drexel Engagement and 2021 Hold Brothers Engagement—including to document the additional procedures they performed after learning of DRI's impending inspection—and added the newly created or modified work papers to the corresponding audit file. When doing so, they backdated signoffs and applied other individuals' signoffs, both within certain work papers themselves as well as in the signoff fields in the Firm's audit documentation software, to make it appear that the work papers had been prepared and reviewed at the time of each engagement.

38. Notwithstanding those modifications to the work papers after the applicable documentation completion dates, Uhlman failed to properly document who added the information to the work papers, as well as when and why the information was added.

39. As Uhlman knew, the newly created and modified work papers were included in the sets of work papers for the 2021 Drexel Engagement and 2021 Hold Brothers Engagement that Raines & Fischer provided to DRI. As Uhlman further knew, Raines & Fischer also provided to DRI a work paper index printed from the Firm's audit software for each engagement that contained backdated signoffs.

40. Uhlman was the Firm's primary contact with DRI for the 2022 inspection and participated in multiple meetings with DRI staff, including meetings about the 2021 Drexel Engagement and the 2021 Hold Brothers Engagement. However, he failed to disclose to inspectors that numerous work papers for the 2021 Drexel Engagement and 2021 Hold Brothers Engagement had been created or modified after the documentation completion dates.

41. During the 2022 inspection, DRI staff noted that three audit programs in the 2021 Hold Brothers work papers provided to them by Uhlman contained tracked changes indicating that the audit programs had been prepared or modified after the documentation completion date. When asked about these audit programs, Uhlman denied being aware of any modifications, even though some of the tracked changes reflected revisions Uhlman had made just days prior to providing the work papers to the inspectors. In a subsequent conversation,

Uhlman continued to mislead inspectors by indicating that the edits were made by Firm staff in preparation for the following year's audit. Uhlman then provided inspectors with PDF versions of the audit programs that he claimed were from the archived work papers finalized at the time of the 2021 Hold Brothers Engagement. However, they too contained the improper modifications reflected in the Word versions that were made shortly before the inspection.

42. Similarly, during an earlier 2020 PCAOB inspection of Raines & Fischer, Uhlman knew that Sarrel, and Firm personnel acting under Sarrel's direction, improperly created and modified work papers relating to the 2019 Third Seven Engagement and that the improperly altered documentation was provided to DRI. Uhlman served as Raines & Fischer's primary contact with DRI for the 2020 inspection, and attended at least two meetings with Sarrel and DRI staff during which there were discussions based upon the altered documentation. But Uhlman failed to disclose to DRI during those meetings—or at any other time—that work papers for the 2019 Third Seven Engagement had been created and modified in advance of the 2020 inspection.

43. Accordingly, Uhlman repeatedly violated AS 1215, PCAOB Rule 4006, and ET § 102.

IV.

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

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Brian Uhlman is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[45]

[45] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act, 15 U.S.C. § 7215(c)(7)(B), will apply with respect to Uhlman. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

C. Pursuant to PCAOB Rule 5302(b), Uhlman may file a petition for Board consent to associate with a registered public accounting firm after the expiration of five years from the date of this Order.

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB 5300(a)(6), Uhlman is required to complete, before petitioning to reassociate with the Board, forty hours of CPE, including on topics related to PCAOB standards concerning audit documentation and audits, examinations, and reviews of broker-dealers (such hours shall be in addition to, and shall not be counted in, any CPE Uhlman is required to obtain in connection with any professional license).

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $125,000 is imposed upon Brian Uhlman.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff, or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Brian Uhlman as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

5. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or

accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 3, 2024

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of SS Accounting and Auditing Inc. and Saima Sayani, CPA,

Respondents.

PCAOB Release No. 105-2025-002

January 14, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring SS Accounting and Auditing Inc. ("SS Accounting" or the "Firm"), a registered public accounting firm, and Saima Sayani, CPA ("Sayani") (collectively, "Respondents");

(2) barring Sayani from being an associated person of a registered public accounting firm;[1]

(3) revoking the Firm's registration;[2]

(4) imposing a civil monetary penalty in the amount of $65,000 upon the Firm and Sayani, jointly and severally;

(5) requiring the Firm to undertake certain remedial measures concerning quality control, and to provide evidence of such measures with, any future registration application; and

(6) requiring that Sayani complete 50 hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license,

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1 Sayani may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

2 The Firm may reapply for registration after two years from the date of this Order.

before filing any petition for Board consent to associate with a registered public accounting firm.

The Board is imposing these sanctions on the basis of its findings that Sayani and the Firm violated PCAOB rules and standards in connection with the Firm's audits of the financial statements of China Green Agriculture, Inc. ("China Green") for the fiscal years ended June 30, 2021 ("2021 China Green Audit") and June 30, 2022 ("2022 China Green Audit") (collectively, the "China Green Audits"), that the Firm violated PCAOB quality control standards, and that Sayani directly and substantially contributed to those quality control violations.[3]

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds that:[5]

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[3] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the conduct discussed herein.

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

[5] The Board finds that Respondents' conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in

A. Respondents

1. **SS Accounting and Auditing Inc.** is headquartered in Plano, Texas. SS Accounting is licensed to practice public accounting by the Texas State Board of Public Accountancy (license no. C10697). SS Accounting is, and at all relevant times was, registered with the Board, and is a "registered public accounting firm" as that term is defined in Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i).

2. **Saima Sayani** was, at all relevant times, a partner of the Firm and a certified public accountant under the laws of Texas (license no. 103440). Sayani served as the engagement partner for the China Green Audits. At all relevant times, Sayani was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer

3. **China Green Agriculture, Inc.** is headquartered in the People's Republic of China. Its public filings disclose that it is engaged in the production and sale of various types of fertilizers and agricultural products through wholly-owned Chinese subsidiaries and variable interest entities, including Jinong Shaanxi TechTeam Jinong Humic Acid Product Co., Ltd. ("Jinong"); Beijing Gufeng Chemical Products Co., Ltd. ("Gufeng"); and Xi'an Hu County Yuxing Agriculture Technology Development Co., Ltd. ("Yuxing"). China Green is, and at all relevant times was, an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. As detailed below, Respondents violated multiple PCAOB rules and standards in connection with the China Green Audits. On one or both of the China Green Audits, Respondents failed to: (a) obtain sufficient appropriate audit evidence for revenue and inventory; (b) perform sufficient procedures to test journal entries in response to the risk of fraud; (c) communicate all required matters to China Green's audit committee; (d) determine all critical audit matters ("CAMs"); and (e) identify significant findings and issues in an engagement completion document.

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violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

5. Further, during 2021 and 2022, the Firm violated PCAOB quality control standards, and Sayani directly and substantially contributed to the Firm's quality control violations.

D. Applicable PCAOB Rules and Auditing Standards

6. In connection with the preparation and issuance of an audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with all applicable auditing and related professional standards.[6] An auditor is in a position to express an unqualified opinion on an issuer's financial statements when the auditor conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[7] An auditor must determine whether there are any critical audit matters in the audit of the financial statements.[8]

7. PCAOB standards require that an auditor exercise due professional care in planning and performing an audit.[9] Due professional care requires that the auditor exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[10]

8. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion.[11] In addition, an auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by fraud or error.[12] An auditor is also required to prepare audit documentation pursuant to PCAOB

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6 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

7 *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

8 *See id.* at .11, *see also id.* at .12.

9 *See* AS 1015.01, *Due Professional Care in the Performance of Work*.

10 *Id.* at .07; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*.

11 AS 1105.04, *Audit Evidence*.

12 AS 2401.12, *Consideration of Fraud in a Financial Statement Audit*.

standards, including identifying all significant findings or issues in an engagement completion document.[13]

9. PCAOB standards also require auditors to design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[14] In conducting sampling in substantive tests of details, an auditor should determine that the population from which a sample is drawn is appropriate for the specific audit objective and select sample items in such a way that the sample can be expected to be representative of the population.[15] Moreover, when auditing inventories, if the auditor has not satisfied himself or herself as to inventories in the possession of the client, the auditor needs to make or observe some physical counts of the inventory and apply appropriate tests of intervening transactions.[16]

10. In determining the nature, timing, and extent of the testing of journal entries and other adjustments, for purposes of identifying and selecting specific entries and other adjustments for testing, and determining the appropriate method of examining the underlying support for the items selected, an auditor should consider, among other factors, the auditor's assessment of the fraud risk.[17] In addressing fraud risk related to management override of controls, PCAOB standards require the auditor to design procedures to test the appropriateness of journal entries recorded in the general ledger and other adjustments made in the preparation of the financial statements.[18]

11. PCAOB standards also require the auditor to communicate with the company's audit committee regarding certain matters related to the conduct of an audit, including significant risks identified during the auditor's risk assessment procedures; the names, locations, and planned responsibilities of other independent public accounting firms or other persons, who are not employed by the auditor, that perform audit procedures in the current period audit; critical accounting policies and practices; critical accounting estimates; and, when applicable, certain matters relating to the auditor's evaluation of the company's ability to continue as a going concern.[19]

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13 *See* AS 1215.04, .13, *Audit Documentation*.

14 *See* AS 2301.08.

15 *See* AS 2315.17, .24, *Audit Sampling*.

16 *See* AS 2510.12, *Auditing Inventories*.

17 *See* AS 2401.61.

18 *Id.* at .58; *see also id.* at .57.

19 *See* AS 1301.01, .09-.10, .12, .17, *Communications with Audit Committees*.

E. Respondents Violated PCAOB Rules and Standards on the China Green Audits

12. SS Accounting issued audit reports containing unqualified opinions on China Green's 2021 and 2022 financial statements on October 13, 2021, and November 10, 2022, respectively. The reports were included with China Green's Forms 10-K filed with the U.S. Securities and Exchange Commission ("Commission"). As described below, Respondents failed to comply with PCAOB rules and standards in performing the China Green Audits.

i. Respondents Failed to Sufficiently Test Revenue on the China Green Audits

13. Jinong, one of China Green's subsidiaries and larger business segments, recorded revenue for fiscal years ending June 30, 2021, and June 30, 2022, of approximately $59.4 million and $54 million, or 26% and 32% of China Green's total revenue, respectively. On both China Green Audits, Respondents identified revenue recognition as a fraud risk for Jinong.

14. In performing substantive testing of revenue on the China Green Audits, Respondents limited the population from which it selected sales transactions. For the 2021 China Green Audit, Respondents selected the top 35 customer sales transactions for testing, which totaled approximately $6.5 million or 11% of Jinong's total revenue. For the 2022 China Green Audit, Respondents selected sales transactions for testing by selecting the top 121 customers with the largest outstanding accounts receivable balances as of year-end, which totaled approximately $8.6 million or 16% of Jinong's total sales. Respondents did not perform any other test of details on Jinong's revenue during the China Green Audits.

15. Because Respondents' selection of transactions was based on a specific characteristic (i.e., largest customers or largest accounts receivable balances), and not all items in Jinong's revenue population had an opportunity to be selected, the selection did not constitute audit sampling.[20] Therefore, the results of Respondents' testing could not be projected to the entire population.[21]

16. As a result, more than 80% of Jinong's revenue for both the 2021 China Green and the 2022 China Green Audit, or 23% and 27% of China Green's total consolidated sales for those years, respectively, was not subject to testing.

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20 *See* AS 1105.27.

21 *See id.*

17. For these reasons, Respondents failed to obtain sufficient appropriate audit evidence concerning revenue on the China Green Audits.[22]

ii. Respondents Failed to Perform Sufficient Procedures to Test China Green's Inventory on the 2022 China Green Audit

18. For the fiscal year 2022, China Green reported total inventory of $42.2 million, or 22% of China Green's total assets. The majority of China Green's inventory, or 98%, was located at two of its subsidiaries – Gufeng and Yuxing – which reported total inventory of $22 million and $19 million, respectively. Jinong's inventory represented approximately 2% of China Green's total assets. Respondents identified China Green's inventory as a significant risk in the 2022 China Green Audit.

19. To test the existence of inventory, Respondents performed inventory observation procedures on July 31, 2022, and August 1, 2022 – one month after China Green's fiscal year-end June 30, 2022. As part of those procedures, Respondents agreed the quantity of items test counted by product during the physical inventory observation procedures to the quantity of items recorded in China Green's accounting records as of July 31, 2022, and August 1, 2022. The results of those procedures showed no discrepancies. To support the inventory reported on June 30, 2022, Respondents obtained a schedule of all purchases and sales during the intervening period – i.e., the date after the balance sheet date to the date of inventory observation (or July 1, 2022 to July 31, 2022 or August 1, 2022).

20. However, except for testing the intervening purchases after fiscal year-end for one subsidiary (Gufeng), Respondents failed to perform any procedures to test the intervening purchases and sales for China Green's other two subsidiaries that reported inventory.

21. Because Respondents failed to perform sufficient procedures to test intervening transactions between the date of the Firm's inventory observation and fiscal year-end, they failed to obtain sufficient appropriate audit evidence for the inventory China Green reported for the fiscal year-end June 30, 2022.[23]

iii. Respondents Failed to Perform Sufficient Procedures to Test Journal Entries in Response to the Risk of Fraud on the 2022 China Green Audit

22. Respondents identified management override of controls as a fraud risk in the 2022 China Green Audit. In response to that risk assessment, Respondents planned to perform an examination of journal entries.

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22 *See* AS 1105.27; AS 2315.24; AS 2301.08, .13.

23 *See* AS 2510.12; AS 1105.04.

23. However, Respondents' journal entry testing was limited to China Green's three operating subsidiaries – Jinong, Gufeng, and Yuxing. Respondents did not perform any journal entry testing on China Green's four discontinued subsidiaries despite the discontinued subsidiaries' materiality to China Green's financial statements – net loss from discontinued operations was $17.8 million and accounted for 18% of China Green's net loss.[24]

24. As a result, Respondents failed to perform sufficient procedures to respond to the risk of management override of controls on the 2022 China Green Audit.[25]

iv. Respondents Failed to Make Required Communications to the Audit Committee on the China Green Audits

25. In both the 2021 China Green Audit and the 2022 China Green Audit, Respondents sent letters to China Green's audit committee, on June 16, 2021, and June 20, 2022, respectively, communicating an overview of the audit strategy, including the timing of the audit. Respondents also sent letters to the audit committee communicating certain results of the 2021 China Green Audit and the 2022 China Green Audit on September 27, 2021 and November 3, 2022, respectively. In both China Green Audits, however, Respondents failed to make several required communications to the audit committee.

26. Specifically, on both the China Green Audits, while Respondents identified revenue recognition, inventory, and management override of controls as significant risks and fraud risks, Respondents failed to communicate those identified risks to the audit committee.[26]

27. Additionally, on both the China Green Audits, Respondents used a foreign accounting firm and external contractors to perform audit procedures. Respondents, however, failed to communicate the name, location, and planned responsibilities of these third parties to China Green's audit committee.[27]

28. Further, on both the China Green Audits, China Green disclosed in its Forms 10-K critical accounting policies and estimates related to the use of estimates, revenue recognition, cash and cash equivalents, accounts receivable, assets held for sale, deferred assets, and segment reporting. However, in the letters sent to China Green's audit committee

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[24] The net loss from discontinued operations of $17.8 million included revenue of $13.4 million; cost of goods sold of $18.1 million; and selling, general, and administrative expenses of $13.1 million.

[25] *See* AS 2401.61.

[26] *See* AS 1301.09.

[27] *See id.* at .10d.

communicating the results of its audits, Respondents indicated that there were no critical accounting policies or critical accounting estimates.[28]

29. Finally, on both the China Green Audits, Respondents evaluated China Green's ability to continue as a going concern and concluded, based on conditions and events that Respondents identified, that there was substantial doubt about China Green's ability to continue as a going concern for a reasonable period of time. Notwithstanding that conclusion, Respondents failed to communicate their conclusion, or the conditions and events on which the conclusion was based, to China Green's audit committee.[29]

30. As a result of these failures on both the China Green Audits to make required communications to China Green's audit committee, Respondents violated PCAOB standards.[30]

v. Respondents Failed to Make Critical Audit Matter Determinations as to Certain Matters Potentially Material to China Green's Financial Statements on the China Green Audits

31. PCAOB standards require an auditor to determine and communicate in the audit report whether there are any CAMs in the audit of a client's current period financial statements. A CAM is "any matter arising from the audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved especially challenging, subjective, or complex auditor judgment."[31]

32. For each CAM communicated in the auditor's report, the auditor must: (a) identify the CAM; (b) describe the principal considerations that led the auditor to determine that the matter is a CAM; (c) describe how the CAM was addressed in the audit; and (d) refer to the relevant financial statement accounts or disclosures that relate to the CAM.[32] If the auditor determines that there are no CAMs in an audit, the auditor must state in the audit report that no CAMs were identified.[33]

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28 *See id.* at .12.

29 *See id.* at .17a.

30 *See* AS 1301.09, .10d, .12, .17a.

31 AS 3101.11.

32 *Id.* at .14.

33 *Id.* at .13.

33. During the China Green Audits, Respondents did not perform any procedures to determine whether certain potentially material accounts and disclosures that were required to be communicated to China Green's audit committee constituted a CAM.

34. For example, as explained above, China Green disclosed critical accounting policies and critical accounting estimates in its fiscal year 2021 and 2022 financial statements. Respondents were aware of those disclosures during the China Green Audits (despite informing China Green's audit committee that there were no critical accounting policies or critical accounting estimates). As another example, Respondents also identified and communicated to the audit committee a schedule of corrected misstatements.

35. Respondents, however, failed to determine during the China Green Audits whether those issuer-disclosed critical accounting policies and critical accounting estimates, as well as certain corrected misstatements – all of which were required to be communicated to the audit committee – were CAMs.[34]

vi. Respondents Failed to Identify Significant Findings or Issues in the Engagement Completion Audit Documentation for the China Green Audits

36. For each of the China Green Audits, Respondents included an engagement completion document in the work papers, but they noted "N/A" to every section in each of the engagement completion documents.

37. Given the significant issues Respondents encountered on the China Green Audits, those "N/A" designations were inappropriate. For example, in the engagement completion documents, Respondents failed to document the results of their auditing procedures in response to the significant risks they identified or provide cross-references to other supporting documentation.

38. Moreover, in the engagement completion documents, Respondents failed to identify responses to other significant findings or issues, including their audit responses to: (i) China Green's intangible assets subject to amortization, which Respondents identified as a CAM during both China Green Audits; (ii) non-monetary sales and purchases of transactions on which China Green recorded no gain or loss; and (iii) the discontinued operations of China Green's four variable interest entities during the year under audit.

39. For all of these reasons, Respondents failed to identify significant findings or issues in the engagement completion documents for the China Green Audits.[35]

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34 *See* AS 3101.11-.14.

35 *See* AS 1215.13.

F. The Firm Violated PCAOB Quality Control Standards and Sayani Directly and Substantially Contributed to These Violations

40. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's quality control standards.[36] These standards require that a registered firm have a system of quality control for its accounting and auditing practice.[37] A system of quality control is broadly defined as a process to provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality.[38] A firm's system of quality control should include policies and procedures that provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[39] A firm's "policies and procedures should cover planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement."[40]

41. PCAOB quality control standards also require the establishment of monitoring policies and procedures to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control are suitably designed and are being effectively applied.[41] Monitoring involves an ongoing consideration and evaluation of the (a) relevance and adequacy of the firm's policies and procedures; (b) appropriateness of the firm's guidance materials and any practice aids; (c) effectiveness of professional development activities; and (d) compliance with the firm's policies and procedures.[42]

42. The Firm violated PCAOB quality control standards in several ways.

43. As illustrated by the Firm's various violations outlined above in connection with the China Green Audits, the Firm failed to establish and implement policies and procedures sufficient to provide it with reasonable assurance that the work performed by engagement

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36 *See* PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

37 *See* QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

38 *Id.* at .03.

39 *Id.* at .17

40 *Id.* at .18.

41 QC § 20.20; QC 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

42 QC § 30.02; *see generally* at .03-.09.

personnel met applicable professional standards and regulatory requirements, and the Firm's standard of quality.[43]

44. The Firm also failed to establish and implement any monitoring procedures, as required by PCAOB quality control standards. Indeed, since the Firm's registration with the Board in July 2020 and through the time period that Respondents were conducting the China Green Audits, the Firm failed to conduct any monitoring of its quality control system.[44]

45. PCAOB Rule 3502 prohibits an associated person of a registered public accounting firm from taking or omitting an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to the firm's violation of PCAOB rules or standards.[45] At the time of the China Green Audits, as the sole owner of the Firm, Sayani was responsible for ensuring the Firm complied with PCAOB rules and standards, and was responsible for developing and maintaining the Firm's system of quality control. Sayani, however, recklessly failed to fulfill those responsibilities, and thereby directly and substantially contributed to the Firm's quality control violations.[46]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Saima Sayani and SS Accounting are hereby censured.

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Saima Sayani is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[47]

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43 *See* QC § 20.17.

44 *See* QC § 30.02-.09; *see also* QC § 20.20.

45 *See* PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

46 *See id*.

47 As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act, 15 U.S.C. § 7215(c)(7)(B), will apply with respect to Sayani. Section 105(c)(7)(B) provides: "It shall be unlawful for

C. Pursuant to PCAOB Rule 5302(b), Saima Sayani may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

D. Pursuant to Section 105(c)(4)(A) of the Act and the PCAOB Rule 5300(a)(1), the registration of SS Accounting is hereby revoked.

E. Pursuant to PCAOB Rule 2101, after two years from the date of this Order, the Firm may reapply for registration by filing an application for registration.

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $65,000 is imposed on Saima Sayani and SS Accounting, jointly and severally.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Saima Sayani and SS Accounting shall pay $65,000 within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Saima Sayani and SS Accounting as respondents in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

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any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Saima Sayani and SS Accounting shall pay pursuant to this Order, Saima Sayani and SS Accounting shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Saima Sayani and SS Accounting's payment of the civil money penalty pursuant to this Order, in any private action brought against Saima Sayani or SS Accounting based on substantially the same facts as set out in the findings in this Order.

5. By consenting to this Order, SS Accounting acknowledges that failure to pay the civil money penalty described above may alone be grounds to deny any reapplication for registration pursuant to PCAOB Rule 2101.

6. By consenting to this Order, Saima Sayani acknowledges that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

G. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Before filing with the Board any future registration application, to establish, revise, or supplement, as necessary, policies and procedures to provide the Firm with reasonable assurance that: (a) Firm personnel will comply with PCAOB standards when conducting issuer audits and (b) the work performed by engagement personnel meets applicable professional standards and regulatory requirements, and the Firm's standards of quality.

2. To provide with any future registration application a written certification, signed by the individual ultimately responsible for the Firm's system of quality control, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.G.1 above. The certification shall identify the actions undertaken to satisfy the

conditions specified above, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations or the staff of the Division of Registration and Inspections may reasonably request.

H. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Sayani is required to complete, prior to filing any petition to terminate her bar and for Board consent to reassociate with a registered public accounting firm, 50 hours of continuing professional education and training relating to PCAOB auditing standards (such hours shall be in addition to, and shall not be counted in, the continuing professional education she is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

January 14, 2025

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Baker Tilly US, LLP,

Respondent.

PCAOB Release No. 105-2025-001

January 14, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Baker Tilly US, LLP ("Baker Tilly," "Firm," or "Respondent");

(2) imposing a $500,000 civil money penalty upon the Firm;

(3) requiring Baker Tilly to engage an independent consultant to review and make recommendations concerning Baker Tilly's system of quality control as specified in Section IV of this Order; and

(4) requiring Baker Tilly to conduct certain training for all issuer audit staff.

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and quality control standards from 2021 to 2022 by failing to ensure that its system of quality control provided reasonable assurance that its personnel complied with applicable professional standards and the Firm's standards of quality, despite audit and quality control concerns brought to the Firm's attention through PCAOB inspections.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Baker Tilly US, LLP** is a public accounting firm headquartered in Chicago, Illinois. Baker Tilly is licensed to practice public accounting by the Illinois Department of Financial and Professional Regulation (License No. 066.004260), among other state licensing authorities. Baker Tilly is, and, at all relevant times, was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns the Firm's failure to comply with PCAOB rules and quality control standards from 2021 to 2022. During that period, the Firm's system of quality control over engagement performance failed to provide reasonable assurance that work performed by the Firm's engagement personnel met applicable professional standards and regulatory requirements. In addition, the Firm's monitoring policies and procedures failed to provide it with reasonable assurance that the policies and procedures relating to each of the other elements of quality control were suitably designed and effectively applied.[2]

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

[2] Before 2022, Baker Tilly was inspected on a triennial basis. On October 4, 2021, the Firm filed a special report on Form 3 reporting that it had issued audit reports with respect to more than 100 issuers. As a result, the Firm was subject to a PCAOB inspection each calendar year beginning in calendar year 2022. *See* PCAOB Rule 4003, *Frequency of Inspections*. The Firm remained subject to annual inspection in calendar year 2023. The Firm has since reported that it has reduced its issuer client base, filing a PCAOB Form 3 on February 29, 2024, which indicated in Item 2.3 that the Firm has issued audit

3. In 2018 and early 2019, PCAOB inspectors brought concerns to the Firm's attention related to significant engagement deficiencies found in various audit areas, including in the Firm's auditing of issuers' internal control over financial reporting ("ICFR"), its auditing of accounting estimates, and its execution of engagement quality reviews ("EQRs").

4. Despite the Firm's awareness of these deficiencies and concerns, the Firm failed to make effective changes to improve its system of quality control and failed to address the deficiencies through its quality control engagement performance and monitoring policies and procedures. Indeed, in two subsequent inspections that the Board conducted in 2021 and 2022, PCAOB inspectors identified substantially the same significant engagement deficiencies across multiple audits that the Firm conducted. Accordingly, the Firm violated PCAOB quality control standards.

C. The Firm Violated PCAOB Rules and Quality Control Standards

5. PCAOB rules require a registered public accounting firm and its associated persons to comply with PCAOB quality control standards.[3] These standards require that a registered firm have a system of quality control for its accounting and auditing practice.[4] A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and procedures established to provide the firm with reasonable assurance of complying with professional standards.[5]

6. A firm's system of quality control should, among other things, include policies and procedures for engagement performance.[6] These quality control policies and procedures should provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[7] Quality control policies and procedures for engagement performance

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reports with respect to 100 or fewer issuers in a completed calendar year [2023] immediately following a calendar year in which the Firm issued audit reports with respect to more than 100 issuers [2022]. *See* Firm Form 3 (Feb. 29, 2024).

[3] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[4] *See* QC 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[5] *Id.* at .04.

[6] *Id.* at .07.

[7] *Id.* at .17.

encompass all phases of the design and execution of an engagement.[8] To the extent appropriate and as required by applicable professional standards, these policies and procedures should cover planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement.[9] These policies and procedures also should address EQRs.[10]

7. A firm should also establish policies and procedures to provide the firm with reasonable assurance that its quality control policies and procedures are suitably designed and are being effectively applied.[11] Monitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective.[12] Procedures that provide the firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the firm's policies and procedures contribute to the monitoring element.[13] Among other things, a firm's monitoring procedures may include inspection procedures, preissuance or postissuance review of selected engagements, determination of any corrective actions to be taken and improvements to be made in the quality control system, communication to appropriate firm personnel of any weaknesses identified, and follow-up to ensure that any necessary modifications are made to the quality control system on a timely basis.[14]

8. Inspection procedures, as a part of a firm's system of quality control, evaluate the adequacy of a firm's quality control policies and procedures, its personnel's understanding of those policies and procedures, and the extent of the firm's compliance with its quality control policies and procedures.[15] Inspection procedures contribute to the monitoring function because findings are evaluated and changes in, or clarifications of, quality control policies and procedures are considered.[16]

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8 *Id.* at .18.

9 *Id.*

10 *Id*.

11 *See* QC § 20.20; QC 30, *Monitoring a CPA Firm's Accounting and Auditing Practice*, .02.

12 QC § 30.03.

13 *Id*.

14 QC § 30.03; *see also id.* at .04-.08.

15 *Id.* at .04.

16 *Id*.

9. To provide reasonable assurance that the firm's quality control system achieves its objectives, appropriate consideration should be given to the assignment of quality control responsibilities within the firm, the means by which quality control policies and procedures are communicated, and the extent to which the policies and procedures and compliance should be documented.[17]

i. The Firm's Quality Control Policies and Procedures Failed to Provide Reasonable Assurance That Personnel Complied with Applicable Professional Standards

10. In 2018, PCAOB inspection staff conducted an inspection of the Firm. In connection with the inspection, PCAOB inspection staff informed the Firm in 2018 and early 2019 of its findings regarding audit deficiencies, including findings that the Firm failed, in three ICFR audits selected for inspection, to perform sufficient procedures to test the design and operating effectiveness of controls.

11. These 2018 inspection findings related to, among other things, deficiencies in the Firm's testing of controls over allowances for loan losses ("ALL"), valuation of available-for-sale securities, and the existence of inventory. The findings also concerned deficiencies in the Firm's testing of the process used by management to make estimates in two ICFR audits the inspectors reviewed. Lastly, the findings included deficiencies in the performance of an EQR in one audit. Specifically, PCAOB inspectors found that in this audit, the Firm's engagement quality reviewer did not appropriately evaluate an area that the engagement team had identified as a significant risk. These inspection findings, among others, were memorialized in the 2018 PCAOB Inspection Report.[18]

12. In November and December 2021, PCAOB inspection staff conducted the next inspection of the Firm. PCAOB inspectors again found deficiencies in the Firm's testing of controls in ICFR audits and in testing estimates. Specifically, with respect to all three ICFR audits selected for review, PCAOB inspectors again identified deficiencies in the Firm's testing of the design and operating effectiveness of controls. Additionally, the 2021 inspection findings again included deficiencies in issuer audits related to the Firm's ALL testing and, more generally, in testing of estimates. The 2021 inspection further found repeat deficiencies in the performance of EQRs. In particular, in five of the audits reviewed, PCAOB inspectors again found that the

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[17] QC § 20.21.

[18] *See Report on 2018 Inspection of Baker Tilly US, LLP* ("2018 Inspection Report"), PCAOB Rel. No. 104-2021-023A (Dec. 21, 2020).

Firm's engagement quality reviewers did not appropriately evaluate areas identified as significant risks.

13. In 2022, the PCAOB conducted another inspection of the Firm. In the issuer audits selected for review during that inspection, PCAOB inspectors once again identified deficiencies similar to those that they had brought to the Firm's attention in connection with the 2018 inspection. In three of the four ICFR audits reviewed, the inspectors again identified deficiencies in the Firm's testing of the design and/or operating effectiveness of controls selected for testing. In 10 of 12 audit engagements reviewed, the inspectors again identified deficiencies in the Firm's testing of accounting estimates. And in 10 of the 12 engagements reviewed, the inspectors again found deficiencies in the performance of EQRs.

14. Accordingly, despite being put on notice through the 2018 inspection of significant deficiencies in multiple audits in the areas of ICFR auditing, testing of accounting estimates, and performance of EQRs, the Firm failed to take sufficient action to provide reasonable assurance that its personnel would comply with PCAOB standards in these areas in future audits, as evidenced by the findings in these areas in the 2021 and 2022 PCAOB inspections. Accordingly, from 2021 to 2022, the engagement performance element of the Firm's system of quality control failed to provide the Firm with reasonable assurance that the work performed by its engagement personnel met applicable professional standards and regulatory requirements, in violation of QC 20.[19]

ii. The Firm's Quality Control Monitoring Policies and Procedures Failed to Provide Reasonable Assurance That Each of the Other Elements of Quality Control Was Suitably Designed and Being Effectively Applied

15. From 2021 to 2022, the Firm's monitoring procedures related to its internal inspections also were deficient and failed to provide the Firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the Firm's policies and procedures that contribute to the monitoring element.[20]

16. To address requirements that a firm's monitoring element provide it with reasonable assurance that its policies and procedures for each of the other elements of its

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[19] *See* QC § 20.17.

[20] *See* QC § 30.03.

system of quality control are suitably designed and were being effectively applied,[21] the Firm conducted annual internal inspections between 2018 and 2022.

17. Those annual internal inspections, however, were insufficient to address the above-described issuer-specific audit deficiencies that PCAOB inspectors first identified in connection with the 2018 inspection and that recurred repeatedly in engagements the Firm conducted in 2021 and 2022.

18. As a result, the Firm violated PCAOB rules and quality control standards by failing from 2021 to 2022 to have monitoring policies and procedures, taken as a whole, that enabled the Firm to obtain reasonable assurance that its system of quality control was effective, such that the policies and procedures for each of the elements of its system of quality control, including engagement performance, were suitably designed and being effectively applied.

IV.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $500,000 on Baker Tilly.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check: (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting

[21] *See* QC § 20.20.

Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order.

5. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Sections 105(c)(4)(C) and (G) of the Act and PCAOB Rules 5300(a)(3), (8) and (9), the Board orders that:

1. Independent Consultant

a. Baker Tilly shall retain and pay for an independent consultant ("Independent Consultant"), not unacceptable to the PCAOB staff, to review and make recommendations regarding Baker Tilly's quality

control policies and procedures applicable to audits and reviews conducted pursuant to PCAOB standards and to recommend areas of training for Baker Tilly issuer audit personnel. The Independent Consultant must have experience with, and be knowledgeable concerning, PCAOB quality control and auditing standards. Within thirty days after the entry of this Order, Baker Tilly shall submit to the PCAOB staff a proposal setting forth the identity, qualifications, and proposed terms of retention of the Independent Consultant. Baker Tilly may not hire as the Independent Consultant any individual who has provided legal, auditing, or other services to, or has had any affiliation with, Baker Tilly during the two years prior to entry of this Order.

b. To ensure the independence of the Independent Consultant, Baker Tilly: (i) shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the PCAOB staff; and (ii) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

c. Baker Tilly shall cooperate fully with the Independent Consultant and shall provide reasonable access to its personnel, information, and records as the Independent Consultant may reasonably request for the Independent Consultant's review, evaluation, and reports.

d. If Baker Tilly, despite its best, good faith efforts, is unable to identify an Independent Consultant candidate that meets all of the above-listed criteria, it may seek approval from the PCAOB staff of alternative candidates or alternative terms that Baker Tilly believes to be otherwise suitable.

e. Within 90 days of this Order, Baker Tilly will review, evaluate, and implement, under the supervision of the Independent Consultant, any necessary enhancements to Baker Tilly's quality control policies and procedures applicable to audits and reviews conducted pursuant to PCAOB standards. If, as a result of that review and evaluation, it appears to the Independent Consultant that any further

enhancements to the system of quality control are necessary, it shall recommend such enhancements to Baker Tilly.

f. Within 270 days of this Order, Baker Tilly shall (1) implement any recommendations received from the Independent Consultant, pursuant to Paragraph IV.C.1.e, and (2) require the Independent Consultant to complete his or her review of a sample of the Firm's most recent public company audits to ensure those audits comply with PCAOB auditing standards and that those integrated audits were conducted in accordance with PCAOB quality control standards and the Firm's revised Quality Control Manual. If Baker Tilly does not implement recommendations received from the Independent Consultant pursuant to Paragraph IV.C.1.e, it shall communicate to the Director of the Division of Enforcement and Investigations the recommendations of the Independent Consultant it did not implement and the reasons for not doing so.

2. Firm Certification

a. Within 270 days of the date of this Order, Baker Tilly shall certify in writing to the Director of the Division of Enforcement and Investigations, PCAOB, 1666 K Street N.W., Washington, DC 20006, the Firm's compliance with the above paragraphs ("Final Certification"). The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The certification shall include a description of the specific enhancements implemented to Baker Tilly's system of quality control from the time of the conduct described in this Order. Baker Tilly shall also submit such additional evidence of and information concerning actions taken to comply with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

b. For good cause shown, the PCAOB staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

c. Baker Tilly understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

D. Pursuant to Section 105(c)(4)(F) and (G) of the Act and PCAOB Rule 5300(a)(6) and (9), Baker Tilly is required:

1. As of the date of the Final Certification, to have conducted training for all issuer audit personnel of the Firm related to the areas recommended by the Independent Consultant as referenced in Paragraph IV.C.1.a above.

2. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

January 14, 2025

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Heber Maughan, CPA,

Respondent.

PCAOB Release No. 105-2025-003

February 11, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Heber Maughan, CPA ("Maughan" or "Respondent");

(2) barring Maughan from being an associated person of a registered public accounting firm; and

(3) imposing on Maughan a $10,000 civil money penalty.[1]

The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB rules and standards in connection with a PCAOB inspection, a PCAOB investigation, and audit documentation for several audits of issuers.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) and (3) against Respondent.

[1] The Board determined to accept Respondent's offer of settlement, which specifies a $10,000 civil money penalty, after considering his financial resources. Based on Respondent's conduct, the Board would have imposed a civil money penalty of $75,000 in this settlement if it had not taken his financial resources into consideration.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Heber Clark Maughan, CPA** is, and at all relevant times was, a certified public accountant licensed by the states of Utah (license no. 131124-2601) and Vermont (license no. 001.0133912). Maughan was a partner at formerly registered public accounting firm MaughanSullivan LLC ("MaughanSullivan" or "Firm").[4] Maughan is, and at all relevant times was, an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Maughan served as the engagement partner on every issuer audit conducted by MaughanSullivan.

B. Summary

2. Staff from the PCAOB's Division of Registration and Inspections ("Inspection Staff") inspected MaughanSullivan in 2020 and 2023. In both inspections (the "2020 Inspection" and "2023 Inspection," respectively, and together the "Inspections"), Maughan made available to Inspection Staff audit documentation that he had improperly altered and backdated. That

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

[3] The Board finds that Respondent's conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

[4] The Board granted MaughanSullivan's request for leave to withdraw from registration, effective October 21, 2024.

audit documentation consisted of work papers for five audits of four Firm issuer clients. Maughan never disclosed the alterations or backdating to the Inspection Staff.

3. Staff from the PCAOB's Division of Enforcement and Investigations ("Enforcement Staff") investigated MaughanSullivan in connection with several audits, including the audits reviewed during the Inspections. In response to accounting board demands ("ABDs," and each an "ABD") Enforcement Staff issued, Maughan provided audit work papers he had improperly altered and backdated either at the time of the Inspections or after Enforcement Staff had called for their production. That audit documentation consisted of work papers for eight audits of four Firm issuer clients. Maughan failed to disclose the alterations and backdating to Enforcement Staff.

4. By engaging in the above conduct, Maughan violated his cooperation obligation in connection with two PCAOB inspections and a PCAOB investigation. Maughan also violated PCAOB standards concerning audit documentation and ethics.

C. Maughan Violated PCAOB Rules and Standards

5. PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[5] As set out below, Maughan failed to comply with PCAOB rules and standards.[6]

i. Maughan Failed to Cooperate with Two Inspections

6. PCAOB rules provide that "every associated person of a registered public accounting firm, shall cooperate with the Board in the performance of any Board inspection."[7] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information" to the PCAOB's inspectors.[8] In violation of that cooperation obligation, Maughan

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[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*; PCAOB Rule 3500T, *Interim Ethics and Independence Standards*.

[6] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the conduct.

[7] PCAOB Rule 4006, *Duty to Cooperate With Inspectors*.

[8] *Kabani & Co., Inc*., Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017), petition for review denied, *Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018); *see also* PCAOB Staff Audit Practice Alert No. 14, at 3 (Apr. 21, 2016) ("This duty to cooperate includes an obligation not to provide improperly altered documents or misleading information in connection with the Board's inspection processes." (citations omitted)).

provided false and misleading information to the Inspection Staff in connection with two inspections.

a. The 2020 Inspection

7. Inspection Staff notified Maughan in December 2019 that the PCAOB would conduct an inspection of MaughanSullivan. Maughan knew that Inspection Staff would almost certainly review the 2018 audit of a particular Firm issuer client ("Issuer A"), as that audit was the only issuer audit for which MaughanSullivan had issued an opinion during the inspection period of January 2019 through January 2020 ("Issuer A 2018 Audit").

8. In late January 2020, Maughan created three work papers for the Issuer A 2018 Audit. Those work papers included two "audit programs"—work papers with pre-populated text prepared and published by a third-party vendor. The pre-populated text in each audit program listed audit steps for completion in a particular audit area, including procedures that should be performed or considered. Maughan prepared the audit programs by inserting dates and initials alongside these audit step descriptions indicating when and by whom each step had been completed, and—for certain audit steps—by also adding descriptions of related procedures and references to relevant work papers.

9. Maughan created those three work papers more than eight months after the May 16, 2019 documentation completion date for the Issuer A 2018 Audit—that is, the date by which the Firm's complete and final set of audit documentation for that audit was required to be assembled,[9] and the date after which deletions—as well as additions to the work papers without disclosures of when, why, and by whom the additions were made—were not permitted.[10]

10. Moreover, Maughan backdated signoffs on the two audit programs. Each audit program contained an audit step, under the header "Conclusion," reflecting a determination by the auditor that the "procedures performed, evidence obtained, and conclusions reached" in the corresponding audit area "are adequately documented." Maughan inserted a "2/2/19"

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[9] *See* AS 1215.15, *Audit Documentation* ("A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*).") (italics in original).

[10] *See id.* at .16 ("Circumstances may require additions to audit documentation after the report release date. Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.").

signoff date alongside this documentation conclusion in one audit program and a "3/8/19" signoff date alongside the equivalent conclusion in the other. Yet these audit programs—each of which was itself an important part of the Firm's audit documentation in the corresponding audit area—did not exist as of those February or March 2019 dates.

11. Maughan backdated those signoffs in both audit programs to give the false impression that they had been prepared, and that the signoffs had been applied, in early 2019 during the audit rather than in January 2020 in anticipation of the 2020 Inspection.

12. In or around early February 2020, Maughan made available to the Inspection Staff, in connection with the 2020 Inspection, the Firm's audit documentation for the Issuer A 2018 Audit. That audit documentation included the three newly created work papers without any documentation of when, why, and by whom they had been added.

13. Maughan engaged in verbal and written communications on multiple occasions with the Inspection Staff during the 2020 Inspection. Certain of those communications related specifically to audit documentation. In none of those communications did Maughan disclose that he had created or backdated three work papers in late January 2020.

14. Accordingly, Maughan violated PCAOB Rule 4006.

b. The 2023 Inspection

15. Inspection Staff notified Maughan in December 2022 that the PCAOB would shortly conduct another inspection of MaughanSullivan. Starting on the day of that notification, Maughan created or modified several audit work papers for recent audits that the Firm had performed.

16. In March 2023, after Inspection Staff identified for Maughan the four Firm audits selected for review (the "2023 Inspection Audits"), Maughan continued to modify, and to add new work papers to, the audit documentation for those audits. For example, in several schedules obtained from issuer management, Maughan added tick marks and comment boxes that described audit procedures MaughanSullivan had purportedly performed and the results of those procedures. Maughan then converted the work papers for each of those audits from their native electronic format to PDF copies before making them available to the Inspection Staff.

17. The work papers Maughan created or altered after learning of the 2023 Inspection also included several audit programs in which Maughan inserted backdated signoffs. Those audit programs—like the audit programs in the Issuer A 2018 Audit—each set out a conclusion by the auditor that the "procedures performed, evidence obtained, and conclusions

reached" in the corresponding audit area "are adequately documented." Maughan inserted signoff dates between January and July 2022 alongside the documentation conclusions in these audit programs—dates that preceded the audit report dates for the 2023 Inspection Audits. Maughan backdated the signoffs in those audit programs to give the false impression that they had been prepared and reviewed, and that the signoffs had been applied, in January-July 2022 during the audits themselves, rather than in December 2022-March 2023 in anticipation of the 2023 Inspection.

18. Furthermore, for each of three 2023 Inspection Audits, Maughan created an index of engagement quality review signoffs ("EQR Signoff Index") during the 2023 Inspection. The EQR Signoff Index listed by title those work papers purportedly reviewed by the engagement quality reviewer and, alongside each, the date on which the engagement quality reviewer had reviewed and signed off on that work paper.

19. The EQR Signoff Indexes for the three audits listed signoff dates from March, April, and August 2022. However, several of the work papers listed in those indexes did not exist until—and were created by Maughan—in or after December 2022, when he learned of the 2023 Inspection. Maughan backdated the signoffs in the three EQR Signoff Indexes, and made them available to the Inspection Staff, to give the false impression that the work papers they referenced had been prepared and reviewed during the audits themselves, rather than in anticipation of the 2023 Inspection.

20. As he did during the 2020 Inspection, Maughan communicated verbally and in writing on multiple occasions with Inspection Staff during the 2023 Inspection, including about audit documentation. Maughan never disclosed in any of those communications that he had created, modified, or backdated multiple work papers made available to the Inspection Staff.

21. Accordingly, Maughan violated PCAOB Rule 4006.

ii. Maughan Failed to Cooperate with an Enforcement Investigation

22. The Act authorizes the Board to sanction a registered public accounting firm or any associated person who "refuses to testify, produce documents, or otherwise cooperate with the Board in connection with an investigation."[11] PCAOB rules implement that authority and state that the Board may institute a disciplinary proceeding if it appears that an associated person "may have failed to comply with an accounting board demand," "may have knowingly made any false material declaration or made or used any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any

[11] Section 105(b)(3)(A) of the Act, 15 U.S.C. § 7215(b)(3)(A).

false material declaration," "may have abused the Board's processes for the purpose of obstructing an investigation," or "may otherwise have failed to cooperate in connection with an investigation."[12]

23. Following the 2020 Inspection, Enforcement Staff opened an informal inquiry concerning MaughanSullivan. After receiving a request in 2022 from Enforcement Staff for "the complete and final set of audit documentation assembled for retention" pursuant to AS 1215 for each of three audits of Issuer A, Maughan created or modified most of the Firm's work papers for one of those audits: the 2019 audit of Issuer A (the "Issuer A 2019 Audit"). Maughan made those alterations more than two years after the May 2020 documentation completion date for that audit. Maughan then provided Enforcement Staff with three sets of work papers, including the set for the Issuer A 2019 Audit that contained improper alterations.

24. In July 2023, after the Board had issued an Order of Formal Investigation concerning MaughanSullivan, Enforcement Staff sent Maughan an ABD calling for the "complete and final set of audit documentation assembled for retention" pursuant to AS 1215 for each of twelve Firm audits. Those twelve audits included the five for which Maughan previously had made work papers available to Inspection Staff (the "2020/2023 Inspection Audits") and the 2017-2019 audits of Issuer A for which Maughan previously had provided work papers to Enforcement Staff.

25. Maughan provided work papers to Enforcement Staff for those twelve audits in response to the ABD.

26. The work papers Maughan provided to Enforcement Staff in response to the ABDs included improper alterations. For the five 2020/2023 Inspection Audits, the work papers provided by Maughan to Enforcement Staff contained substantially the same improper alterations as when Maughan had made them available to Inspection Staff. For the Issuer A 2019 Audit, Maughan re-produced the Issuer A 2019 Audit work papers with the same improper alterations as the work papers produced to Enforcement Staff in 2022.

27. In addition, for two other audits—one of which was the 2020 audit of Issuer A—the sets of audit documentation Maughan provided to Enforcement Staff included work papers that Maughan created or modified after receiving the July 2023 ABD. For example, Maughan created several leadsheets in various audit areas that set out client account balances and referenced related audit procedures.

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[12] PCAOB Rule 5110, *Noncooperation with an Investigation*.

28. The work papers Maughan provided to Enforcement Staff in response to the ABDs also included three types of backdated signoffs. First, the audit programs and EQR Signoff Indexes for the five 2020/2023 Inspection Audits contained the same backdated signoffs as when they had been made available to Inspection Staff. Second, the audit programs in three other sets of audit work papers provided to Enforcement Staff contained similarly backdated signoffs. Specifically, alongside statements that the "procedures performed, evidence obtained, and conclusions reached" in various audit areas were "adequately documented," Maughan inserted dates that preceded the dates on which he had created both the audit programs themselves and work papers they referenced. Third, EQR Signoff Indexes in the work papers for two audits contained signoff dates indicating the review and signoff of several work papers in March and April 2021, even though several of those work papers did not exist until nearly two years later, when Maughan created them.

29. Maughan did not disclose the alterations and backdating to Enforcement Staff.

30. Accordingly, Maughan failed to cooperate with an investigation under PCAOB Rule 5110.

iii. Maughan Violated PCAOB Audit Documentation Requirements

31. In the course of the above conduct, Maughan violated several requirements in AS 1215. Specifically, in altering the eight sets of work papers that were later made available to Inspection Staff and/or Enforcement Staff, Maughan added audit documentation after the documentation completion dates without disclosing, as required, when, by whom, and why the additions were made.[13]

32. Moreover, the nature and scope of Maughan's alterations to at least seven of the eight sets of work papers he made available to PCAOB staff showed that Maughan had not assembled final sets of audit documentation for those audits. Maughan accordingly violated the requirement to assemble complete and final sets of audit documentation in those audits by the applicable documentation completion date.[14]

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[13] AS 1215.16 (stating that "any documentation added" after the documentation completion date "must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.").

[14] *Id.* at .15 ("A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*).") (italics in original).

33. In addition, Maughan backdated signoffs on audit documentation in all eight sets of work papers that he improperly altered and then provided to Inspection and Enforcement Staff. AS 1215 requires audit documentation to contain sufficient information to enable an understanding of the "timing" of the procedures performed, evidence obtained, and conclusions reached; the date the work was completed; and the date that work was reviewed.[15] Maughan prepared two kinds of work papers that contained backdated signoff dates: Microsoft Word audit programs that contained signoff dates indicating the review and assessment of audit documentation that did not exist until months or years after those dates; and one-page EQR Signoff Indexes that listed engagement quality review signoff dates that were months or years earlier than the actual dates on which the documentation was prepared and thus available for review.

34. Accordingly, Maughan violated AS 1215.

iv. Maughan Violated PCAOB Ethics Requirements

35. PCAOB ethics standards require that, in the performance of any professional service, an associated person maintain integrity and "not knowingly misrepresent facts."[16]

36. Maughan violated those ethical obligations by altering and backdating Firm audit documentation for eight audits with the purpose of misrepresenting to PCAOB staff both the nature of the audits and the condition of the Firm's audit documentation. Specifically, Maughan altered and backdated that audit documentation in order to make the audits seem to PCAOB staff as if they involved more extensive procedures than reflected in documentation prepared during the audits, as well as to make the altered documentation appear to PCAOB staff as if it had been prepared before applicable documentation completion dates rather than several months or years later.

37. As a result, Maughan violated ET § 102.

IV.

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

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15 *Id.* at .06.

16 ET § 102.01, *Integrity and Objectivity* ("In the performance of any professional service, a member shall maintain objectivity and integrity, shall be free of conflicts of interest, and shall not knowingly misrepresent facts or subordinate his or her judgment to others.").

determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(b)(3)(A)(iii) and (c)(4)(E) of the Act and PCAOB Rule 5300(a)(5) and (b)(1), Heber Maughan is hereby censured.

B. Pursuant to Section 105(b)(3)(A)(i) and (c)(4)(B) of the Act and PCAOB Rule 5300(a)(2) and (b)(1), Heber Maughan is barred from being an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[17]

C. Pursuant to Section 105(b)(3)(A)(iii) and (c)(4)(D) of the Act and PCAOB Rule 5300(a)(4) and (b)(1), a civil money penalty in the amount of $10,000 is imposed on Heber Maughan.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Heber Maughan shall pay this civil money penalty within ten days of the issuance of this Order by: (1) wire transfer in accordance with instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Maughan as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public

[17] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Maughan. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. By consenting to this Order, Heber Maughan acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any request for leave to petition to terminate a bar pursuant to PCAOB Rule 5302(c).

5. Heber Maughan acknowledges that the determination to accept Respondent's offer of a civil money penalty of $10,000 is contingent upon the accuracy and completeness of Maughan's financial information provided to the Division of Enforcement and Investigations (the "Division"). Maughan also acknowledges that, if at any time following this settlement the Division obtains information indicating that any financial information provided by Maughan—including, but not limited to, any information concerning assets, income, liabilities, or net worth—was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such information was provided, then at any time following entry of this Order (1) the Board may institute a disciplinary proceeding for noncooperation with an investigation under PCAOB Rule 5110 and/or (2) the Division may petition the Board to (a) reopen this matter to consider whether Maughan provided accurate and complete financial information at the time such information was provided to the Division; and (b) seek an order directing payment of the maximum civil money penalty allowable under the law or any lesser amount determined to be appropriate. No other issue shall be considered in connection with this petition other than whether the financial information provided by Maughan was fraudulent, misleading, inaccurate, or incomplete in any material respect; and, if so, whether a civil money penalty should be ordered up to the maximum civil money penalty allowable under the law. Maughan may not, by way of defense to any such petition: (i) contest the findings in this Order; (ii) assert that payment of a civil money penalty should not be ordered; (iii) contend that the amount of the civil money penalty to be ordered should be less than $75,000, which is specified herein as the amount the penalty would have been, based on Maughan's conduct and without consideration of Maughan's financial resources; or

(iv) put forward any other contention or assert any defense to liability or remedy, including, but not limited to, any based on statute of limitations or any other time-related defense, other than to contend (a) that Maughan did not provide financial information that was fraudulent, misleading, inaccurate, or incomplete in any material respect, or (b) that a civil money penalty should not be ordered in an amount higher than $75,000.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 11, 2025

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Making Findings and Imposing Sanctions

In the Matter of Gabriel Jaime López Díez,

Respondent.

PCAOB Release No. 105-2025-004

February 11, 2025

By this Order Making Findings and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Gabriel Jaime López Díez ("López" or "Respondent");

(2) barring López from being associated with a registered public accounting firm;[1] and

(3) imposing a $75,000 civil money penalty on López.

The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB rules and standards in connection with the integrated audit of the December 31, 2016 financial statements and internal control over financial reporting ("ICFR") of Bancolombia S.A. ("Bancolombia" or the "Bank").

I.

On September 29, 2023, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1) against Respondent. The Board determined, under Section 105(c)(2) of the Act and PCAOB Rule 5203, that good cause was shown to make the hearing in this proceeding public, and the Division of Enforcement and Investigations consented to making the hearing public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, Respondent did not consent to make the hearing in this proceeding public.

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

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of this proceeding and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Gabriel Jaime López Díez** was a partner in the Medellín, Colombia office of Deloitte & Touche S.A.S. ("DT Colombia" or the "Firm") until his retirement in 2021. At all relevant times, he was an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). López served as the engagement partner on the Firm's integrated audit of the December 31, 2016 financial statements and ICFR of Bancolombia (the "2016 Audit").

B. Relevant Entities and Individuals

2. **Deloitte & Touche S.A.S.** is, and at all relevant times was, a limited liability corporation organized under Colombian law and headquartered in Bogotá, Colombia. The Firm is licensed in Colombia by the Junta Central de Contadores, part of the Colombian Ministry of Commerce, Industry and Tourism, and a member of the Deloitte Touche Tohmatsu Limited ("Deloitte Global") network. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.[4]

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

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (a) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (b) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] On January 31, 2023, the Firm filed a Form 4, *Succeeding to the Registration Status of Predecessor*, with the Board, disclosing that the Firm's form of organization had changed to a simplified

3. **Bancolombia S.A.** is a financial institution based in Medellín, Colombia. According to its public filings, Bancolombia provides a wide range of financial products and services to a diversified individual, corporate, and government customer base throughout Colombia, Latin America, and the Caribbean region. At all relevant times, Bancolombia was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

4. This matter concerns López's violations of PCAOB rules and standards as the engagement partner on the 2016 Audit. Specifically, López, then a partner with DT Colombia, failed to obtain sufficient appropriate audit evidence before authorizing the issuance of the Firm's unqualified audit opinions on Bancolombia's December 31, 2016 financial statements and ICFR. López's failures during the 2016 Audit included inadequate testing of revenue, interest expenses, fair value of the Bank's loans, derivatives, and the Bank's internal controls.

5. López and the engagement team also improperly altered audit documentation prior to the documentation completion date,[5] and, in several instances, performed audit procedures or obtained supporting audit evidence after issuance of the audit opinions on May 1, 2017, in violation of PCAOB standards. During that period, López and the engagement team tracked changes to the work papers after issuance in a log, referred to by the engagement team as the "Bitácora," that was maintained outside of the 2016 Audit file. Although the number of entries in the Bitácora exceeded 1,000 by May 30, 2017, López and his team deleted nearly all of the entries by May 31, 2017, including many entries that reflected additional work performed after issuance, when they were finalizing the 2016 Audit file for retention. This final version of the Bitácora, which included just ten entries that López had classified as "omitted procedures" performed after issuance, was then added to the final 2016 Audit file.

6. As the engagement partner, López also failed to properly supervise the 2016 Audit to ensure that the engagement team's work was appropriately performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached in accordance with PCAOB standards.

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joint stock corporation, and that Deloitte & Touche S.A.S. had succeeded to the registration of Deloitte & Touche Ltda.

[5] *See* AS 1215.15, *Audit Documentation* (providing a period of 45 days from the report release date for the auditor to assemble for retention a complete and final set of audit documentation).

D. López Violated PCAOB Rules and Auditing Standards

7. PCAOB rules require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has conducted an audit in accordance with PCAOB standards and the auditor has formed an opinion that the financial statements present fairly, in all material respects, an entity's financial position, results of operations, and cash flows in conformity with generally accepted accounting principles.[7] Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism in performing an audit and preparing an auditor's report.[8]

8. When an auditor is engaged to perform an audit of management's assessment of the effectiveness of ICFR, the audit of ICFR should be integrated with the audit of the financial statements.[9] The objectives of the audits are not identical, however, and the auditor must plan and perform the work to achieve the objectives of both audits.[10]

9. As described below, López violated these and other PCAOB auditing standards in performing the 2016 Audit.

i. Background

10. In March 2016, DT Colombia was appointed as Bancolombia's independent auditor beginning with the year ended December 31, 2016. The 2016 Audit involved an engagement team of over one hundred people, staffed by personnel from the Firm and several Deloitte Global member firms. López and the engagement team also received consulting advice from (a) the Deloitte Americas Center of Excellence ("ACOE"), (b) capital market specialists, and (c) the Firm's National Professional Practice Director and his team.

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6 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the 2016 Audit discussed herein.

7 *See* AS 3101.07, *Reports on Audited Financial Statements*.

8 *See* AS 1015.01 and .07, *Due Professional Care in the Performance of Work*.

9 *See* AS 2201.06, *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements*.

10 *See id.*

11. DT Colombia remained Bancolombia's independent auditor for the year ended December 31, 2017. Following the 2016 Audit, however, DT Colombia replaced López as the engagement partner.

ii. López Failed to Complete All Necessary Auditing Procedures and Obtain Sufficient Evidence Prior to Issuance of the 2016 Audit Reports

12. PCAOB standards require that an auditor plan and perform the audit to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.[11] Prior to the report release date, an auditor must have completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report.[12] PCAOB standards further require that an auditor evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[13]

13. PCAOB standards also require the engagement partner to properly supervise and review the work of the engagement team members and be responsible for compliance with PCAOB standards.[14]

14. As discussed below, López failed to ensure that the engagement team completed and appropriately documented certain necessary procedures prior to authorizing issuance of DT Colombia's audit reports on Bancolombia's December 31, 2016 financial statements and ICFR (the "2016 Audit Reports"). Instead, López and the engagement team continued to perform audit procedures and obtain audit evidence after the issuance of the 2016 Audit Reports in violation of PCAOB standards.

a. Revenue

15. Bancolombia reported total net operating income of $3.6 billion for the year ended December 31, 2016.[15] During that period, the Bank recognized $1.1 billion in revenue from fees and commission income and $495.6 million from other operating income.

16. López violated PCAOB standards by failing, prior to the issuance of the 2016 Audit Reports, to ensure the engagement team tested certain material categories of revenue,

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11 *See* AS 1105.04, *Audit Evidence*.

12 *See* AS 1215.15.

13 *See* AS 2810.33-.35, *Evaluating Audit Results*.

14 *See* AS 1201.03, .05, *Supervision of the Audit Engagement*.

15 Amounts originally in Colombian pesos have been converted to U.S. dollars at the exchange rate provided by Bancolombia in its 2016 Form 20-F.

totaling approximately $548 million. These failures encompassed commission income related to credit cards, totaling approximately $203 million, and "other income," totaling approximately $345 million, which were both well in excess of the $70.4 million planning materiality level that López and his team established for the 2016 Audit.

17. López and the engagement team planned to perform substantive audit procedures over these material account balances as part of the 2016 Audit, but failed to do so prior to issuance of the 2016 Audit Reports. Moreover, the failures occurred despite López being put on notice by ACOE comments in April 2017 that he and the engagement team still needed to analyze these accounts to see if they exceed materiality.

18. Two weeks after issuing the 2016 Audit Reports, López received an email from an engagement team member indicating that the additional balances had not been subject to substantive testing. Shortly thereafter, the engagement team performed the planned procedures to test these balances, including emailing the client with sample selections and requesting supporting evidence. López and the engagement team documented that this work was performed after issuance in the final Bitácora and final 2016 Audit file.

19. By failing to ensure that the engagement team tested these material categories of revenue prior to issuance, López violated PCAOB supervision standards and failed to obtain sufficient and appropriate audit evidence to support the opinions in the 2016 Audit Reports.[16]

b. Interest Expenses

20. Bancolombia reported approximately $2 billion in interest expenses for the year ended December 31, 2016. López and the engagement team failed to perform certain necessary audit procedures on these interest expenses prior to issuance, in violation of PCAOB standards.[17]

21. For the majority of interest expenses, López and the engagement team planned to perform substantive analytical procedures using a Deloitte-developed regression analysis tool known as "STAR." More than two weeks after issuance of the 2016 Audit Reports, however, the engagement team identified an error in the interest rates used and re-ran the STAR tests for certificates of deposit ("CDTs"). Under PCAOB standards, an auditor performing substantive analytical procedures needs to evaluate significant unexpected differences,[18] but, because the test was re-run with corrected interest rates after issuance, any potential deviations from the engagement team's expectations were not appropriately evaluated prior to

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16 *See* AS 1105.04, AS 1201.05, AS 1215.09, .15, and AS 2810.33-.35.

17 *See* AS 1105.04, AS 1215.15, and AS 2810.33-.35.

18 *See* AS 2305.21, *Substantive Analytical Procedures*.

issuance of the 2016 Audit Reports. The changes made to the STAR testing for interest expenses after issuance were incorporated into the final version of the 2016 Audit work papers, but the preparer and reviewer signoffs for the relevant work paper were not updated to reflect when this work was actually performed.

22. Without López's adequate supervision, the engagement team also performed other significant work on interest expense after issuance. Specifically, with respect to savings accounts, which totaled approximately $295 million, López and the engagement team planned to obtain supporting evidence to confirm the completeness and accuracy of the Bank's reports for those savings accounts. The engagement team requested information from the client prior to issuance, but failed to obtain the supporting audit evidence until after issuance. Specifically, two days after issuance of the 2016 Audit Reports, a member of the engagement team emailed the client, again requesting that the client provide them with the "detailed report 441" for savings accounts that would support the team's sample selections. The same email also asked for screenshots showing how the client obtained the reports for savings accounts. The post-issuance audit evidence, including screenshots, sample selections, and copies of the reports, was included in the final 2016 Audit file; however, the preparer and reviewer signoffs for the relevant work paper were not updated to reflect when this work was performed.

23. López reviewed versions of the Bitácora indicating that that work had been performed and evidence had been added for interest expenses after issuance. However, he failed to ensure that this additional work was performed and documented properly, that signoffs were accurately dated, and that the results of the work supported the engagement team's conclusions.[19] López and the engagement team subsequently removed all references to the post-issuance work around interest expense from the final Bitácora archived in the 2016 Audit file.

c. Fair Value of Bancolombia's Loan Portfolio

24. Bancolombia disclosed the fair value of its financial assets and liabilities, including loans, in the footnotes of its December 31, 2016 financial statements as part of its Form 20-F. As disclosed, Bancolombia's loan portfolio was material, representing approximately $46.8 billion and constituting approximately 89% of the fair value of its total assets.

25. During the 2016 Audit, López and the engagement team planned to test the fair value of Bancolombia's loan portfolio, by, among other things (a) reconciling the loan portfolio fair value balances with the notes to the consolidated financial statements; and (b) obtaining an understanding of the methodology Bancolombia used to calculate the fair value of the loan

[19] *See* AS 1201.03 and .05.

portfolio. As part of the latter, López and the engagement team also planned to perform a walkthrough of the internal valuation process for a sample of selected loans.

26. López used Firm fair value specialists to help recalculate the fair value of the loan portfolio, validate the discount rates used in the projections, and recalculate the fair value of the sample of selected loans. López was required to test, or have his engagement team test, the accuracy and completeness of the data produced by Bancolombia and used by the specialist to calculate the loan portfolio fair value balance.[20]

27. Again, however, neither López nor the engagement team completed all of the planned procedures for fair value testing of the loan portfolio until after the issuance of the 2016 Audit Reports. Less than 48 hours after the 2016 Audit Reports were issued, a member of the engagement team emailed the client about planned walkthroughs, including the fair value testing environment, acknowledging that there were pending tests as of issuance:

> *We appreciate your prompt help with the fair value testing environment, we expect to obtain results this week to be able to conclude on our audit procedures and we only have this review pending.*

28. Work in this area continued throughout May 2017. For example, on May 12, 2017, the engagement team again reached out to the client about the pending test results:

> *We are pending this request, due to the date it is already a critical issue and we need to have results no later than Monday, May 15, otherwise it would be presented as noncompliance with our audit schedule and would be raised to the corresponding committees.*

29. Bancolombia personnel agreed to meet with the engagement team on May 15, 2017 to run the necessary tests. Following that meeting, a member of the engagement team emailed the client to ask for evidence of the test that had been performed, including:

> *1. Screenshots of the walkthrough test*
> *2. Source of information for the calculation of the sample of 20 loans*
> *3. Results obtained from the test environment*

30. Two days later, another engagement team member sent the client two more emails: the first to set up a meeting to discuss any questions DT Colombia's internal fair value specialists might have and the second to ask for Bancolombia's "Updated [Fair Value] Methodology as of December 31, 2016" and the "Base input for the projections in Excel." After

[20] *See* AS 1201.03 and AS 1105.10.

receiving the information requested in the second email, the engagement team member forwarded this information to the DT Colombia fair value specialists.

31. The performance of these additional procedures is also reflected in the 2016 Audit file. For example, the work paper entitled "23300.06.1 Portfolio Valuation Test" includes a cover tab, which was added after issuance, that listed planned steps under the header of "Procedure" corresponding to the post-issuance work. That same tab included a note, expressly acknowledging that "[t]his procedure was carried out after the date of issuance of the report." In addition, the work paper included screenshots, dated May 16, 2017, that the engagement team used as supporting evidence.

32. By failing to complete, or ensure that the engagement team completed, these necessary procedures before authorizing the issuance of the Audit Reports, López violated PCAOB standards.[21]

33. Unlike in certain other areas, López acknowledged that some of the fair value procedures were completed after issuance of the 2016 Audit Reports by including a description of the post-issuance work in this area in the final Bitácora. However, the description minimized the amount of additional work that had been done, merely stating that "[t]he work of the specialist in the validation of the fair value of the portfolio of note 29 is documented."

d. Bancolombia's Derivative Financial Instruments

34. Bancolombia's derivative assets during 2016 included approximately $105.6 million in forwards, $437.8 million in swaps, and $15.8 million in options. López classified Bancolombia's derivative financial instruments as a significant risk during the 2016 Audit.

35. To test the existence of these derivative financial instruments, López and the engagement team selected a sample of forwards, swaps, and options transactions and performed confirmation procedures. The confirmation response rates were only 27%, 34%, and 4% for each of the respective derivative categories. Despite such low response rates, prior to the issuance of the Audit Reports, neither López nor anyone else on the engagement team performed alternative procedures on the samples for which they did not receive a confirmation response, as required by PCAOB standards.[22]

36. After issuance, engagement team members continued to conduct audit work on Bancolombia's derivative financial instruments. For example, the engagement team performed

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[21] *See* AS 1015.01, .07; AS 1105.04, .10; AS 1201.03, .05; AS 1215.15; AS 2810.33-.35.

[22] *See* AS 2310.31, *The Confirmation Process* ("When the auditor has not received replies to positive confirmation requests, he or she should apply alternative procedures to the nonresponses to obtain the evidence necessary to reduce audit risk to an acceptably low level.").

and documented alternative procedures on more than 1,000 selections of forwards, swaps, and options after issuance of the 2016 Audit Reports.

37. After issuance, López and the engagement team also tested for the first time certain information provided by Bancolombia related to its derivatives balance. For example, as part of the testing of information provided by the entity under audit ("IPE"), an engagement team member emailed Bancolombia personnel on May 17, 2017 with a list of requests, including a request for "Trading portfolios Swaps, Forward, Futures and Options of December 28, 29 and 30, 2016." That same day, according to the final work papers, the engagement team made its sample selections to test IPE related to Bancolombia's derivatives.

38. López and the engagement team acknowledged in both the relevant work papers and in the description of work in the final Bitácora that they had performed post-issuance work on Bancolombia's derivatives. But again, López failed to describe in the final Bitácora the extent of that work.

39. As a result of this conduct, López violated PCAOB standards related to supervision and the confirmation process, and failed to obtain sufficient appropriate audit evidence with respect to Bancolombia's derivative financial instruments prior to issuance of the 2016 Audit Reports.[23]

e. Bancolombia's ICFR

40. López also failed to adequately supervise the engagement team's audit work on internal controls. In particular, after delegating the control work to two Risk Advisory partners, López failed to adequately supervise their work to ensure that the control testing complied with PCAOB auditing standards.[24] As discussed below, the engagement team failed, on numerous occasions, to properly perform or complete control testing prior to issuance of the 2016 Audit Reports. López's failure to adequately supervise occurred even though he discussed the control work with the two partners and other members of the engagement team, and was aware of ACOE comments identifying problems with the control testing.

41. For example, with respect to two key controls related to mitigating the significant risk associated with Bancolombia's loan portfolio, the engagement team performed additional audit procedures and obtained additional evidence after issuance. As acknowledged in the final Bitácora, for one of the key controls, the engagement team identified and tested after issuance the information used by the company ("IUC") in performing the control. For the

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[23] *See* AS 1015.01, .07-.08; AS 1105.04, .10; AS 1201.03, .05; AS 1215.15; AS 2310.31; and AS 2810.33-.35.

[24] *See* AS 1201.03, .05-.06.

other key control, the engagement team identified different control owners after issuance and added the qualifications of those new owners, as well as changed the review procedures performed by the team. Moreover, as of issuance, the control activities section for testing operating effectiveness of the second key control was blank, despite signoffs by a preparer and several reviewers. In addition, for both of the key controls, the engagement team changed the risk addressed by the control and increased the risk associated with the control from "not higher" to "higher" after issuance of the 2016 Audit Reports.

42. López was also aware that the engagement team sought additional audit evidence from the client after issuance to complete the testing of controls in numerous areas, ranging from the Bank's review of loan applications to its approval of methodologies for loan impairment calculations. For example, López received emails that put him on notice that the engagement team was still seeking information from the client to support this control testing, including one on May 16, 2017 informing him that the IPE for a control related to review of applications for consumer or microcredit loans was pending clarification from the client.

43. With respect to that control, López and the engagement team had failed to obtain necessary evidence supporting the report used in the control prior to issuance of the 2016 Audit Reports. Although the engagement team had obtained the relevant report prior to issuance, neither López nor the team tested its completeness and accuracy as part of testing the control's operating effectiveness. On the same day that López was informed about the pending clarification, a member of the engagement team emailed Bank personnel, asking for space at the Bank where the team member could "validate the generation of the report of disbursements of consumer and microcredit portfolio that were made from January 1 to December 31, 2016. In order to ensure that the information provided corresponds to that registered in the system." The final work paper for this control, modified after issuance, documents the performance of an updated work step to test the operating effectiveness, whereby the engagement team "[v]erif[ied] that the information requested is that received by comparing the information requested with the information inserted in the system."

44. The engagement team also requested other items after issuance to support the control testing, including meeting minutes, screenshots to show the access path for users of certain Bank systems, and information about the users of those systems. López became aware of certain of these post-issuance requests because of contemporaneous emails yet signoffs for these work papers did not reflect when this work was performed, nor did the final Bitácora reflect this additional work.

45. Further, on one occasion, when the engagement team could not obtain the information it sought from Bancolombia, it simply modified one of its conclusions regarding a control after issuance of the 2016 Audit Reports. Specifically, as part of testing a control concerning the operation of the Bank's risk committee, an engagement team member had asked the client to confirm what was done to verify the completeness and accuracy of the IUC

prior to issuance of the 2016 Audit Reports. The client, however, did not respond until after issuance and, even then, the response did not answer the question. Having not received the information needed, the engagement team member changed the designation of whether the control was dependent on IUC from "yes" to "no" in the work paper. This change appeared in a draft of the Bitácora that López reviewed yet was not included in the final Bitácora.

46. As described above, López failed to adequately supervise the engagement to ensure that this work was appropriately performed and documented prior to issuance.[25] As a result, López failed to obtain sufficient evidence to support DT Colombia's opinion on Bancolombia's ICFR as of December 31, 2016.[26]

f. Other Work Performed After Issuance

47. In addition to the work identified above, the engagement team also performed audit procedures and obtained audit evidence after issuance in several other audit areas, and López either participated directly in, or was aware of, the ongoing work after issuance.

48. Specifically, the engagement team made requests to the client after issuance for audit evidence about material journal entries, differences in closing figures for Bancolombia's loan portfolio, changes to indices used by the Bank for valuing collateral, the information provided by the Bank during the Bank's guarantees reserve calculation, and management's calculation and payment of bonuses. In many instances, the engagement team documented the subsequent changes to the relevant work papers in draft versions of the Bitácora that were reviewed by López, but none of the changes were included in the final Bitácora, nor were signoffs updated in the Firm's audit documentation software to reflect when the work was performed.

49. In other instances, López was directly aware of the incomplete work. For example, the engagement team obtained and summarized in a work paper seven months of meeting minutes received from the client after issuance of the 2016 Audit Reports. The team originally requested the minutes prior to issuance, but the client did not provide the minutes until May 4, 2017. After receiving the minutes, the engagement team summarized the meetings through March 2017 in a work paper entitled "21106 Resumen actas de Comité Posición Propia." López had signed off as a reviewer of this work paper in February 2017, when the work paper could not have contained all of the summaries necessary to complete the work.

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25 *See* AS 1201.03, .05, AS 1215.06, .09, .15, and AS 2201.03, .09.

26 AS 1105.10.

50. As result of this conduct, López violated PCAOB supervision standards and failed to obtain sufficient appropriate audit evidence to support the opinions in the 2016 Audit Reports.[27]

iii. López Failed to Comply with PCAOB Auditing Standards in Other Respects During the 2016 Audit

51. As described above, López and the engagement team performed work after issuance of the 2016 Audit Reports. Even with that post-issuance work, López and the engagement team failed to adequately address numerous violations of PCAOB standards they committed prior to issuance, including with respect to Bancolombia's revenue, interest expenses, and ICFR.

a. Revenue and Interest Expenses

1. The analytical procedures that López primarily relied on to test revenue and interest expenses did not comply with PCAOB standards.

52. During the 2016 Audit, López assessed whether improper revenue recognition for Bancolombia was a fraud risk. Despite PCAOB standards providing that an auditor should presume that there is a fraud risk involving improper revenue recognition,[28] López determined that it was neither a fraud risk nor a significant risk for Bancolombia and, instead, was only a "higher" risk. López also evaluated the risk associated with interest expense as "normal."

53. As a result, López planned to test Bancolombia's 2016 revenue and interest expenses primarily through STAR testing. For revenue, López and the engagement team used STAR testing to evaluate interest income on consumer, microcredit, and mortgage loans, which represented approximately $1.7 billion or 32% of the Bank's revenue for the year ended December 31, 2016. For interest expenses, they used STAR testing to evaluate savings accounts and CDTs, which accounted for approximately $1.29 billion or 64% of the Bank's total interest expenses balance.

54. Analytical procedures are an important part of the audit process when they are properly designed and performed.[29] Analytical procedures consist of evaluations of financial information made by a study of plausible relationships among both financial and nonfinancial

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27 *See* AS 1105.04, AS 1201.05, and AS 1215.09, .15.

28 *See* AS 2110.68, *Identifying and Assessing Risks of Material Misstatement*.

29 *See* AS 2305.02, .10.

data.[30] Before using the results obtained from substantive analytical procedures, the auditor should either test the design and operating effectiveness of controls over financial information used in the substantive analytical procedures or perform other procedures to support the completeness and accuracy of the underlying information.[31] PCAOB standards further require the auditor to evaluate the results of the audit and conclude on whether sufficient appropriate audit evidence has been obtained to support his or her opinion on the financial statements.[32]

55. To perform the STAR testing, López and the engagement team used monthly historical data provided by the Bank. That data included not only amounts from 2016 but also from earlier periods, prior to Bancolombia's engagement of DT Colombia. Neither López nor anyone on the engagement team, however, performed any procedures to support the completeness and accuracy of the data for the periods prior to the Firm's engagement. They failed to do so, despite (a) the total historical monthly revenue and expense data not reflecting the audited consolidated total amounts in prior filings, and (b) the monthly 2015 revenue data differing materially from the revenue amounts in the Bank's general ledger.

56. As a result of using this untested data for substantive analytical procedures, López failed to comply with PCAOB standards with respect to the testing of the Bank's 2016 revenue and interest expenses.[33]

2. López failed to ensure the engagement team properly performed cutoff testing for revenue and interest expenses.

57. Under PCAOB standards, auditors should design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[34]

58. During the 2016 Audit, López planned to perform audit procedures to test Bancolombia's revenue and expenses. Late in the 2016 Audit, ACOE consultants reviewed the relevant work papers and specifically noted the lack of documented cutoff procedures, that is, procedures that address the risk that a portion of the revenue and expenses was not recorded in the correct period. In response, López and the engagement team merely added references in

30 *See id.* at .02.

31 *See id.* at .16.

32 *See* AS 2810.33-.35.

33 *See* AS 1105.04; AS 2305.16; and AS 2810.33-.35.

34 See AS 2301.08, *The Auditor's Responses to the Risks of Material Misstatement*.

the work papers to other testing that did not appropriately evaluate whether revenue was recognized, or expenses were incurred, in the correct accounting period.

59. As a result, for this reason as well, López failed to comply with PCAOB standards with respect to the testing of the Bank's 2016 revenue and interest expenses.[35]

b. Bancolombia's ICFR

60. Under PCAOB standards, an audit of ICFR should be integrated with the audit of the financial statements.[36] The auditor's objective in an audit of ICFR is to express an opinion on the effectiveness of the company's ICFR.[37] To form a basis for expressing that opinion, the auditor must plan and perform the audit to obtain appropriate evidence that is sufficient to obtain reasonable assurance about whether material weaknesses exist as of the date specified in management's assessment.[38] A material weakness in ICFR may exist even when financial statements are not materially misstated.[39]

61. Pursuant to AS 2201, an auditor must design the test of controls to obtain sufficient evidence to support both the auditor's opinion on ICFR as of year-end, and the auditor's control risk assessments for purposes of the audit of financial statements.[40] As part of this control testing, an auditor must test both the design effectiveness and operating effectiveness of a control.[41] Further, where an auditor has assessed control risk for specific financial statement assertions at less than the maximum during an integrated audit, the auditor is required to obtain evidence that the relevant controls operated effectively during the entire period upon which the auditor plans to place reliance on those controls.[42]

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35 *See* AS 1105.04; AS 2301.08; and AS 2810.33-.35.

36 *See* AS 2201.06.

37 *See id.* at .03.

38 *See id.*

39 *See id.*

40 *See id.* at .07.

41 *See id.* at .42, .44.-.45.

42 *See id.* at .B4; *see also* AS 2301.16 (requiring that, if an auditor plans to assess control risk at less than the maximum by relying on controls, and the nature, timing, and extent of planned substantive procedures are based on that lower assessment, the auditor must obtain evidence that the controls selected for testing are designed effectively and operated effectively during the entire period of reliance); *id.* at .A3 (defining "period of reliance" as the period being covered by the company's financial

62. PCAOB standards also require that an auditor evaluate the severity of each control deficiency that comes to his or her attention to determine whether the deficiencies, individually or in combination, are material weaknesses as of the date of management's assessment.[43] When conducting the evaluation of severity, the auditor also should determine the level of detail and degree of assurance that would satisfy prudent officials in the conduct of their own affairs that they have reasonable assurance that transactions are recorded as necessary to permit the preparation of financial statements in conformity with the applicable financial reporting framework.[44]

63. In violation of PCAOB standards, López and the engagement team failed to test certain controls during the period of reliance and failed to properly evaluate certain control deficiencies prior to issuance of the 2016 Audit Reports.

1. López failed to ensure that the engagement team tested certain controls during the period of reliance.

64. Although DT Colombia was conducting a first-year audit of Bancolombia in 2016, López assessed control risk for most of Bancolombia's financial statement assertions at less than the maximum. As a result, he was required to obtain evidence that the relevant controls were designed effectively and operated effectively during the entire period of reliance being covered by Bancolombia's 2016 financial statements.[45] To support his unqualified ICFR opinion, López also was required to obtain evidence that Bancolombia's controls were effective as of December 31, 2016.[46]

65. To assess whether the relevant controls were designed and operating effectively, López and the engagement team planned to test those controls during calendar year 2016. For many of the relevant controls, however, López failed to perform the planned testing, or cause his engagement team to do so, until well after year-end 2016. These failures encompassed at least six revenue-related controls addressing whether the Bank appropriately controlled access to, and segregated duties with respect to, systems used for loans, interest rates, and creation of credit cards.

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statements, or the portion of that period, for which the auditor plans to rely on controls in order to modify the nature, timing, and extent of planned substantive procedures).

43 *See* AS 2201.62.

44 *See id.* at .70.

45 *See id.* at .B4; AS 2301.16, .A3.

46 *See* AS 2201.B1, .B2.

66. Further, although the engagement team tested the relevant controls after year-end 2016, they also failed to perform procedures to ensure there had been no changes to the controls or the data used in the performance of the controls between December 31, 2016, and when testing occurred. Indeed, after this issue was raised by ACOE, the engagement team deleted the actual dates of testing in some work papers to conceal that the testing had occurred after year-end 2016.

67. As a result, López failed to obtain sufficient evidence that these controls were effective during the period of reliance and as of December 31, 2016, and failed to obtain sufficient evidence to support his assessment of control risk for purposes of the 2016 financial statement audit and DT Colombia's opinion on Bancolombia's ICFR.[47]

2. López failed to adequately evaluate certain control deficiencies prior to issuance.

68. López and the engagement team also failed to adequately evaluate certain control deficiencies identified during the 2016 Audit. For example, the engagement team determined that two revenue-related controls were not operating effectively during 2016. Despite this conclusion, López did not include these deficiencies in the Firm's work paper for aggregating deficiencies because he and the engagement team concluded that the balances of the accounts covered by the controls at year-end were individually below the threshold for clearly trivial errors. PCAOB standards, however, required López to consider the effect of these deficiencies, not only individually, but also in the aggregate with other deficiencies.[48]

iv. López Failed to Comply with PCAOB Audit Documentation Standards During the 2016 Audit

69. PCAOB standards require that an auditor prepare audit documentation in connection with each engagement conducted pursuant to the standards of the PCAOB.[49] This audit documentation should be prepared in sufficient detail to provide a clear understanding of its purpose, source, and the conclusions reached.[50] Audit documentation must also contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to determine who performed the work and the date such work was completed, as well as who reviewed the work and the date of such review.[51]

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47 AS 1105.10; AS 2201.B1, .B2, and .B4; AS 2301.16.

48 *See* AS 2201.62.

49 *See* AS 1215.04.

50 *See id.*

51 *See id.* at .06.

70. Although an auditor has up to 45 days from the report release date to assemble for retention a complete and final set of audit documentation, PCAOB standards require the auditor to complete all necessary auditing procedures and obtain sufficient evidence to support the representations in the auditor's report prior to the report release date.[52]

71. As discussed above, López and the engagement team performed significant work after issuance of the 2016 Audit Reports, including performing certain audit procedures and obtaining evidence from the client related to, among other areas, revenue, interest expenses, derivatives, fair value testing, and control testing. Other than for the limited procedures identified in the final Bitácora, López and the engagement team failed to document in the 2016 Audit file who performed the post-issuance work and the date such work was completed, as well as who reviewed the work and the date of such review.

72. Additionally, López was informed of an upcoming internal inspection the day after issuing the 2016 Audit Reports. He then shared this information with engagement team members, which resulted in some team members making certain changes to the work papers prior to the internal inspection. These changes included an engagement team member adding new audit evidence to a work paper about understanding the client after learning that the failure to include such information would likely result in an inspection comment. No updates were made to signoffs in the Firm's audit documentation software to reflect when this work was performed.

73. During the audit documentation period, López and the engagement team maintained the Bitácora outside of the 2016 Audit file to track changes made after issuance of the 2016 Audit Report and the table reached over 1,000 entries as of May 30, 2017. A substantial number of entries as of that date reflected significant changes to the descriptions of procedures performed, evidence obtained, or conclusions reached in a particular work paper, including changes reflecting necessary work that should have been completed prior to issuance.

74. The day before archiving the 2016 Audit file, López and his senior manager informed members of ACOE that they were "considering only uploading the Log with the topics considered omitted procedures" and leaving the rest outside of the 2016 Audit file. In response, a member of ACOE responded to the senior manager while copying López, saying "[t]he log must include the changes (more than minor) to the audit file,"[53] and highlighting the relevant portions of Deloitte Global guidance.

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[52] *See id.* at .15.

[53] Deloitte Global's guidance for its affiliate firms instructed that engagement teams classify changes made during the audit documentation period as either: "minor," "more than minor," or "omitted procedures." According to Deloitte Global's guidance, teams are supposed to document "more than minor changes" that "affect our descriptions of procedures performed, evidence obtained, or

75. Notwithstanding being told to include "more than minor" changes, López and the senior manager deleted over a thousand entries, many of which reflected changes to the descriptions of procedures performed, evidence obtained, or conclusions reached, and only uploaded the entries that were designated as "omitted procedures." No evidence of these other changes was maintained elsewhere in the 2016 Audit file.

76. As a result of the above conduct, López violated PCAOB standards by failing to include in the audit documentation, or causing the engagement team not to include, information sufficient to enable an experienced auditor having no prior connection with the engagement to determine who performed significant portions of the work for the 2016 Audit and the date such work was completed, as well as the person who reviewed the work and the date of such review.[54]

IV.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Gabriel Jaime López Díez is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);[55]

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conclusions reached as of the report," and "omitted procedures" that reflect changes that "add documentation for procedures that were not completed or performed at the report release date and that result in our obtaining evidence after the report release date or reaching or modifying conclusions after the report release date."

[54] AS 1215.06.

[55] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to López. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

C. Pursuant to PCAOB Rule 5302(b), Gabriel Jaime López Díez may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order;

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $75,000 is imposed on Gabriel Jaime López Díez.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Gabriel Jaime López Díez as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 11, 2025

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Kesselman & Kesselman C.P.A.s,

Respondent.

PCAOB Release No. 105-2025-005

February 25, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Kesselman & Kesselman C.P.A.s ("PwC Israel," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $2,750,000 on PwC Israel; and

(3) requiring PwC Israel to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that PwC Israel violated PCAOB rules and quality control standards over several years in connection with the Firm's internal training program.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or

denying the findings contained herein, except as to the Board's jurisdiction over Respondent and the subject matter of this proceeding, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **PwC Israel** is a public accounting firm headquartered in Tel Aviv, Israel. PwC Israel is a member of the PricewaterhouseCoopers International Limited ("PwC Global") network. The Firm registered with the Board on July 13, 2004, pursuant to Section 102 of the Act and PCAOB rules. PwC Israel is, and at all relevant times was, a "registered public accounting firm" as that term is defined by Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i).

B. Summary

2. From 2017 to 2022, PwC Israel violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing internal training tests. Those quality control failures prevented the Firm from identifying that, during the relevant period, hundreds of Firm personnel were involved in improper answer sharing—either by providing access to test questions or answers, or by receiving such access without reporting it—in connection with online tests for mandatory internal training courses.

C. PwC Israel Violated PCAOB Rules and Standards

i. Applicable PCAOB Rules and Quality Control Standards

3. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[2] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[3]

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

[2] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[3] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

4. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[4] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[5] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned . . . ."[6]

5. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[7] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[8] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[9]

ii. Training Requirements

6. As part of PwC Israel's personnel management system, the Firm utilizes internal training programs for its personnel. The training programs the Firm uses are designed to serve multiple purposes, including to provide personnel with technical instruction, and to further their professional development. PwC Israel's training requirements are intended to be relevant to, among other things, the independence of their personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. However, the training requirements can vary by a professional's position, role, and industry practice area.

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4 QC § 20.09.

5 QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control—Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

6 QC § 20.13.c; QC § 40.02.c.

7 QC § 20.08.

8 *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

9 *See* QC § 20.20.c-.d; QC § 30.02.c-.d.

7. The internal trainings utilized by PwC Israel often include a testing component. For training courses with a testing component, the Firm does not credit personnel with completing the training until they satisfactorily pass the related test.

8. PwC Global plays a significant role in the development and deployment of the training programs PwC Israel uses. PwC Global has issued several Global Assurance Quality – Learning & Education standards that PwC Israel, as a member firm of the PwC Global network, is expected to comply with as part of PwC Israel's system of quality control. To comply with these standards, PwC Israel has elected to use training material provided by PwC Global. With respect to training tests PwC Global provides, PwC Global designs the tests, administers the platform that records test attempts and completions, and maintains certain exam-integrity measures like rotating banks of questions and randomizing the order of answer options.

iii. Failures by PwC Israel to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

9. From 2017 to 2022, PwC Israel had in place certain quality control policies and procedures intended to address integrity and personnel management. The Firm's Code of Conduct required that Firm personnel act with integrity generally, but had no specific prohibition against answer sharing on training tests. The Firm separately communicated specific warnings against improper answer sharing on training tests, but those communications were either limited in distribution or quite recent. For example, in June 2019, the Firm sent a communication only to all of the Firm's assurance partners, bringing to their attention a recent fine imposed on a U.S. accounting firm due, in part, to answer sharing on internal training exams, and warning against such activity. Nearly three years later, in April 2022, the Firm sent a communication to all Firm personnel, bringing to their attention another fine imposed on another PwC Global network firm due to answer sharing on internal training exams.

10. As described below, these policies and procedures were inadequate to prevent or detect the extensive improper answer sharing on training tests that occurred among PwC Israel personnel over multiple years.

iv. Widespread Sharing of Answers to Internal Training Tests at PwC Israel

11. From at least 2017 to 2022, hundreds of PwC Israel personnel provided or obtained access to questions and answers for training tests in an unauthorized manner. Firm personnel did so primarily through email with PwC Israel colleagues. Firm personnel engaged in improper answer sharing in connection with tests for an array of trainings concerning, among other subjects, professional independence, PCAOB audit requirements, and professional ethics and compliance. During this time period, no one reported this misconduct to appropriate parties within the Firm until one employee spoke up in October 2022—three months after PCAOB investigators had sent the Firm an information request inquiring about, among other

things, any occurrences of improper answer sharing at the Firm. Shortly after this whistleblower's report, the Firm disclosed it to the PCAOB investigators and began investigating.

12. As illustrated by the misconduct described above, from 2017 to 2022, PwC Israel failed to establish and implement policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) PwC Israel personnel performed all professional responsibilities with integrity; (2) PwC Israel personnel to whom work was assigned had the degree of technical training and proficiency required in the circumstances; and (3) PwC Israel personnel participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned. Accordingly, the Firm violated PCAOB quality control standards related to integrity and personnel management.[10]

IV.

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

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation with respect to its response to the discovery of improper answer sharing on internal trainings. Specifically, the Firm provided substantial assistance to the PCAOB's investigation by conducting, and providing to the PCAOB the results of, its internal investigation, including information relating to the Firm's interviews of personnel whom it suspected of engaging in improper answer sharing.

Additionally, since the answer sharing misconduct occurred, the Firm has implemented remedial and corrective measures aimed at successfully ending improper answer sharing. Among other actions, the Firm transitioned to classroom assessments with proctors rather than online assessments; implemented an annual confirmation for personnel to certify that they have complied with the Firm's policies, which now include a ban on improper answer sharing; began issuing warnings to new employees that answer sharing is prohibited; and disciplined Firm personnel who engaged in improper answer sharing.

Absent this extraordinary cooperation, the civil money penalty imposed would have been significantly larger, and the Board may have imposed additional sanctions.

Accordingly, it is hereby ORDERED that:

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[10] *See* QC §§ 20.09, .13.b-.c, .20; QC § 30.02; and QC § 40.02.b-.c.

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Kesselman & Kesselman C.P.A.s is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,750,000 is imposed on Kesselman & Kesselman C.P.A.s.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Kesselman & Kesselman C.P.A.s shall pay this civil money penalty within fifteen (15) days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board; (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (iii) submitted under a cover letter which identifies Kesselman & Kesselman C.P.A.s as the Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Kesselman & Kesselman C.P.A.s understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Kesselman & Kesselman C.P.A.s is required:

1. Within 120 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures as described in QC § 20.20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*, to provide the Firm with

reasonable assurance that (a) personnel perform all internal training and tests associated with such training with integrity; (b) personnel to whom work has been assigned have the degree of technical training and proficiency required in the circumstances; (c) personnel participate in general and industry-specific continuing professional education that enable them to fulfill responsibilities assigned; and (d) the above-described policies and procedures are suitably designed and are being effectively applied.

2. Within 150 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with Section IV.C.1. above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. Kesselman & Kesselman C.P.A.s shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

3. The Firm understands that the failure to satisfy any provision of Section IV.C. may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 25, 2025

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Natalie Murphy, CPA,

Respondent.

PCAOB Release No. 105-2025-006

February 25, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Natalie Murphy, CPA ("Murphy" or "Respondent");

(2) barring Murphy from being associated with a registered public accounting firm;[1]

(3) imposing a $50,000 civil money penalty on Murphy; and

(4) requiring Murphy to complete 40 hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license she holds, before filing any petition for Board consent to associate with a registered public accounting firm.

The Board is imposing these sanctions on the basis of its findings that Murphy: (1) failed to cooperate with the PCAOB's 2022 inspection of Heaton & Company, PLLC (d/b/a Pinnacle Accountancy Group of Utah) ("Heaton & Co." or the "Firm") by providing misleading information to PCAOB inspectors in connection with two issuer audits; (2) failed to adequately document work paper additions and modifications made after the documentation completion date for those two issuer audits; and (3) failed to timely assemble for retention a complete and final set of audit documentation in a total of five issuer audits.

[1] Murphy may file a petition for Board consent to associate with a registered public accounting firm after five years from the date of this Order.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Natalie Murphy, CPA** is, and at all relevant times was, a certified public accountant licensed by the state of Utah (license no. 7388678-2601). At all relevant times, Murphy was a partner at Heaton & Co. and served as the engagement partner for each of the Firm's audits of the financial statements of the issuers discussed below. Murphy was, at all relevant times, an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

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

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

B. Relevant Entity

2. **Heaton & Company, PLLC (d/b/a Pinnacle Accountancy Group of Utah)** is a public accounting firm located in Farmington, Utah, and is licensed to practice public accounting by the Utah Board of Accountancy (license no. 9284621-2603) and certain other states. At all relevant times, Heaton & Co. was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

C. Issuers

3. **Issuer A** was incorporated in Wyoming and, at all relevant times, had its principal executive office in New York, New York. At all relevant times, Issuer A was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Issuer A's public filings disclose that it was a mobile application company. The Firm issued an audit report dated March 31, 2022, on Issuer A's financial statements that Issuer A included in its Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") for the fiscal year ended December 31, 2021 ("Issuer A Audit").

4. **Issuer B** was incorporated in Colorado and, at all relevant times, had its principal executive office in Huntington Beach, California. At all relevant times, Issuer B was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Issuer B's public filings disclose that it was engaged in the manufacture, distribution, and sale of ready-to-use food. The Firm issued an audit report dated July 27, 2021, on Issuer B's financial statements that Issuer B included in its Form 10-K filed with the Commission for the fiscal year ended May 31, 2021 ("Issuer B Audit").

D. Summary

5. This matter involves Respondent's failure to cooperate with the PCAOB's 2022 inspection of the Firm, and Respondent's repeated violations of PCAOB audit documentation standards.

6. First, after being notified by the staff of PCAOB's Division of Registration and Inspections (the "Inspection Staff") that it had selected the Issuer A Audit and the Issuer B Audit for review in connection with the 2022 inspection of the Firm, Murphy misrepresented the then-current state of the work papers for the two audits. Murphy told the Inspection Staff that all documentation had been completed and needed to be compiled, when in fact, the documentation had not been completed. Second, after the Inspection Staff notified the Firm of the selection of the Issuer A Audit for review, Murphy performed additional audit work, even while representing to the Inspection Staff that all audit procedures for the Issuer A Audit had been completed prior to the audit report date.

7. Murphy also failed to comply with PCAOB audit documentation standards by failing to adequately document modifications and additions made to the Issuer A Audit and Issuer B Audit work papers after the documentation completion dates for those audits. Further, Murphy failed to timely assemble for retention a complete and final set of audit documentation for the Issuer A Audit and Issuer B Audit, as well as for three additional issuer audits discussed below.

8. Accordingly, and as described below, Respondent violated PCAOB Rule 4006, *Duty to Cooperate With Inspectors*, and AS 1215, *Audit Documentation*.

E. Murphy Violated PCAOB Rules and Standards

i. Relevant Rules and Standards

9. PCAOB Rule 4006 requires that "[e]very registered public accounting firm, and every associated person of a registered public accounting firm . . . cooperate with the Board in the performance of any Board inspection."[4] "Implicit in this cooperation requirement is that auditors provide accurate and truthful information."[5]

10. PCAOB rules also require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.[6] The PCAOB's audit documentation standard explains that: "A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[7]

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[4] All references to PCAOB rules and standards in this order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the conduct discussed herein.

[5] *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017) (citations omitted), *petition for review denied*, *Kabani & Co., Inc. v. SEC*, 733 F. App'x 918 (9th Cir. 2018); *see also* PCAOB Staff Audit Practice Alert No. 14, *Improper Alteration of Audit Documentation*, at 3 (Apr. 21, 2016) ("This duty to cooperate includes an obligation not to provide improperly altered documents or misleading information in connection with the Board's inspection processes." (citations omitted)).

[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[7] AS 1215.15-.16.

11. PCAOB standards require that audit documentation "contain sufficient information to enable an experienced auditor, having no previous connection with the engagement," to understand, among other things, the timing of the procedures performed, evidence obtained, and conclusions reached, and to determine not just who performed and reviewed the work but also "the date such work was completed" and "the date of such review."[8]

ii. Murphy Failed to Cooperate with the PCAOB's 2022 Inspection and Violated PCAOB Audit Documentation Standards

a. Murphy Misrepresented the State of the Issuer A Audit and Issuer B Audit Work Papers and Failed to Comply with PCAOB Audit Documentation Standards

12. As the engagement partner for the Issuer A Audit and the Issuer B Audit, Murphy authorized the issuance of the Firm's audit reports for the two issuers. The documentation completion date for the Issuer A Audit was no later than May 15, 2022 (45 days after the release of the Firm's report). The documentation completion date for the Issuer B Audit was no later than September 10, 2021. Consequently, Murphy was required to assemble a complete and final set of audit documentation for the two audits by May 15, 2022, and September 10, 2021, respectively.

13. The Inspection Staff notified the Firm on August 5, 2022, that the Issuer A Audit and the Issuer B Audit had been selected for inspection and requested that the Firm provide the work papers for those two audits by August 15, 2022. After this notification, but before the August 15, 2022 deadline, Murphy informed the Inspection Staff that she had failed to assemble complete and final sets of audit work papers for these two audits.[9] Murphy, however, misrepresented the state of the work papers. Murphy told the Inspection Staff that the Issuer A Audit and the Issuer B Audit work papers were located on various local hard drives of audit staff, and she needed time to compile the work papers. However, at the time, Murphy was aware that much of the work paper documentation had not yet been created or completed.

14. In the weeks leading up to the start of inspection fieldwork for the Issuer A Audit and the Issuer B Audit, Murphy not only compiled but also created and modified work papers for the two audits. Shortly thereafter, the newly created and modified work papers were provided to the Inspection Staff.

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8 *See id.* at .06.

9 *See id.* at .15.

15. Although Murphy generally disclosed in the work papers provided to the Inspection Staff, and in a subsequent discussion with the Inspection Staff, that she had created and modified work papers after the documentation completion date for the Issuer A Audit and the Issuer B Audit, she failed to adequately document those modifications and additions.

16. The work papers provided to the Inspection Staff for the Issuer A Audit and the Issuer B Audit each included a memorandum ("45-Day Memo") created by Murphy and dated July 30, 2022, and August 26, 2022, respectively. Murphy stated in each 45-Day Memo that the audit was properly and thoroughly performed prior to the audit report date but that, for various reasons, modifications and additions to the work papers were required after the documentation completion date.

17. The Issuer A 45-Day Memo included a list of work papers that were modified after the documentation completion date and stated that no changes were made to any work papers other than the specified work papers. However, Murphy did not update the listing of modified work papers to include those she modified in August 2022, after the date of the Issuer A 45-Day Memo. The Issuer B 45-Day Memo did not include a list of work papers that had been modified. Nor did the Firm create any other record to adequately document the additions and modifications to the Issuer A Audit and Issuer B Audit work papers. Murphy, therefore, failed to adequately document the additions and modifications made to the work papers for both audits.[10]

18. Accordingly, Murphy violated PCAOB Rule 4006 and AS 1215.

b. Murphy Misrepresented the Timing of Audit Procedures for the Issuer A Audit

19. On August 26, 2022, ten days before the start of inspection fieldwork, Murphy sent an email to Issuer A's CFO stating that the Firm was performing an "internal inspection," and needed responses to questions concerning Issuer A's capitalization of intellectual property.

20. Issuer A's CFO provided Murphy with additional audit support within days of her email, including invoices and other documentation related to Issuer A's capitalization of intellectual property costs in 2021. Murphy then documented in the Firm's Issuer A Audit work papers that, as part of testing Issuer A's intellectual property, the engagement team had "[r]eviewed and documented the invoices." Murphy failed to document that, in violation of PCAOB standards, the testing was performed in August 2022 and not at the time of the audit.[11]

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10 *See* AS 1215.16.

11 *See* AS 1215.06, .15-.16.

21. Murphy provided the Inspection Staff with the Issuer A Audit work papers without disclosing the timing of the intellectual property testing procedures. Murphy also represented to the Inspection Staff, in written responses to comment forms, that all work paper documentation added after the documentation completion date for the Issuer A Audit was for audit procedures performed prior to the audit report date.

22. Accordingly, Murphy violated PCAOB Rule 4006 and AS 1215.

c. Murphy Failed to Timely Assemble Audit Documentation for Three Additional Audits

23. Murphy also failed to timely assemble complete and final sets of audit documentation for three other audits on which she served as the engagement partner. In connection with the investigation of this matter, the staff of PCAOB's Division of Enforcement and Investigations ("Enforcement Staff") requested the work papers for three issuer audits in addition to the Issuer A Audit and the Issuer B Audit (the "Additional Audits").

24. In response to that request, Murphy attempted to assemble a complete and final set of audit documentation for one of the Additional Audits. On that audit, over 90% of the work papers were created or modified in response to the request from the Enforcement Staff, almost two years after the documentation completion date. Murphy made no attempt to assemble a complete and final set of audit documentation for the other two Additional Audits, both of which contained numerous incomplete work papers and one of which contained work papers related to a different issuer.

25. Accordingly, Murphy violated AS 1215.

IV.

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

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Natalie Murphy is barred from being an "associated person of a registered public accounting

firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[12]

C. Pursuant to PCAOB Rule 5302(b), Natalie Murphy may file a petition for Board consent to associate with a registered public accounting firm after five years from the date of this Order.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon Natalie Murphy.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff, or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Natalie Murphy as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that her failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to

[12] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Murphy. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

E. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Natalie Murphy is required to complete, prior to filing any petition to terminate her bar and for Board consent to reassociate with a registered public accounting firm, 40 hours of continuing professional education and training relating to PCAOB auditing standards (such hours shall be in addition to, and shall not be counted in, the continuing education she is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

February 25, 2025

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Somekh Chaikin,

Respondent.

PCAOB Release No. 105-2025-011

March 11, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Somekh Chaikin ("KPMG Israel," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $250,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that, between 2021 and 2023, the Firm: (a) filed 24 inaccurate Form APs in connection with its audits of 13 different issuer clients, in violation of PCAOB Rule 3211(a), *Auditor Reporting of Certain Audit Participants*; and (b) violated PCAOB quality control standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG Israel has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or

denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Somekh Chaikin** is a public accounting firm headquartered in Tel Aviv, Israel. It is a member firm of the KPMG International Limited network of firms ("KPMG International"). At all relevant times, KPMG Israel was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm reported that it annually served as the principal auditor for between 12 and 20 issuer clients.

B. Issuers

2. **Camtek LTD** ("Camtek") is headquartered in Migdal Ha'Emek, Israel. Its public filings disclose that it is a manufacturer of equipment for the semiconductor industry. KPMG Israel issued audit reports that Camtek included in its Form 20-Fs filed with the U.S. Securities and Exchange Commission ("Commission") for fiscal years ended December 31, 2020, and 2021.

3. **Citrine Global, Corp.** ("Citrine") is headquartered in Caesarea, Israel. Its public filings disclose that it is a plant-based wellness and pharmaceutical company. KPMG Israel issued an audit report that Citrine included in its Form 10-K filed with the Commission for the fiscal year ended December 31, 2022.

4. **Ellomay Capital Ltd.** ("Ellomay") is headquartered in Tel Aviv, Israel. Its public filings disclose that it produces renewable and clean energy. KPMG Israel issued audit reports that Ellomay included in its Form 20-Fs filed with the Commission for fiscal years ended December 31, 2020, and 2021.

5. **ICL Group Ltd.** ("ICL Group") is headquartered in Tel Aviv, Israel. Its public filings disclose that it is a specialty minerals company. KPMG Israel issued audit reports that ICL Group included in its Form 20-Fs filed with the Commission for fiscal years ended December 31, 2020, and 2021.

6. **MediWound Ltd.** ("MediWound") is headquartered in Yavne, Israel. Its public filings disclose that it is a developer and manufacturer of biopharmaceuticals. KPMG Israel

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

issued audit reports that MediWound included in its Form 20-Fs filed with the Commission for fiscal years ended December 31, 2021, and 2022.

7. **My Size, Inc.** ("My Size") is headquartered in Airport City, Israel. Its public filings disclose that it is an e-commerce platform and provider of technology solutions. KPMG Israel issued audit reports that My Size included in its Form 10-Ks filed with the Commission for fiscal years ended December 31, 2020, 2021, and 2022.

8. **Nano Dimension Ltd.** ("Nano Dimension") is headquartered in Ness Ziona, Israel. Its public filings disclose that it is an additive manufacturing, sometimes referred to as 3D printing, solutions provider. KPMG Israel issued audit reports that Nano Dimension included in its Form 20-Fs filed with the Commission for fiscal years ended December 31, 2021, and 2022.

9. **Purple Biotech Ltd.** ("Purple Biotech") is headquartered in Rehovot, Israel. Its public filings disclose that it is a developer of therapies, with a focus on oncology. KPMG Israel issued audit reports that Purple Biotech included in its Form 20-Fs filed with the Commission for fiscal years ended December 31, 2020, and 2021.

10. **Silicom Ltd.** ("Silicom") is headquartered in Kfar Sava, Israel. Its public filings disclose that it is a network and data infrastructure solutions provider. KPMG Israel issued an audit report that Silicom included in its Form 20-F filed with the Commission for the fiscal year ended December 31, 2020.

11. **Tikcro Technologies Ltd.** ("Tikcro Technologies") was, at all relevant times, headquartered in Hadera, Israel. Its public filings disclose that it was a developer of antibodies for cancer treatment. KPMG Israel issued an audit report for the fiscal year ended December 21, 2020 that Tikcro Technologies included in its Form 6-K filed with the Commission in April 2021.

12. **UAS Drone Corp.** ("UAS Drone") is headquartered in Mevo Carmel Science and Industrial Park, Israel. Its public filings disclose that it is a robotics company. KPMG Israel issued an audit report that UAS Drone included in its Form 10-K filed with the Commission for the fiscal year ended December 31, 2022.

13. **XTL Biopharmaceuticals Ltd.** ("XTL Biopharma") is headquartered in Ramat Gan, Israel. Its public filings disclose that it is a biopharmaceutical company that focuses on the treatment of autoimmune diseases. KPMG Israel issued audit reports that XTL Biopharma included in its Form 20-Fs filed with the Commission for fiscal years ended December 31, 2021, and 2022.

14. **ZIM Integrated Shipping Services Ltd.** ("ZIM Integrated") is headquartered in Matam, Israel. Its public filings disclose that it is a container liner shipping company. KPMG Israel issued audit reports that ZIM Integrated included in its Form 20-Fs filed with the Commission for fiscal years ended December 31, 2020, 2021, and 2022.

15. Each of the entities identified in paragraphs 2 through 14 was, at all relevant times, an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Other Relevant Entities

16. **KPMG LLP** ("KPMG US") is a public accounting firm headquartered in New York, New York. At all relevant times, KPMG US was a member firm of KPMG International, was registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and participated in the KPMG Israel issuer audits described below.

D. Summary

17. This matter concerns KPMG Israel's violations of PCAOB rules and standards in connection with its reporting on the participation of other accounting firms in issuer audits. Specifically, KPMG Israel filed 24 inaccurate Form APs from 2021 through 2023 in connection with 24 audits of 13 different issuer clients, in violation of PCAOB Rule 3211(a).

18. In addition, between 2021 and 2023, KPMG Israel violated PCAOB quality control standards related to engagement performance by failing to establish appropriate policies and procedures, including monitoring procedures, to provide reasonable assurance that the Firm's audit professionals would accurately identify in required Form AP filings the accounting firms that participated in KPMG Israel audits and their percentage of participation.

E. KPMG Israel Filed 24 Inaccurate Form APs in Violation of PCAOB Rule 3211(a)

19. PCAOB Rule 3211 provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.[2]

20. PCAOB Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

[2] Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with Commission, *see* PCAOB Rule 3211(b)(1), subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended, *see* PCAOB Rule 3211(b)(2).

21. The instructions to Item 4.1 of Form AP "Part IV - Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm"[3] that incurs more than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP.[4]

22. The instructions to Item 4.2 of Form AP "Part IV - Responsibility for the *Audit* Is Not Divided" require that an auditor "[s]tate the number of *other accounting firm(s)* individually representing less than 5% of total audit hours" and "[i]ndicate the aggregate percentage of participation" by those other accounting firms.[5]

23. Form AP Item 3.2 notes that an other accounting firm participated in the audit if "the Firm assume[d] responsibility for the work and report of the *other accounting firm* as described in . . . AS 1205, *Part of the Audit Performed by Other Independent Auditors*," or "the *other accounting firm* or any of its principals or professional employees was subject to supervision under AS 1201, *Supervision of the Audit Engagement*."[6]

24. For 24 audits across 13 different issuers with fiscal years ending in 2020 through 2022, KPMG Israel filed Form APs that failed to accurately report information concerning other accounting firm participants in the audits.[7] In particular, the Firm failed to file accurate Form APs in connection with the following:

- the Firm's use of KPMG US to review and evaluate the Firm's critical audit matters ("CAMs") in 22 audits; and

- the Firm's use and reporting of component auditors in two audits.

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[3] *See* General Instruction No. 2 of Form AP ("'[O]ther accounting firm' means (i) a *registered public accounting firm* other than the Firm; or (ii) any other *person* or entity that opines on the compliance of any entity's financial statements with an applicable financial reporting framework").

[4] In the adopting release for PCAOB Rule 3211, the Board explained that information provided on Form AP was "intended to help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

[5] *See* Item 4.2 and Part IV of Form AP.

[6] *See* Note to Item 3.2 of Form AP.

[7] Each of the other accounting firm participants referenced in the Order meets the definition of an "other accounting firm" requiring reporting on Form AP in accordance with the instructions of Form AP. *See* Rule 3211(a) and *supra* note 3.

i. Audits Using a "CAM Hub"

25. In connection with preparing an audit report, "[t]he auditor must determine whether there are any [CAMs] in the audit of the current period's financial statements."[8] A CAM is "any matter arising from the audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved especially challenging, subjective, or complex auditor judgment."[9]

26. During the relevant audits, guidance followed by KPMG Israel required that another, specifically-designated KPMG International member firm review and evaluate certain CAMs that would be communicated in the auditor's report prior to the issuance of the report. KPMG Israel referred to that designated member firm as a "CAM Hub."

27. During the relevant audits, KPMG US, through its Department of Professional Practice ("US DPP"), served as the CAM Hub for KPMG Israel, and KPMG Israel used the US DPP to review and evaluate the CAM determinations that KPMG Israel would communicate in its auditor's reports. As a result, KPMG US participated in the following 22 KPMG Israel audits ("CAM Hub Reviews"):

Issuer	**Fiscal Year(s)**
Camtek	2020, 2021
Citrine	2022
Ellomay	2020, 2021
MediWound	2021, 2022
My Size	2020, 2021, 2022
Nano Dimension	2021, 2022
Purple Biotech	2020, 2021
Silicom	2020
Tikcro Technologies	2020
UAS Drone	2022
XTL Biopharma	2021, 2022
ZIM Integrated	2020, 2021, 2022

28. Following each of the CAM Hub Reviews, KPMG Israel filed a Form AP. Despite utilizing the work of KPMG US in each of the 22 CAM Hub Reviews, KPMG Israel failed to report that participation in its Form AP filings for those audits.

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[8] AS 3101.11, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

[9] *Id.*

29. Accordingly, KPMG Israel violated PCAOB Rule 3211(a) in connection with the 22 Form APs filed for the CAM Hub Reviews.

30. On July 31, 2023, KPMG Israel filed amended Form APs—one for each of the CAM Hub Reviews—to address KPMG US's participation as an other accounting firm representing less than 5% of total audit hours.

ii. Audits Using Component Auditors

31. In connection with the audits of ICL Group's 2020 financial statements (the "2020 ICL Group Audit") and 2021 financial statements (the "2021 ICL Group Audit") (collectively, the "ICL Group Audits"), KPMG Israel utilized audit work performed by another accounting firm that was not a member firm of KPMG International (the "Component Auditor").

32. In turn, during the ICL Group Audits, the Component Auditor utilized one or more other accounting firms to perform inventory observation procedures. At the conclusion of each of the ICL Group Audits, the Component Auditor reported the other accounting firm(s) that it utilized in its audit work to KPMG Israel.

33. Following each of the ICL Group Audits, KPMG Israel filed a Form AP. In these Form AP filings, despite the Component Auditor utilizing the other accounting firm(s) to perform inventory observation procedures, KPMG Israel only reflected the participation of the Component Auditor on the relevant Form APs, and failed to report the other accounting firm(s) that participated in the ICL Group Audits.

34. Accordingly, KPMG Israel violated PCAOB Rule 3211(a) in connection with the Form APs for the ICL Group Audits.

35. Following reevaluation of its Form AP reporting, on November 29, 2023, KPMG Israel filed amended Form APs for both of the ICL Group Audits to report the participation of the other accounting firm(s)—as other accounting firms representing less than 5% of total audit hours—thereby increasing the reported number of firms individually representing less than 5% of total audit hours from four to seven for the 2020 ICL Group Audit, and from five to six for the 2021 ICL Group Audit.

F. KPMG Israel Violated PCAOB Quality Control Standards

36. PCAOB rules require that a registered firm comply with PCAOB quality control standards.[10] Those standards require a firm to "have a system of quality control for its accounting and auditing practice."[11] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed

[10] PCAOB Rule 3400T, *Interim Quality Control Standards*.

[11] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[12]

37. PCAOB quality control standards also recognize that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures relating to each of the other elements of quality control are suitably designed and are being effectively applied."[13] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[14]

38. From 2021 through 2023, KPMG Israel failed to establish and implement adequate policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that the work performed by engagement personnel met applicable regulatory requirements related to accurately reporting on Form AP the participation, including the percentage of participation, of other accounting firms in issuer audits.

39. Although KPMG Israel had certain quality control policies and procedures relating to Form AP reporting in connection with the use of other accounting firms, the Firm failed to implement and monitor them in an adequate manner. As a result, the Firm filed inaccurate Form APs between 2021 and 2023 as described herein.

40. Accordingly, the Firm failed to comply with QC § 20 and QC § 30.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $250,000 is imposed on KPMG Israel.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

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12 QC § 20.17.

13 QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

14 *See* QC § 20.20.d; QC § 30.02.d.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies KPMG Israel as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by KPMG Israel. Within three months of the date of this Order, KPMG Israel shall review and evaluate its quality control policies and procedures to assess whether those policies and procedures provide the firm with reasonable assurance that its personnel and other associated persons comply with PCAOB Rule 3211.

2. Reporting. Within three months of the date of this Order, KPMG Israel shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the areas specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG Israel or, if KPMG Israel concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the Firm believes changes are not warranted. In addition, KPMG Israel shall submit any additional information and evidence concerning the Report, the information in the Report, and

KPMG Israel's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within six months of the date of this Order, the individual designated as KPMG Israel's Senior Partner shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that KPMG Israel has implemented all of the modifications and additions, if any, to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG Israel's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG Israel shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. KPMG Israel understands that a failure to satisfy all applicable undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

March 11, 2025

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of PricewaterhouseCoopers LLP,

Respondent.

PCAOB Release No. 105-2025-018

March 11, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is :

(1) censuring PricewaterhouseCoopers LLP ("PwC Singapore," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $1,500,000 on PwC Singapore; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that in connection with the Firm's administration of Personal Independence Compliance Testing ("PICT"), the Firm violated PCAOB rules and quality control standards over approximately two years.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or

denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **PwC Singapore** is a public accounting firm located in Singapore. PwC Singapore is a member firm of the PricewaterhouseCoopers network, of which PricewaterhouseCoopers International Limited is the coordinating entity ("PwC Global"). The Firm registered with the Board on July 13, 2004, pursuant to Section 102 of the Act and PCAOB rules. The Firm is, and at all relevant times was, a "registered public accounting firm" as that term is defined by Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i).

B. Summary

2. From 2022 until mid-2024, PwC Singapore violated PCAOB rules and quality control standards related to integrity and administration of its system of quality control. The Firm's violations stemmed from its failures to establish and implement appropriate policies and procedures over its PICT process and to foster an appropriate ethical culture within its Independence Office. While these deficiencies in its PICT process existed, firm personnel in the Independence Office developed and implemented methods to influence the results of the PICT data the Firm reported to the PCAOB's Division of Registration and Inspections (DRI) and understate the rates at which Firm personnel failed to timely report their financial interests and relationships.

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

C. PwC Singapore Violated PCAOB Rules and Quality Control Standards

i. Applicable PCAOB Rules and Quality Control Standards

3. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[3] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[4]

4. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[5]

5. To provide reasonable assurance that the firm's quality control system "achieves its objectives, appropriate consideration should be given to the assignment of quality control responsibilities within the firm . . . and the extent to which the policies and procedures and compliance therewith should be documented."[6] A firm should assign responsibility for the design and maintenance of quality control policies and procedures to appropriate individuals, giving consideration to "the proficiency of the individuals, the authority to be delegated to them, and the extent of supervision to be provided."[7] A firm should also prepare appropriate documentation to demonstrate compliance with its quality control policies and procedures.[8] Such documentation "should be retained for a period of time sufficient to enable those performing monitoring procedures . . . to evaluate the extent of the firm's compliance with its quality control policies and procedures."[9]

6. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[10] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other

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[3] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; *see also* PCAOB Rule 3400T, *Interim Quality Control Standards*.

[4] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[5] *Id.* at .09.

[6] *Id.* at .21.

[7] *Id.* at .22.

[8] *Id*. at 25.

[9] *Id.*

[10] *Id.* at .08.

elements of quality control are suitably designed and are being effectively applied."[11] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[12]

ii. PICT Requirements

7. PwC Singapore's Independence Office administers PICT to provide reasonable assurance that its audit professionals are fulfilling the financial disclosure requirements prescribed under the Firm's independence policies. Most notably, the Firm requires all Partners and professionals of Senior Associate grade and above to maintain a "Checkpoint" portfolio to track their and their immediate family members' financial interests and relationships. The Firm's audit professionals are selected on a variety of bases for PICT to monitor their portfolio maintenance and identify any exceptions, i.e., any failures to properly or timely record their financial interests in the Checkpoint database.

8. Checkpoint exceptions identified during PICT are included in the Firm's PICT exception rate. Conversely, exceptions that personnel "self-report" prior to the initiation of the PICT process are not included in the Firm's PICT exception rate calculation.

9. As part of PCAOB inspections of the Firm, DRI requested and PwC Singapore provided information related to its PICT efforts and related results.

iii. Direction to Reduce PICT Exception Rates

10. In 2020, PwC Singapore was inspected by the PCAOB. In connection with that inspection, the PCAOB, citing the Firm's PICT exception rates for fiscal years 2019 and 2020, identified a quality control criticism related to the Firm's PICT process.[13]

11. This quality control criticism, together with a target from PwC Global to reduce PICT exception rates to below 15%, prompted Firm Risk Management leadership to direct the Independence Office to initiate measures intended to reduce the Firm's PICT exception rate.

12. In response, the Independence Office began a concerted effort to improve compliance with the Firm's independence policies with the aim of achieving a targeted PICT exception rate of 15%. Specifically, the Independence Office increased training on personal independence obligations and internal messaging promoting the importance of compliance

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11 *Id.*; *see also* QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; QC § 20.20.

12 *See* QC § 20.20.d; *see also* QC § 30.02.d.

13 The PCAOB issued the inspection report on March 24, 2022.

with PwC Singapore's personal independence program and self-reporting exceptions. However, when these actions failed to achieve the desired effect, the Independence Office began implementing other measures to reduce the PICT exception rate.

13. Specifically, in an effort to reduce the PICT exception rate, the Independence Office started "proactively" contacting PICT selectees to direct them to review their financial holdings before providing them to PICT administrators. These selectees were further instructed to report all noted exceptions to the Independence Office before the PICT process commenced (the "Proactive Communication Approach"). Exceptions reported in this manner were characterized as "self-reported." In certain instances, the Independence Office also instructed PICT selectees to self-report Checkpoint exceptions identified during PICT. Exceptions reported in this manner were also designated as "self-reported."

14. Updated PICT guidance from PwC Global in November 2022 expressly stated that exceptions identified after personnel were notified of their selection for PICT but before PICT commenced should be considered PICT exceptions, not self-reported. In response, the Independence Office ceased the Proactive Communication Approach.

15. PwC Global's updated guidance prompted Independence Office personnel to implement two new approaches in or around February 2023 to reduce the Firm's PICT exception rate: the "Deferral Approach" and the "Advance Notice Approach."

16. Under the "Deferral Approach," Independence Office personnel contacted PICT selectees to instruct them to review their financial holdings and report any noted exceptions to the Independence Office prior to disclosing their financial holdings to PICT administrators. Anyone who reported an exception to the Independence Office was then issued a new PICT selection notice dated after the exception was reported, and the previously reported exception was improperly characterized as "self-reported."

17. Under the "Advance Notice Approach," Independence Office personnel notified Firm employees that they would be selected for PICT at a later date and instructed them to review their financial holdings for a specific period that would be subject to PICT so they could self-report any exceptions to the Independence Office prior to being officially notified of their selection for PICT. By providing the specific period the individual would be tested for, the Independence Office improperly influenced the PICT process. Any exceptions reported to the Independence Office following Advance Notice but before PICT notification were classified as "self-reported."

iv. PwC Singapore Provided Incorrect PICT Data to DRI

18. In March 2023, PwC Singapore submitted to the PCAOB a document entitled "Final Remediation Plan in Response to the 2020 PCAOB Inspection Quality Control Criticisms" ("Final Response"). The Final Response was prepared by the Firm's Head of Independence and reviewed by the individual the Firm had appointed as the Partner Responsible for Independence (the "PRI"). The Final Response set forth several remedial actions undertaken by the Firm and stated that PICT exception rates had decreased to 13% in fiscal year 2022. The Firm also stated that the year-to-date fiscal year 2023 exception rate was 15%. The Final Response did not disclose the Proactive Communication Approach, the Deferral Approach, or the Advance Notice Approach employed by the Independence Office despite their impact on the Firm's reported exception rates.

19. In August 2023, DRI requested, and the Firm provided, updated PICT exception rates. Shortly thereafter, DRI notified the Firm that it had concluded its review of the Firm's remediation response and planned to recommend that the Board make a favorable determination. In September 2023, the Board made a final determination that the Firm had satisfactorily remediated the Board's 2020 quality control criticism.

20. The PICT exception rates the Firm provided to DRI in March and August 2023 improperly excluded exceptions characterized by the Independence Office as "self-reported."

v. Failures by PwC Singapore to Establish Adequate Quality Control Policies and Procedures Related to Integrity, Administration of the Firm's System of Quality Control, and Monitoring

21. PwC Singapore failed to establish and implement policies and procedures sufficient to provide reasonable assurance that its Independence Office personnel would perform their professional responsibilities with integrity.[14] Independence Office personnel went unchecked in their development and implementation of the various methods to modify the Firm's PICT exception rates for fiscal years 2022 and 2023. Those PICT exception rates were ultimately reported to the PCAOB.

22. Firm leadership was focused on achieving the targeted PICT exception rate. As a consequence, Firm Risk Management leadership directed the Independence Office, to "do all possible to reverse" the elevated PICT exception rates. Firm Risk Management leadership did not obtain an understanding of how the Independence Office was ultimately able to reduce the

[14] *See* QC § 20.03, .09.

PICT exception rate to below 15%. This focus, combined with a lack of appropriate PICT-related policies and procedures and related controls enabled the Independence Office's misconduct.

23. In addition, the Firm failed to give appropriate consideration to the assignment of QC responsibilities when selecting the individual it appointed as the PRI.[15] At the time of the appointment, the PRI had no prior experience in independence and was already serving in other administrative roles within the Firm, as well as serving on client engagements. The Firm then failed to ensure that the PRI had sufficient knowledge of the PICT procedures utilized by Independence Office personnel and failed to provide sufficient resources to the Independence Office. Consequently, the PRI had insufficient time to devote to independence-related responsibilities, was deferential to incumbent Independence Office personnel, and had insufficient resources to ensure appropriate administration of the PICT process.

24. The Firm also failed to design and implement appropriate monitoring procedures to provide reasonable assurance that the Firm and its personnel were complying with the Firm's quality control policies and procedures. The improper means by which the Independence Office administered the PICT process went undetected for approximately two years. Indeed, the misconduct was not discovered until an internal investigation was conducted following the PCAOB's commencement of its inquiry into the matter.

25. Lastly, the Firm failed to design and implement adequate policies and procedures to ensure that Firm personnel prepared and retained documentation for a period of time sufficient to enable those performing monitoring procedures to evaluate the extent of the Firm's compliance with its quality control policies and procedures.[16] Independence Office personnel who improperly modified PICT exception rates purposefully used MS Teams (which, under Firm policy, preserves chats for only 24 hours and does not record or retain calls) as the primary means to communicate directives to PICT selectees to avoid creating a permanent paper trail memorializing their actions.

26. Accordingly, the Firm violated PCAOB quality control standards related to integrity, administration of the Firm's system of quality control, and monitoring.[17]

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[15] *See id.* at .21-.22.

[16] *See id. at* .25.

[17] *See* QC §§ 20.09, .20-.22, .24-.25; QC §§ 30.03, .06.

IV.

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

In ordering sanctions, the Board took into account the Firm's extraordinary cooperation in this matter.[18] The Firm shared with the PCAOB the results of its internal investigation which revealed the circumstances surrounding the Independence Office's efforts to improperly reduce the Firm's reported PICT exception rates. Additionally, the Firm voluntarily instituted remedial measures to address the above-described issues, including: (1) increasing trainings and workshops focusing on the importance of employee adherence to both the letter and spirit of the Firm's independence policies; (2) undertaking efforts to transform the culture within the Independence Office and the Firm to incentivize personnel to act with integrity and report unethical behavior; (3) appointing a new PRI, Ethics and Business Conduct Leader, and Risk and Quality Leader; (4) requiring the newly appointed PRI and any successor to devote at least 50% of their time to independence matters; (5) forming an Advisory Working Group to support and provide guidance and subject matter expertise to the Independence Office; and (6) appointing a new Head of PICT to lead the team assigned to administer the PICT process.

Absent the Firm's extraordinary cooperation, the civil money penalty imposed against the Firm would have been larger, and the Board may have imposed additional sanctions.

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $1,500,000 is imposed on PwC Singapore.

   1. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act.

   2. Respondent shall pay the civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public

[18] *See Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations*, PCAOB Rel. No. 2013-003 (Apr. 24, 2013).

Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter, which identifies the entity as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. The Firm understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to PwC Singapore at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), PwC Singapore is required:

1. Within 90 days of the entry of the Order, to provide ten hours of personal independence training to the Partner Responsible for Independence and PwC Singapore Independence Office personnel.

2. Within 120 days of the entry of the Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that: (a) all personnel perform all independence-related compliance procedures with integrity; (b) all personnel to whom independence-related compliance procedures are assigned have the degree of technical training and proficiency required under the circumstances and are sufficiently supervised; (c) instructions for performing independence-related compliance procedures are appropriately established and implemented; (d) appropriate documentation is prepared and retained to demonstrate compliance with independence-related compliance policies and procedures; and (e) the above-described policies and procedures are suitably designed and effectively applied.

3. Within 120 days of the entry of the Order, to provide: (a) four hours of ethics training to the Partner Responsible for Independence and PwC Singapore

Independence Office personnel; and (b) four hours of personal independence training to all Firm personnel.

4. Within 180 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraphs IV.D.1.-3. above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. PwC Singapore shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

D. Respondent understands that a failure to satisfy the undertakings and conditions prescribed herein may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

March 11, 2025

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG Samjong Accounting Corp.,

Respondent.

PCAOB Release No. 105-2025-014

March 11, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG Samjong Accounting Corp. ("KPMG Samjong," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $275,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that, between 2020 and 2023, the Firm: (a) filed 10 inaccurate Form APs in connection with its audits of five different issuer clients, in violation of PCAOB Rule 3211(a), *Auditor Reporting of Certain Audit Participants*; and (b) violated PCAOB quality control standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG Samjong has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG Samjong Accounting Corp.** is a public accounting firm headquartered in Seoul, Republic of Korea. It is a member firm of the KPMG International Limited network of firms ("KPMG International"). At all relevant times, KPMG Samjong was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm reported that it annually served as the principal auditor for between five and seven issuer clients.

B. Issuers

2. **Gravity Co., Ltd.** ("Gravity") is headquartered in Seoul, Republic of Korea. Its public filings disclose that it is an online and mobile game developer. KPMG Samjong issued audit reports that Gravity included in its Form 20-Fs filed with the U.S. Securities and Exchange Commission ("Commission") for fiscal years ended December 31, 2020, and 2021.

3. **KB Financial Group Inc.** ("KB Financial") is headquartered in Seoul, Republic of Korea. Its public filings disclose that it is a banking and financial services company. KPMG Samjong issued audit reports that KB Financial included in its Form 20-Fs filed with the Commission for fiscal years ended December 31, 2020, and 2021.

4. **LG Display Co., Ltd.** ("LG Display") is headquartered in Seoul, Republic of Korea. Its public filings disclose that it is a technology equipment manufacturer primarily for televisions and mobile devices. KPMG Samjong issued an audit report that LG Display included in its Form 20-F filed with the Commission for fiscal year ended December 31, 2020.

5. **POSCO** is headquartered in Seoul, Republic of Korea. Its public filings disclose that it is a steel manufacturer. KPMG Samjong issued audit reports that POSCO included in its Form 20-Fs filed with the Commission for the fiscal year ended December 31, 2019 and 2020.

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

6. **SK Telecom Co., Ltd.** ("SK Telecom") is headquartered in Seoul, Republic of Korea. Its public filings disclose that it is a telecommunications services provider. KPMG Samjong issued audit reports that SK Telecom included in its Form 20-Fs filed with the Commission for fiscal years ended December 31, 2019, 2020 and 2021.

7. Each of the entities identified in paragraphs 2 through 6 was, at all relevant times, an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Other Relevant Entities

8. **KPMG Huazhen LLP** ("KPMG Huazhen") is a public accounting firm headquartered in in Beijing, People's Republic of China. At all relevant times, KPMG Huazhen was a member firm of KPMG International, was registered with the Board pursuant to Section 102 of the Act and PCAOB rules and participated in one or more of KPMG Samjong's issuer audits.

9. **KPMG Limited** ("KPMG Vietnam") is a public accounting firm headquartered in Hanoi, Vietnam. At all relevant times KPMG Vietnam was a member firm of KPMG International, was not registered with the Board, and participated in one or more of KPMG Samjong's issuer audits.

D. Summary

10. This matter concerns KPMG Samjong's violations of PCAOB rules and standards in connection with its reporting on the participation of other accounting firms in issuer audits. Specifically, KPMG Samjong filed 10 inaccurate Form APs from 2020 through 2022 in connection with 10 audits of five different issuer clients, in violation of PCAOB Rule 3211(a).

11. In addition, between 2020 and 2023, KPMG Samjong violated PCAOB quality control standards related to engagement performance by failing to establish appropriate policies and procedures, including monitoring procedures, to provide reasonable assurance that the Firm's audit professionals would accurately identify in required Form AP filings the accounting firms that participated in KPMG Samjong audits and their percentage of participation.

E. KPMG Samjong Filed 10 Inaccurate Form APs in Violation of PCAOB Rule 3211(a)

12. PCAOB Rule 3211 provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in

audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.[2]

13. PCAOB Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

14. The instructions to Item 4.1 of Form AP "Part IV - Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm"[3] that incurs more than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP.[4]

15. The instructions to Item 4.2 of Form AP "Part IV – Responsibility for the *Audit* Is Not Divided" require that an auditor "[s]tate the number of *other accounting firm(s)* individually representing less than 5% of total *audit* hours" and "[i]ndicate the aggregate percentage of participation" by those other accounting firms.[5]

16. Form AP Item 3.2 notes that an other accounting firm participated in the audit if "the Firm assume[d] responsibility for the work and report of the *other accounting firm* as described in . . . AS 1205, *Part of the Audit Performed by Other Independent Auditors*," or "the *other accounting firm* or any of its principals or professional employees was subject to supervision under AS 1201, *Supervision of the Audit Engagement*."[6]

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[2] Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with Commission, *see* PCAOB Rule 3211(b)(1), subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended, *see* PCAOB Rule 3211(b)(2).

[3] *See* General Instruction No. 2 of Form AP ("'[O]ther accounting firm' means (i) a *registered public accounting firm* other than the Firm; or (ii) any other *person* or entity that opines on the compliance of any entity's financial statements with an applicable financial reporting framework").

[4] In the adopting release for PCAOB Rule 3211, the Board explained that information provided on Form AP was "intended to help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

[5] *See* Item 4.2 and Part IV of Form AP.

[6] *See* Note to Item 3.2 of Form AP.

17. For 10 audits across five different issuer clients with fiscal years ending from 2019 through 2021, KPMG Samjong filed Form APs that failed to accurately report information concerning other accounting firm participants in the audits.[7] In particular, the Firm failed to file accurate Form APs in connection with the following:

- the Firm's use of other accounting firms to review and evaluate the Firm's critical audit matters ("CAMs"); and
- the Firm's use and reporting of component auditors.

i. Audits Using a "CAM Hub"

18. In connection with preparing an audit report, "[t]he auditor must determine whether there are any [CAMs] in the audit of the current period's financial statements."[8] A CAM is "any matter arising from the audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved especially challenging, subjective, or complex auditor judgment."[9]

19. During the relevant audits, guidance followed by KPMG Samjong required that one of several specifically-designated KPMG International member firms review and evaluate certain CAMs that KPMG Samjong would communicate in its auditor's reports prior to the issuance of the reports. KPMG Samjong referred to those designated member firms as "CAM Hubs."

20. During the period covered by this Order, several different KPMG member firms served as CAM Hubs for KPMG Samjong, and KPMG Samjong used those firms to review and evaluate the CAM determinations that it would communicate in its auditor's reports. As a result, one or more KPMG International member firms participated in the following seven audits ("CAM Hub Reviews"), as follows:

Issuer	**Fiscal Year**
KB Financial	2020
KB Financial	2021
Gravity	2020

[7] Each of the other accounting firm participants referenced in the Order meets the definition of an "other accounting firm" requiring reporting on Form AP in accordance with the instructions of Form AP. *See* Rule 3211(a) and *supra* note 3.

[8] AS 3101.11, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

[9] *Id.*

Gravity	2021
SK Telecom	2019
SK Telecom	2020
SK Telecom	2021

21. Following each of the CAM Hub Reviews, KPMG Samjong filed a Form AP. Despite utilizing the work of CAM Hubs, KPMG Samjong failed to report the participation of the relevant accounting firms in those audits in its Form AP filings.

22. Accordingly, KPMG Samjong violated PCAOB Rule 3211(a) in connection with Form APs filed for the CAM Hub Reviews.

23. Between May 2023 and June 2024, KPMG Samjong filed amended Form APs—one for each of the CAM Hub Reviews—to report the participation of the relevant participating CAM Hubs and other accounting firms—each representing less than 5% of total audit hours.

ii. Audits Using Component Auditors

a. KPMG Samjong Failed to Accurately Identify a Component Auditor

24. In connection with KPMG Samjong's audit of LG Display's 2020 financial statements (the "LG Display Audit"), KPMG Samjong utilized work performed by other KPMG International member firms. Specifically, in connection with the LG Display Audit, KPMG Samjong engaged KPMG Vietnam along with other accounting firms, including KPMG Huazhen to perform audit procedures and serve as component auditors.

25. At the time of the LG Display Audit, KPMG Samjong was aware of KPMG Vietnam's role and participation in the audit.

26. Following the LG Display Audit, KPMG Samjong filed a Form AP that included KPMG Vietnam as an other accounting firm reflecting less than 5% of total audit hours.

27. Following the filing of the Form AP for the LG Display Audit, KPMG Samjong determined that KPMG Vietnam's participation was in fact over 5%. Accordingly, the Firm violated PCAOB Rule 3211(a) in connection with the LG Display Audit.

28. On May 25, 2022, KPMG Samjong filed an amended Form AP for the LG Display Audit, which (1) identified KPMG Vietnam in Item 4.1 at a 5% to 10% level rather than the previous less than 5% level of participation; and (2) decreased KPMG Huazhen's reported participation from a 30% to 40% level to a 20% to 30% level.

b. KPMG Samjong Failed to Report the Participation of a Component Auditor

29. In connection with KPMG Samjong's audits of POSCO's 2019 and 2020 financial statements (the "POSCO Audits"), KPMG Samjong utilized work performed by an other accounting firm in India (the "Indian Firm") to audit a component entity of POSCO.

30. Following the POSCO Audits, KPMG Samjong filed Form APs. Despite utilizing the work of the Indian Firm, KPMG Samjong failed to report the participation of the Indian Firm in the POSCO Audits.

31. Accordingly, KPMG Samjong violated PCAOB Rule 3211(a) in connection with the Form APs for the POSCO Audits.

32. On July 19, 2023, KPMG Samjong filed amended Form APs for the POSCO Audits. The amended Form APs reported the participation of the Indian Firmin both audits as an other accounting firm representing less than 5% of total audit hours.

F. KPMG Samjong Violated PCAOB Quality Control Standards

33. PCAOB rules require that a registered firm comply with PCAOB quality control standards.[10] Those standards require a firm to "have a system of quality control for its accounting and auditing practice."[11] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[12]

34. PCAOB quality control standards also recognize that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures relating to each of the other elements of quality control are suitably designed and are being effectively applied."[13] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[14]

35. From 2020 through 2023, KPMG Samjong failed to establish and implement adequate policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that the work performed by engagement personnel met applicable

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10 PCAOB Rule 3400T, *Interim Quality Control Standards*.

11 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

12 QC § 20.17.

13 QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

14 *See* QC § 20.20.d; QC § 30.02.d.

regulatory requirements related to accurately reporting on Form AP the participation, including the percentage of participation, of other accounting firms in issuer audits.

36. Although KPMG Samjong had certain quality control policies and procedures relating to Form AP reporting in connection with the use of other accounting firms, the Firm failed to implement and monitor them in an adequate manner. As a result, the Firm filed inaccurate Form APs between 2020 and 2022.

37. Accordingly, the Firm failed to comply with QC § 20 and QC § 30.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $275,000 is imposed on KPMG Samjong.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within twenty (20) days of the issuance of this Order by: (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies KPMG Samjong as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by KPMG Samjong. Within three months of the date of this Order, KPMG Samjong shall review and evaluate its quality control policies and procedures to assess whether those policies and procedures provide the firm with reasonable assurance that its personnel and other associated persons comply with PCAOB Rule 3211.

2. Reporting. Within three months of the date of this Order, KPMG Samjong shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the areas specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG Samjong or, if KPMG Samjong concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the Firm believes changes are not warranted. In addition, KPMG Samjong shall submit any additional information and evidence concerning the Report, the information in the Report, and KPMG Samjong's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within six months of the date of this Order, KPMG Samjong's Chief Executive Officer shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that KPMG Samjong has implemented all of the modifications and additions, if any, to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG Samjong's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG Samjong shall

also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. KPMG Samjong understands that a failure to satisfy all applicable undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

March 11, 2025

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG S.p.A. (Italy),

Respondent.

PCAOB Release No. 105-2025-010

March 11, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG S.p.A. ("KPMG Italy," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $175,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that, between 2021 and 2023, the Firm: (a) filed inaccurate Form APs in connection with two audits of an issuer client, in violation of PCAOB Rule 3211(a), *Auditor Reporting of Certain Audit Participants*; and (b) violated PCAOB quality control standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG Italy has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the

findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG S.p.A.** is a public accounting firm headquartered in Milan, Italy. It is a member firm of the KPMG International Limited network of firms ("KPMG International"). At all relevant times, KPMG Italy was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm reported that it annually served as the principal auditor for one issuer client—Natuzzi S.p.A.

B. Issuers

2. **Natuzzi S.p.A.** ("Natuzzi") is headquartered in Santeramo in Colle, Italy. Its public filings disclose that it is a producer and designer of luxury furniture. Natuzzi was, at all relevant times, an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG Italy issued audit reports that Natuzzi included in its Form 20-Fs filed with the U.S. Securities and Exchange Commission ("Commission") for the fiscal years ended December 31, 2020 and 2021 (the "Natuzzi Audits").

C. Summary

3. This matter concerns KPMG Italy's failure to report on Form AP the participation of an other accounting firm in the Natuzzi Audits, in violation of PCAOB Rule 3211(a). In addition, between 2021 and 2023, KPMG Italy violated PCAOB quality control standards related to engagement performance by failing to establish appropriate policies and procedures, including monitoring procedures, to provide reasonable assurance that the Firm's audit professionals would accurately identify in required Form AP filings the accounting firms that participated in KPMG Italy audits and their percentage of participation.

D. KPMG Italy Filed Two Inaccurate Form APs in Violation of PCAOB Rule 3211(a)

4. PCAOB Rule 3211 provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in

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

audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.[2]

5. PCAOB Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

6. The instructions to Item 4.1 of Form AP "Part IV - Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm"[3] that incurs more than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP.[4]

7. The instructions to Item 4.2 of Form AP "Part IV – Responsibility for the *Audit* is Not Divided" require an auditor to "[s]tate the number of *other accounting firm(s)* individually representing less than 5% of total audit hours" and "[i]ndicate the aggregate percentage of participation" by those other accounting firms.[5]

8. Form AP Item 3.2 explains that an other accounting firm participated in the audit if "the Firm assume[d] responsibility for the work and report of the *other accounting firm* as described in . . . AS 1205, *Part of the Audit Performed by Other Independent Auditors*," or "the *other accounting firm* or any of its principals or professional employees was subject to supervision under AS 1201, *Supervision of the Audit Engagement*."[6]

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[2] Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with Commission, *see* PCAOB Rule 3211(b)(1), subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended, *see* PCAOB Rule 3211(b)(2).

[3] *See* General Instruction No. 2 of Form AP ("'[O]ther accounting firm' means (i) a *registered public accounting firm* other than the Firm; or (ii) any other *person* or entity that opines on the compliance of any entity's financial statements with an applicable financial reporting framework").

[4] In the adopting release for PCAOB Rule 3211, the Board explained that information provided on Form AP was "intended to help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

[5] *See* Item 4.2 and Part IV of Form AP.

[6] *See* Note to Item 3.2 of Form AP.

9. In connection with the Natuzzi Audits, KPMG Italy filed Form APs that failed to accurately report information concerning an other accounting firm's participation in those audits through the other accounting firm's review of KPMG Italy's determination of critical audit matters ("CAMs").[7]

10. In connection with preparing an audit report, "[t]he auditor must determine whether there are any [CAMs] in the audit of the current period's financial statements."[8] A CAM is "any matter arising from the audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved especially challenging, subjective, or complex auditor judgment."[9]

11. During the Natuzzi Audits, guidance followed by KPMG Italy required that another, specifically-designated KPMG International-affiliated entity review and evaluate certain CAMs that would be communicated in the auditor's report prior to the issuance of the report. KPMG Italy referred to that designated entity as a "CAM Hub."

12. During the Natuzzi Audits, KPMG Italy consulted with and utilized a UK-based CAM Hub, which was a wholly owned subsidiary of an other accounting firm based in England (the "UK Firm"), to review and evaluate its CAM determinations ("CAM Hub Reviews"). The UK Firm directed and supervised its subsidiary's CAM Hub Reviews on the Natuzzi Audits. As a result, the UK Firm participated in the Natuzzi Audits.

13. Following each of the Natuzzi Audits, KPMG Italy filed a Form AP. Despite utilizing the work of the UK Firm in each of the audits, KPMG Italy failed to report the UK Firm as a participant in those audits in its Form AP filings.

14. Accordingly, KPMG Italy violated PCAOB Rule 3211(a) in connection with the Form APs filed for the Natuzzi Audits.

15. On May 6, 2024, KPMG Italy filed amended Form APs for each of the Natuzzi Audits to report the UK Firm's participation as an other accounting firm representing less than 5% of total audit hours, thereby increasing the reported number of firms individually representing less than 5% of total audit hours by one for each of the Natuzzi Audits.

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[7] The other accounting firm participant referenced in the Order meets the definition of an "other accounting firm" requiring reporting on Form AP in accordance with the instructions of Form AP. *See* Rule 3211(a) and *supra* note 3.

[8] AS 3101.11, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

[9] *Id.*

E. KPMG Italy Violated PCAOB Quality Control Standards

16. PCAOB rules require that a registered firm comply with PCAOB quality control standards.[10] Those standards require a firm to "have a system of quality control for its accounting and auditing practice."[11] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[12]

17. PCAOB quality control standards also recognize that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures relating to each of the other elements of quality control are suitably designed and are being effectively applied."[13] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[14]

18. From 2021 through 2023, KPMG Italy failed to establish and implement adequate policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that the work performed by engagement personnel met applicable regulatory requirements related to accurately reporting on Form AP the participation, including the percentage of participation, of other accounting firms in issuer audits.

19. Although KPMG Italy had certain quality control policies and procedures relating to Form AP reporting in connection with the use of other accounting firms, the Firm failed to implement and monitor them in an adequate manner. As a result, the Firm filed two inaccurate Form APs between 2021 and 2022.

20. Accordingly, the Firm failed to comply with QC § 20 and QC § 30.

IV.

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

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10 PCAOB Rule 3400T, *Interim Quality Control Standards*.

11 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

12 QC § 20.17.

13 QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

14 *See* QC § 20.20.d; QC § 30.02.d.

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $175,000 is imposed on KPMG Italy.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies KPMG Italy as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by KPMG Italy. Within three months of the date of this Order, KPMG Italy shall review and evaluate its quality control policies and procedures to assess whether those policies and procedures provide the firm with reasonable assurance that its personnel and other associated persons comply with PCAOB Rule 3211.

2. Reporting. Within three months of the date of this Order, KPMG Italy shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the areas specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG Italy or, if KPMG Italy concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the Firm believes changes are not warranted. In addition, KPMG Italy shall submit any additional information and evidence concerning the Report, the information in the Report, and KPMG Italy's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within six months of the date of this Order, the individual designated as KPMG Italy's Senior Partner shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that KPMG Italy has implemented all of the modifications and additions, if any, to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG Italy's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG Italy shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. KPMG Italy understands that a failure to satisfy all applicable undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

March 11, 2025

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG LLP (United Kingdom),

Respondent.

PCAOB Release No. 105-2025-012

March 11, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG LLP ("KPMG UK," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $600,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that, between 2020 and 2023, the Firm: (a) failed to make certain required communications to the relevant audit committee or audit committee equivalent in 10 issuer audits, in violation of AS 1301.10d, *Communications with Audit Committees*; (b) filed 13 inaccurate Form APs in connection with its audits of seven different issuer clients, in violation of PCAOB Rule 3211(a), *Auditor Reporting of Certain Audit Participants*; and (c) violated PCAOB quality control standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG UK has submitted an Offer of Settlement ("Offer") that the Board has determined

to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG LLP** is a public accounting firm headquartered in London, United Kingdom. It is a member firm of the KPMG International Limited network of firms ("KPMG International"). At all relevant times, KPMG UK was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm reported that it annually served as the principal auditor for between 16 and 19 issuer clients.

B. Issuers

2. **Arrival** is headquartered in Howald, Grand Duchy of Luxembourg. Its public filings disclose that it is a commercial electric vehicle designer and manufacturer. KPMG UK issued an audit report that Arrival included in its Form 20-F filed with the U.S. Securities and Exchange Commission ("Commission") for the fiscal year ended December 31, 2021.

3. **Barclays Bank PLC** ("Barclays Bank") is headquartered in London, United Kingdom. Its public filings disclose that it is a wholly-owned subsidiary of Barclays plc, and is a banking and financial services provider. KPMG UK issued audit reports that Barclays Bank included in its Form 20-Fs filed with the Commission for the fiscal years ended December 31, 2020, and 2021.

4. **Barclays PLC** ("Barclays") is headquartered in London, United Kingdom. Its public filings disclose that it is a global financial services provider engaged in wholesale, retail, investment banking, and wealth and investment management services. KPMG UK issued audit reports that Barclays included in its form 20-Fs filed with the Commission for the fiscal years ended December 31, 2020, and 2021.

5. **BHP Group Plc** ("BHP Group") is headquartered in London, United Kingdom. Its public filings disclose that it is a mining company that, with Australia-based BHP Group Limited, operated as a combined group known as "BHP." KPMG UK issued joint audit reports with the

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

Australian member firm of KPMG International that BHP Group included in its Form 20-F filed with the Commission for the fiscal year ended June 30, 2019.

6. **British American Tobacco p.l.c.** ("BAT") is headquartered in London, United Kingdom. Its public filings disclose that it manufactures and sells cigarettes, tobacco, and other nicotine products. KPMG UK issued audit reports that BAT included in its Form 20-Fs filed with the Commission for the fiscal years ended December 31, 2020, and 2021.

7. **LumiraDx Limited** ("Lumira") is headquartered in Grand Cayman, Cayman Islands. Its public filings disclose that it is a healthcare company. KPMG UK issued an audit report that Lumira included in its Form 20-F filed with the Commission for the fiscal year ended December 31, 2021.

8. **Prudential Public Limited Company** ("Prudential") is headquartered in Hong Kong, Special Administrative Region of the People's Republic of China. Its public filings disclose that it is an insurance provider. KPMG UK issued audit reports that Prudential included in its Form 20-Fs filed with the Commission for the fiscal years ended December 31, 2019, 2020, 2021, and 2022.

9. **PureTech Health plc** ("PureTech") is headquartered in Boston, Massachusetts. Its public filings disclose that it is a biotechnology and pharmaceutical company. KPMG UK issued audit reports that PureTech included in its Form 20-Fs filed with the Commission for the fiscal years ended December 31, 2020, and 2021.

10. **Smith & Nephew plc** ("Smith") is headquartered in Hertfordshire, United Kingdom. Its public filings disclose that it is a developer of medical devices and services. KPMG UK issued audit reports that Smith included in its Form 20-Fs filed with the Commission for the fiscal years ended December 31, 2020, and 2022.

11. **Unilever PLC** ("Unilever") is headquartered in London, United Kingdom. Its public filings disclose that it is a consumer goods company. KPMG UK issued audit reports that Unilever included in its Form 20-Fs filed with the Commission for the fiscal years ended December 31, 2020, 2021, and 2022.

12. Each of the entities identified in paragraphs 2 through 11 was, at all relevant times, an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Other Relevant Entities

13. **KPMG** ("KPMG Australia") is a public accounting firm headquartered in Sydney, Australia.

14. **KPMG S.p.A.** ("KPMG Italy") is a public accounting firm headquartered in Milan, Italy.

15. At all relevant times, KPMG Australia and KPMG Italy were member firms of KPMG International, were registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and participated in one or more of KPMG UK's issuer audits.

D. Summary

16. This matter concerns KPMG UK's repeated violations of PCAOB rules and standards in connection with its failure to disclose, or accurately disclose, the participation of other accounting firms in issuer audits. Specifically, KPMG UK failed to make certain required communications to the relevant audit committee or audit committee equivalent in 10 issuer audits, in violation of AS 1301.10d. In addition, KPMG UK filed 13 inaccurate Form APs from 2020 through 2023 in connection with 13 audits of seven different issuers, in violation of PCAOB Rule 3211(a).

17. Finally, between 2020 and 2023, KPMG UK violated PCAOB quality control standards related to engagement performance by failing to establish appropriate policies and procedures, including monitoring procedures, to provide reasonable assurance that the Firm's audit professionals would accurately identify in required Form AP filings the accounting firms that participated in KPMG UK audits and their percentage of participation.

E. KPMG UK Failed to Make Required Audit Committee Communications in Violation of AS 1301.10d

18. Pursuant to PCAOB auditing standards, an auditor should communicate with a company's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[2] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment.[3]

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[2] AS 1301.01. For purposes of AS 1301, "audit committee" is defined as "[a] committee (or equivalent body) established by and among the board of directors of a company for the purpose of overseeing the accounting and financial reporting processes of the company and audits of the financial statements of the company; if no such committee exists with respect to the company, the entire board of directors of the company." AS 1301.A2.

[3] *Id*. at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's

19. PCAOB standards specify that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms[4] or other persons, who were not employed by the auditor, that performed audit procedures in the current period audit.[5]

20. In connection with the following 10 audits, KPMG UK used other accounting firms to perform certain audit procedures as other independent public accounting firms. However, with respect to each of the audits identified below, KPMG UK failed to communicate at the time of the audit to the relevant issuer's audit committee or audit committee equivalent the name, location, and planned responsibilities of one or more of the following other accounting firms.

Issuer	**Fiscal Year**
Barclays	2019
Barclays	2021
Barclays Bank	2019
Barclays Bank	2021
PureTech	2020
PureTech	2021
Unilever	2019
Unilever	2020
Unilever	2021
Unilever	2022

evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See* Auditing Standard No. 16 – *Communications With Audit Committees; Related Amendments to PCAOB Standards*; *and Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (Aug. 15, 2012) ("AS 1301 Adopting Release").

[4] The term "other independent public accounting firms" in the context of communications with audit committees pursuant to AS 1301 includes "firms that perform audit procedures in the current period audit regardless of whether they otherwise have any relationship with the auditor." AS 1301.10d, Note.

[5] AS 1301.10d. In the AS 1301 Adopting Release, the Board explained the rationale for identifying other independent public accounting firms for the audit committee as follows: "The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators." AS 1301 Adopting Release at Appendix 4, p. A4-15.

21. Accordingly, KPMG UK violated AS 1301.10d in connection with each of those 10 audits.

F. KPMG UK Filed 13 Inaccurate Form APs in Violation of PCAOB Rule 3211(a)

22. PCAOB Rule 3211 provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.[6]

23. PCAOB Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

24. The instructions to Item 4.1 of Form AP "Part IV - Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm"[7] that incurs more than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP.[8]

25. The instructions to Item 4.2 of Form AP "Part IV – Responsibility for the *Audit* is Not Divided" further require an auditor to "[s]tate the number of *other accounting firm(s)* individually representing less than 5% of total audit hours" and "[i]ndicate the aggregate percentage of participation" by those other accounting firms.[9]

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[6] Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with Commission, *see* PCAOB Rule 3211(b)(1), subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended, *see* PCAOB Rule 3211(b)(2).

[7] *See* General Instruction No. 2 of Form AP ("'[O]ther accounting firm' means (i) a *registered public accounting firm* other than the Firm; or (ii) any other *person* or entity that opines on the compliance of any entity's financial statements with an applicable financial reporting framework").

[8] In the adopting release for PCAOB Rule 3211, the Board explained that information provided on Form AP was "intended to help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

[9] *See* Item 4.2 and Part IV of Form AP.

26. Form AP Item 3.2 explains that an other accounting firm participated in the audit if "the Firm assume[d] responsibility for the work and report of the *other accounting firm* as described in . . . AS 1205, *Part of the Audit Performed by Other Independent Auditors*," or "the *other accounting firm* or any of its principals or professional employees was subject to supervision under AS 1201, *Supervision of the Audit Engagement*."[10]

27. For 13 audits across seven different issuers with fiscal years ending in 2019 through 2022, KPMG UK filed Form APs that failed to accurately report information concerning other accounting firm participants.[11] In particular, the Firm failed to file accurate Form APs in connection with the following:

- the Firm's use and reporting of component auditors or firms used by the component auditors;
- the Firm's use of other non-accounting firms, including a "shared service center,"[12] or non-accounting firms' use of other accounting firms; and
- the Firm's use of personnel borrowed from other accounting firms.

i. Audits Using Component Auditors

a. KPMG UK Failed to Identify or Report in Form AP the Participation of Component Auditors or Other Accounting Firms Used by Component Auditors

28. During certain audits, KPMG UK utilized work performed by other KPMG International member firms (generally, "Component Auditors"). Some of those Component Auditors, in turn, used the professional staff of other KPMG International member firms to perform certain audit procedures requested by KPMG UK.

29. By performing the requested procedures, KPMG International member firms participated in the following eight audits ("Group Audits"):

Issuer	Fiscal Year(s)
Prudential	2019

[10] *See* Note to Item 3.2 of Form AP.

[11] Each of the other accounting firm participants referenced in the Order meets the definition of an "other accounting firm" requiring reporting on Form AP in accordance with the instructions of Form AP. *See* Rule 3211(a) and *supra* note 8.

[12] KPMG UK used the term "shared service center" to describe an entity that centralizes the performance of procedures requested to support an engagement.

Prudential	2020
Prudential	2021, 2022
PureTech	2020, 2021
Smith	2020, 2022

30. Following each of the eight Group Audits, KPMG UK filed a Form AP. KPMG UK failed, however, to report the participation of the relevant other accounting firms in its Form AP filings.

31. Accordingly, KPMG UK violated PCAOB Rule 3211(a) in connection with the Form APs filed for the Group Audits.

32. Following reevaluation of its Form AP reporting, KPMG UK filed the following amended Form APs—one for each Group Audit—to report the participation of other accounting firms in the Group Audits:

Issuer	**Fiscal Year**	**Form AP/A Filing Date**	**Description of Amendment**
Prudential	2019	Feb. 2, 2024	Increasing the reported number of firms individually representing less than 5% of total audit hours by two and moving one firm from Item 4.2 to Item. 4.1.
Prudential	2020	Feb. 2, 2024	Increasing the reported number of firms individually representing less than 5% of total audit hours by three.
Prudential	2021	Feb. 2, 2024	Increasing the reported number of firms individually representing less than 5% of total audit hours by one.
Prudential	2022	Feb. 2, 2024	Increasing the reported number of firms individually representing less than 5% of total audit hours by one.
PureTech	2020	Feb. 22, 2024	Identifying KPMG Italy's participation in Item 4.1, representing 5 to 10% of total audit hours.
PureTech	2021	Feb. 22, 2024	Increasing the reported number of firms individually representing less than 5% of total audit hours by one.
Smith	2020	Feb. 19, 2024	Increasing the reported number of firms individually representing less than 5% of total audit hours by one.

Issuer	Fiscal Year	Form AP/A Filing Date	Description of Amendment
Smith	2022	Feb. 19, 2024	Increasing the reported number of firms individually representing less than 5% of total audit hours by one.

b. KPMG UK Failed to Accurately Report the Participation of Component Auditors and Other Accounting Firms in its 2019 BHP Audit

33. In connection with KPMG UK's audit of BHP's June 30, 2019, financial statements (the "2019 BHP Audit"), KPMG UK and KPMG Australia both performed audit work. KPMG UK and KPMG Australia jointly issued audit reports on BHP's consolidated June 30, 2019, financial statements and the effectiveness of BHP's internal controls over financial reporting as of June 30, 2019.

34. KPMG Australia utilized multiple other accounting firms to perform audit work on the 2019 BHP Audit.

35. On October 26, 2020, KPMG UK filed a Form AP for the 2019 BHP Audit that reported the participation of two other accounting firms engaged by KPMG Australia that represented less than 5% of total audit hours and four accounting firms with participation higher than 10% of total audit hours.[13] However, an additional five accounting firms had been involved in the 2019 BHP Audit that KPMG UK did not report on Form AP.

36. Accordingly, KPMG UK violated PCAOB Rule 3211(a) in connection with the Form AP filed for the 2019 BHP Audit.

37. On October 13, 2021, KPMG UK filed an amended Form AP reporting those five other accounting firms representing less than 5% of total audit hours (and accordingly, increasing the reported number of firms participating in less than 5% of total audit hours by five, from two to seven).

ii. Audits Using a Non-Accounting Firm/Shared Service Center

38. In connection with the five audits listed below, KPMG UK utilized work performed by two non-accounting firms, one of which was a shared service center. During those five audits, those non-accounting firms, in turn, used the professional staff of other KPMG International member firms to perform certain necessary audit procedures.

[13] In connection with the 2019 BHP Audit, KPMG UK and KPMG Australia reissued (and dual-dated) their joint audit report on September 22, 2020, resulting in KPMG UK filing a Form AP on October 26, 2020.

Issuer	Fiscal Year
Arrival	2021 (dual-dated audit report)[14]
BAT	2020
BAT	2021
Lumira	2021
PureTech	2021

39. Following each of the five audits, KPMG UK filed a Form AP. Despite the participation of the other accounting firms in each of the five audits, KPMG UK failed to report the other accounting firms' participation in its Form AP filings.

40. Accordingly, KPMG UK violated PCAOB Rule 3211(a) in connection with the Form APs filed for those five audits.

41. In January and February 2024, KPMG UK filed amended Form APs—one for each of the five audits—to report the participation of the relevant KPMG International member firm as an other accounting firm representing less than 5% of total audit hours.

iii. Audit Using Personnel Borrowed from Other KPMG International-Affiliated Firms

42. In connection with the audit of BAT's 2021 financial statements (the "2021 BAT Audit"), KPMG UK utilized, and supervised under AS 1201, personnel "borrowed" ("Borrowed Personnel") from two other KPMG International member firms to perform work on the audit.[15] As a result of the Borrowed Personnel performing that work, those other accounting firms were participants in the 2021 BAT Audit.[16]

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[14] For Arrival's December 31, 2021 financial statements, KPMG UK reissued and dual-dated its audit report, resulting in two Form APs for the audit of the 2021 financial statements.

[15] KPMG UK distinguished Borrowed Personnel from what the firm considered "Seconded Employees." *See* Staff Guidance, Form AP, *Auditor Reporting of Certain Audit Participants, and Related Voluntary Audit Report Disclosure Under AS 3101, The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*, at 7 (Dec. 17, 2021) ("[S]upervision of a professional employee in a secondment arrangement does not, in and of itself, mean that the other accounting firm participated in the audit. A secondment arrangement for purposes of reporting on Form AP is one in which, for at least three consecutive months, (1) a professional employee of an accounting firm in one country works for an accounting firm located in another country, and (2) the professional employee performs audit procedures with respect to entities and their operations in that other country and does not perform more than de minimis audit procedures in relation to entities or business operations in the country of his or her employer.").

[16] *See* Note to Item 3.2 of Form AP.

43. Following the 2021 BAT Audit, KPMG UK filed a Form AP. Despite utilizing two other accounting firms through Borrowed Personnel, KPMG UK failed to report the participation of the firms in its Form AP.

44. Accordingly, KPMG UK violated PCAOB Rule 3211(a) in connection with the Form AP for the 2021 BAT Audit.

45. KPMG UK thereafter reevaluated the Form AP for the 2021 BAT Audit and, on January 23, 2024, filed an amended Form AP to report the participation of the two KPMG International member firms, each as an other accounting firm representing less than 5% of total audit hours.

G. KPMG UK Violated PCAOB Quality Control Standards

46. PCAOB rules require that a registered firm comply with PCAOB quality control standards.[17] Those standards require a firm to "have a system of quality control for its accounting and auditing practice."[18] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[19]

47. PCAOB quality control standards also recognize that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures relating to each of the other elements of quality control are suitably designed and are being effectively applied."[20] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[21]

48. From 2020 through 2023, KPMG UK failed to establish and implement adequate policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that the work performed by engagement personnel met applicable regulatory requirements related to accurately reporting on Form AP the participation, including the percentage of participation, of other accounting firms in issuer audits.

49. Although KPMG UK had certain quality control policies and procedures relating to Form AP reporting in connection with the use of other accounting firms, as well as policies

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17 PCAOB Rule 3400T, *Interim Quality Control Standards*.

18 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

19 QC § 20.17.

20 QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

21 *See* QC § 20.20.d; QC § 30.02.d.

and procedures concerning required audit committee communication, the Firm failed to implement and monitor them in an adequate manner. As a result, the Firm repeatedly filed numerous inaccurate Form APs between 2020 and 2022.

50. Accordingly, the Firm failed to comply with QC § 20 and QC § 30.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $600,000 is imposed on KPMG UK.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies KPMG UK as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by KPMG UK. Within three months of the date of this Order, KPMG UK shall review and evaluate its quality control policies and procedures to assess whether those policies and procedures provide the firm with reasonable assurance that its personnel and other associated persons comply with Rule 3211; and that such policies and procedures, including monitoring procedures, provide the Firm with reasonable assurance that Firm personnel will communicate to audit committees all matters required by AS 1301.

2. Reporting. Within three months of the date of this Order, KPMG UK shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the areas specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG UK or, if KPMG UK concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the Firm believes changes are not warranted. In addition, KPMG UK shall submit any additional information and evidence concerning the Report, the information in the Report, and KPMG UK's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within six months of the date of this Order, KPMG UK's Chief Executive shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that KPMG UK has implemented all of the modifications and additions, if any, to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG UK's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG UK shall also submit such additional

evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. KPMG UK understands that a failure to satisfy all applicable undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

March 11, 2025

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG LLP (Canada),

Respondent.

PCAOB Release No. 105-2025-009

March 11, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG LLP ("KPMG Canada," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $700,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that, between 2020 and 2023, the Firm: (a) failed to make certain required communications to the relevant audit committee or audit committee equivalent in three issuer audits, in violation of AS 1301.10d, *Communications with Audit Committees*; (b) filed 38 inaccurate Form APs in connection with its audits of 33 different issuer clients, in violation of PCAOB Rule 3211(a), *Auditor Reporting of Certain Audit Participants*; and (c) violated PCAOB quality control standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG Canada has submitted an Offer of Settlement ("Offer") that the Board has

determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG LLP** is a public accounting firm headquartered in Toronto, Ontario, Canada. It is a member firm of the KPMG International Limited network of firms ("KPMG International"). At all relevant times, KPMG Canada was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for between 70 and 85 issuer clients.

B. Other Relevant Entities

2. **B S R & Co. LLP** ("B S R & Co.") is a public accounting firm headquartered in Mumbai, India.

3. **KPMG Assurance and Consulting Services LLP** ("KPMG India") is a public accounting firm headquartered in Mumbai, India.

4. **KPMG Audyt Sp. z o.o.** ("KPMG Audyt ZOO") is a public accounting firm headquartered in Warsaw, Poland.

5. **KPMG LLP** ("KPMG US") is a public accounting firm headquartered in New York, New York.

6. **KPMG** ("KPMG New Zealand") is a public accounting firm headquartered in Auckland, New Zealand.

7. **PricewaterhouseCoopers LLP** ("PwC US") is a public accounting firm headquartered in New York, New York.

8. At all relevant times, B S R & Co., KPMG India, KPMG Audyt ZOO, KPMG US, and KPMG New Zealand were member firms of KPMG International, were registered with the Board

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

pursuant to Section 102 of the Act and PCAOB rules and participated in one or more of KPMG Canada's issuer audits. At all relevant times, PwC US was registered with the Board pursuant to Section 102 of the Act and PCAOB rules and participated in one of KPMG Canada's issuer audits.

9. **B S R & Associates LLP** ("B S R & Associates") is a public accounting firm headquartered in Mumbai, India.

10. **KPMG Advisory Services** ("KMPG Nigeria") is a public accounting firm headquartered in Lagos, Nigeria.

11. **KPMG Audyt spółka z ograniczoną odpowiedzialnością sp.k.** ("KPMG Audyt SPK") is a public accounting firm headquartered in Warsaw, Poland.

12. **KPMG** ("KPMG Barbados") is a public accounting firm headquartered in Hastings, Barbados.

13. **KPMG** ("KPMG Ghana") is a public accounting firm headquartered in Accra, Ghana.

14. **Mazars Central Inc.** ("Mazars") is a public accounting firm headquartered in Bloemfontein, South Africa.

15. At all relevant times, B S R & Associates, KPMG Nigeria, KPMG Audyt SPK, KPMG Barbados, and KPMG Ghana were member firms of KPMG International and participated in one or more of KPMG Canada's issuer audits, but were not registered with the Board. Mazars participated in one KPMG Canada issuer audit and, at all relevant times, was not registered with the Board.

16. **KPMG Global Delivery Center Private Limited** ("GDC") is a "shared service center"[2] located in Bengaluru, India, that utilized personnel from B S R & Co. and KPMG India.

C. Summary

17. This matter concerns KPMG Canada's repeated violations of PCAOB rules and standards in connection with its failure to disclose, or accurately disclose, the participation of other accounting firms in issuer audits. Specifically, KPMG Canada failed to make certain required communications to the relevant audit committee or audit committee equivalent in three issuer audits, in violation of AS 1301.10d. In addition, KPMG Canada filed 38 inaccurate

[2] KPMG Canada used the term "shared service center" to describe an entity that centralizes the performance of procedures requested to support an engagement.

Form APs from 2020 through 2023 in connection with its audits of 33 different issuers,[3] in violation of PCAOB Rule 3211(a).

18. Finally, between 2020 and 2023, KPMG Canada violated PCAOB quality control standards related to engagement performance by failing to establish appropriate policies and procedures, including monitoring procedures, to provide reasonable assurance that the Firm's audit professionals would accurately identify in required Form AP filings the accounting firms that participated in KPMG Canada audits and their percentage of participation.

D. KPMG Canada Failed to Make Required Audit Committee Communications in Violation of AS 1301.10d

19. Pursuant to PCAOB auditing standards, an auditor should communicate with a company's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[4] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment.[5]

20. PCAOB standards specify that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms[6] or other persons, who

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[3] Each of the issuers referenced in this Order was, at all relevant times, an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

[4] AS 1301.01. For purposes of AS 1301, "audit committee" is defined as "[a] committee (or equivalent body) established by and among the board of directors of a company for the purpose of overseeing the accounting and financial reporting processes of the company and audits of the financial statements of the company; if no such committee exists with respect to the company, the entire board of directors of the company." AS 1301.A2.

[5] *Id*. at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See* Auditing Standard No. 16 – *Communications With Audit Committees; Related Amendments to PCAOB Standards*; *and Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (Aug. 15, 2012) ("AS 1301 Adopting Release").

[6] The term "other independent public accounting firms" in the context of communications with audit committees pursuant to AS 1301 includes "firms that perform audit procedures in the current period audit regardless of whether they otherwise have any relationship with the auditor." AS 1301.10d, Note.

were not employed by the auditor, that performed audit procedures in the current period audit.[7]

21. In connection with KPMG Canada's audits of Mogo Inc.'s 2019 financial statements (the "2019 Mogo Audit"), KPMG Canada used B S R & Associates to perform certain audit procedures as an other independent public accounting firm. In connection with KPMG Canada's audit of PyroGenesis Canada Inc.'s 2020 financial statements (the "2020 PyroGenesis Audit"), KPMG Canada used B S R & Co. to perform certain audit procedures as an other independent public accounting firm. In connection with KPMG Canada's audit of IAMGOLD Corporation's 2019 financial statements (the "2019 IAMGOLD Audit"), KPMG Canada used Mazars to perform certain audit procedures as an other independent public accounting firm. With respect to the 2019 Mogo Audit, KPMG Canada failed to communicate B S R & Associates' name, location, and planned responsibilities to the relevant issuer's audit committee or audit committee equivalent. With respect to the 2020 PyroGenesis Audit, KPMG Canada failed to communicate B S R & Co.'s name, location, and planned responsibilities to the relevant issuer's audit committee or audit committee equivalent. With respect to the 2019 IAMGOLD Audit, KPMG Canada failed to communicate Mazars' name, location, and planned responsibilities to IAMGOLD Corporation's audit committee.

22. Accordingly, KPMG Canada violated AS 1301.10d in connection with the 2019 Mogo Audit, the 2020 PyroGenesis Audit, and the 2019 IAMGOLD Audit.

E. KPMG Canada Filed 38 Inaccurate Form APs in Violation of PCAOB Rule 3211(a)

23. PCAOB Rule 3211 provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.[8]

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[7] AS 1301.10d. In the AS 1301 Adopting Release, the Board explained the rationale for identifying other independent public accounting firms for the audit committee as follows: "The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators." AS 1301 Adopting Release at Appendix 4, p. A4-15.

[8] Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the U.S. Securities and Exchange Commission, *see* PCAOB Rule 3211(b)(1), subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended, *see* PCAOB Rule 3211(b)(2).

24. PCAOB Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

25. The instructions to Item 4.1 of Form AP "Part IV - Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm"[9] that incurs more than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP.[10]

26. The instructions to Item 4.2 of Form AP "Part IV – Responsibility for the *Audit* Is Not Divided" require that an auditor "[s]tate the number of *other accounting firm(s)* individually representing less than 5% of total audit hours" and "[i]ndicate the aggregate percentage of participation" by those other accounting firms.[11]

27. Form AP Item 3.2 notes that an other accounting firm participated in the audit if "the Firm assume[d] responsibility for the work and report of the *other accounting firm* as described in . . . AS 1205, *Part of the Audit Performed by Other Independent Auditors*," or "the *other accounting firm* or any of its principals or professional employees was subject to supervision under AS 1201, *Supervision of the Audit Engagement*."[12]

28. For 38 audits across 33 different issuers with fiscal years ending in 2019 through 2022, KPMG Canada filed Form APs that failed to accurately report information concerning other accounting firm participants in the audits. In particular, the Firm failed to file accurate Form APs in connection with the following:

- the Firm's use and reporting of component auditors;

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[9] *See* General Instruction No. 2 of Form AP ("'[O]ther accounting firm' means (i) a *registered public accounting firm* other than the Firm; or (ii) any other *person* or entity that opines on the compliance of any entity's financial statements with an applicable financial reporting framework").

[10] In the adopting release for PCAOB Rule 3211, the Board explained that information provided on Form AP was "intended to help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

[11] *See* Item 4.2 and Part IV of Form AP.

[12] *See* Note to Item 3.2 of Form AP.

- the Firm's use of "shared service centers" ("SSCs");
- the Firm's use of personnel borrowed from other accounting firms; and
- the Firm's use of KPMG US through KPMG US's professional practice personnel.

i. Audits Using Component Auditors

29. During certain audits, KPMG Canada utilized work performed by other KPMG International member firms and one firm that was not a member of KPMG International (generally, "Component Auditors"). By performing the requested audit procedures, Component Auditors participated in the following seven audits ("Group Audits") as follows:

Issuer	Fiscal Year(s)	Component Auditor(s)
Galiano Gold Inc.	2020	KPMG Ghana
IAMGOLD Corporation	2020	KPMG Nigeria
Bank of Montreal	2020	KPMG Barbados
Neptune Wellness Solutions Inc.	2022	KPMG US
Nutrien Ltd.	2019, 2021	KPMG US
Suncor Energy Inc.	2020	PwC US

30. Following each of the seven Group Audits, KPMG Canada filed a Form AP. Despite the Firm knowing that in one or more of those Group Audits it utilized the work of KPMG Ghana, KPMG Nigeria, KPMG Barbados, KPMG US, or PwC US, KPMG Canada failed to report the participation of the relevant accounting firms in its Form AP filings.

31. Accordingly, KPMG Canada violated PCAOB Rule 3211(a) in connection with the Form APs filed for the Group Audits.

32. Following reevaluation of its Form AP reporting, KPMG Canada filed the following amended Form APs—one for each of the Group Audits—to report the participation of the other accounting firm:

Issuer	Fiscal Year	Form AP/A Filing Date	Description of Amendment
Galiano Gold Inc.	2020	Aug. 16, 2023	Identifying in Item 4.1 KPMG Ghana's participation representing 8% of total audit hours.
IAMGOLD Corporation	2020	May 28, 2021	Increasing the reported number of firms individually less than 5% of total audit hours by one.

Issuer	Fiscal Year	Form AP/A Filing Date	Description of Amendment
Bank of Montreal	2020	Jan. 3, 2022	Increasing the reported number of firms individually less than 5% of total audit hours by one.
Neptune Wellness Solutions Inc.	2022	Apr. 22, 2023	Increasing the reported number of firms individually less than 5% of total audit hours by one.
Nutrien Ltd.	2019	Mar. 1, 2021	Increasing the reported number of firms individually less than 5% of total audit hours by one.
Nutrien Ltd.	2021	Aug. 16, 2023	Increasing the reported number of firms individually less than 5% of total audit hours by one.
Suncor Energy Inc.	2020	May 28, 2021	Increasing the reported number of firms individually less than 5% of total audit hours by one.

33. In addition, in connection with the audit of Westport Fuel Systems Inc.'s 2022 financial statements (the "2022 Westport Audit"), KPMG Canada engaged KPMG Audyt SPK to perform audit procedures.

34. However, in KPMG Canada's original Form AP for the 2022 Westport Audit, filed April 14, 2023, KPMG Canada incorrectly identified KPMG Audyt ZOO, instead of KPMG Audyt SPK, as a participating other accounting firm at a 10% level. KPMG Canada did not in fact use KPMG Audyt ZOO's work in the 2022 Westport Audit.

35. Accordingly, KPMG Canada violated PCAOB Rule 3211(a) in connection with the Form AP for the 2022 Westport Audit.

36. On April 21, 2023, KPMG Canada filed an amended Form AP for the 2022 Westport Audit, to remove KPMG Audyt ZOO and identify KPMG Audyt SPK as a participant in the audit at a 10% level.

ii. Audits Using SSCs

37. In connection with 20 audits, KPMG Canada utilized work performed by an SSC, the GDC, which was located in India.

38. In connection with those 20 audits, the GDC, in turn, utilized either KPMG India or B S R & Co. personnel to perform certain audit procedures as part of the audits, as follows:

Issuer	Fiscal Year	Other Accounting Firm
Aptose Biosciences Inc.	2021	KPMG India
Aurora Cannabis Inc.	2021	B S R & Co.
Ballard Power Systems Inc.	2020	B S R & Co.
City Office REIT, Inc.	2020	B S R & Co.
CRH Medical Corporation	2020	B S R & Co.
Cronos Group Inc.	2020	B S R & Co.
Enerplus Corporation	2020	B S R & Co.
Fortuna Silver Mines Inc.	2019	KPMG India
Gran Tierra Energy Inc.	2019	KPMG India
Kinross Gold Corporation	2019	KPMG India
Mogo Inc.	2020	B S R & Co.
Mountain Province Diamonds Inc.	2020	B S R & Co.
Pembina Pipeline Corporation	2020	B S R & Co.
Points.com Inc.	2021	KPMG India
Rogers Communications Inc.	2020	B S R & Co.
Teekay Corporation	2020	B S R & Co.
Teekay Corporation	2021	KPMG India
Teekay Tankers Ltd.	2020	B S R & Co.
The Descartes Systems Group Inc.	2022	KPMG India
Theratechnologies Inc.	2020	B S R & Co.

39. Following each of the audits that utilized an SSC, KPMG Canada filed a Form AP. Despite utilizing the work of either KPMG India or B S R & Co. in each of the audits that utilized an SSC, KPMG Canada failed to report the participation of KPMG India or B S R & Co. in its Form AP filings.

40. Accordingly, KPMG Canada violated PCAOB Rule 3211(a) in connection with the 20 Form APs filed for the audits that utilized an SSC.

41. Between June and August 2023, KPMG Canada filed amended Form APs—one for each of the audits that utilized an SSC—to report the participation of KPMG India or B S R & Co. as an other accounting firm representing less than 5% of total audit hours.

iii. Audits Using Personnel Borrowed from Other KPMG International Affiliated Firms

42. During certain audits, KPMG Canada utilized, and supervised under AS 1201, personnel "borrowed" from other KPMG International member firms ("Borrowed Personnel")

to perform work on the audits.[13] As a result, for the audits in which their Borrowed Personnel performed work, the other KPMG International member firms were participants.[14]

43. KPMG Canada utilized firms through their Borrowed Personnel on the following nine audits:

Issuer	**Fiscal Year**	**Other Accounting Firm**	**% Participation**
Mogo Inc.	2019	B S R & Associates	6%
PyroGenesis Canada Inc.	2020	B S R & Co.	9%
Alamos Gold Inc.	2019	KPMG US	Less than 5%
City Office REIT, Inc.	2019	KPMG New Zealand	Less than 5%
GFL Environmental Inc.	2021	B S R & Co.	Less than 5%
mCloud Technologies Corp.	2020	B S R & Co.	Less than 5%
Norbord Inc.	2019	B S R & Co.	Less than 5%
Teekay Corporation	2019	KPMG US	Less than 5%
TFI International Inc.	2020	B S R & Co.	Less than 5%

44. Following each of the nine audits, KPMG Canada filed a Form AP. Despite utilizing the above other accounting firms through Borrowed Personnel, KPMG Canada failed to report the participation of the relevant other accounting firm in its Form APs.

45. Accordingly, KPMG Canada violated PCAOB Rule 3211(a) in connection with the Form APs filed for the nine audits.

46. After reevaluating the implications of using Borrowed Personnel, KPMG Canada filed amended Form APs for each of the audits to report the participation of the relevant other accounting firm. In particular, on August 16, 2023, KPMG Canada filed an amended Form AP for

[13] KPMG Canada distinguished Borrowed Personnel from what the Firm considered "Seconded Employees." *See* Staff Guidance, Form AP, *Auditor Reporting of Certain Audit Participants, and Related Voluntary Audit Report Disclosure Under AS 3101, The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*, at 7 (Dec. 17, 2021) ("[S]upervision of a professional employee in a secondment arrangement does not, in and of itself, mean that the other accounting firm participated in the audit. A secondment arrangement for purposes of reporting on Form AP is one in which, for at least three consecutive months, (1) a professional employee of an accounting firm in one country works for an accounting firm located in another country, and (2) the professional employee performs audit procedures with respect to entities and their operations in that other country and does not perform more than de minimis audit procedures in relation to entities or business operations in the country of his or her employer.").

[14] *See* Note to Item 3.2 of Form AP.

the 2020 PyroGenesis Audit to report the participation of B S R & Co. as an other accounting firm, at a 9% level. On August 18, 2023, KPMG Canada filed an amended Form AP for the 2019 Mogo Audit to report the participation of B S R & Associates as an other accounting firm, at a 6% level. For the remaining seven audits, KPMG Canada filed amended Form APs increasing by one the number of firms reported as participating at less than 5% of total audit hours.

iv. KPMG Canada's Use of KPMG US's Department of Professional Practice

47. KPMG Canada utilized the work of KPMG US through its Department of Professional Practice ("US DPP") in connection with the audit of Canopy Growth Corporation's 2022 financial statements (the "2022 Canopy Audit"). In particular, KPMG Canada consulted with the US DPP on a consolidation matter. KPMG US thereby participated in the 2022 Canopy Audit.

48. Following the 2022 Canopy Audit, KPMG Canada filed a Form AP. In the Form AP filing, KPMG Canada failed to report the participation of KPMG US in the 2022 Canopy Audit.

49. Accordingly, KPMG Canada violated PCAOB Rule 3211(a) in connection with the Form AP filed for the 2022 Canopy Audit.

50. KPMG Canada filed an amended Form AP, on August 21, 2023, to report the participation of KPMG US as an other accounting firm representing less than 5% of total audit hours.

F. KPMG Canada Violated PCAOB Quality Control Standards

51. PCAOB rules require that a registered firm comply with PCAOB quality control standards.[15] Those standards require a firm to "have a system of quality control for its accounting and auditing practice."[16] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[17]

52. PCAOB quality control standards also recognize that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures relating to each of the other elements of quality control are suitably designed and are being

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15 PCAOB Rule 3400T, *Interim Quality Control Standards*.

16 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

17 QC § 20.17.

effectively applied."[18] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[19]

53. From 2020 through 2023, KPMG Canada failed to establish and implement adequate policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that the work performed by engagement personnel met applicable regulatory requirements related to accurately reporting on Form AP the participation, including the percentage of participation, of other accounting firms in issuer audits.

54. Although KPMG Canada had certain quality control policies and procedures relating to Form AP reporting in connection with the use of other accounting firms, the Firm failed to implement and monitor them in an adequate manner. As a result, the Firm repeatedly filed numerous inaccurate Form APs between 2020 and 2023.

55. Accordingly, the Firm failed to comply with QC § 20 and QC § 30.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $700,000 is imposed on KPMG Canada.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board,

[18] QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

[19] *See* QC § 20.20.d; QC § 30.02.d.

1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies KPMG Canada as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by KPMG Canada. Within three months of the date of this Order, KPMG Canada shall review and evaluate its quality control policies and procedures to assess whether those policies and procedures provide the firm with reasonable assurance that its personnel and other associated persons comply with PCAOB Rule 3211; and that such policies and procedures, including monitoring procedures, provide the Firm with reasonable assurance that Firm personnel will communicate to audit committees all matters required by AS 1301.

2. Reporting. Within three months of the date of this Order, KPMG Canada shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the areas specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG Canada or, if KPMG Canada concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the Firm believes changes are not warranted. In addition, KPMG Canada shall submit any additional information and evidence concerning the Report, the information in the Report, and

KPMG Canada's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within six months of the date of this Order, KPMG Canada's managing partner shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that KPMG Canada has implemented all of the modifications and additions, if any, to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG Canada's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG Canada shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. KPMG Canada understands that a failure to satisfy all applicable undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

March 11, 2025

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG Cárdenas Dosal, S.C.,

Respondent.

PCAOB Release No. 105-2025-013

March 11, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG Cárdenas Dosal, S.C. ("KPMG Mexico," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $275,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that, between 2020 and 2023, the Firm: (a) filed 10 inaccurate Form APs in connection with its audits of five different issuer clients, in violation of PCAOB Rule 3211(a), *Auditor Reporting of Certain Audit Participants*; and (b) violated PCAOB quality control standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG Mexico has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings

brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG Cárdenas Dosal, S.C.** is a public accounting firm headquartered in Mexico City, Mexico. It is a member firm of the KPMG International Limited network of firms ("KPMG International"). At all relevant times, KPMG Mexico was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm reported that it annually served as the principal auditor for between four and five issuer clients.

B. Issuers

2. **Cemex, S.A.B. de C.V.** ("Cemex") is headquartered in Monterrey, Mexico. Its public filings disclose that it is a producer and distributor of cement, ready-mix concrete, and other construction materials. KPMG Mexico issued audit reports that Cemex included in its Form 20-Fs filed with the U.S. Securities and Exchange Commission ("Commission") for fiscal years ended December 31, 2019 and 2020.

3. **Controladora Vuela Compañía de Aviación, S.A.B. de C.V.** ("Controladora") is headquartered in Mexico City, Mexico. Its public filings disclose that it provides aviation services. KPMG Mexico issued an audit report that Controladora included in its Form 20-F filed with the Commission for the fiscal year ended December 31, 2021 (the "Controladora Audit").

4. **Grupo Aeroportuario del Pacífico, S.A.B. de C.V.** ("Aeroportuario") is headquartered in Guadalajara, Mexico. Its public filings disclose that it operates multiple airports within Mexico and Jamaica. KPMG Mexico issued audit reports that Aeroportuario included in its Form 20-Fs filed with the Commission for fiscal years ended December 31, 2019, 2020, and 2021 (the "Aeroportuario Audits").

5. **Grupo Televisa, S.A.B.** ("Televisa") is headquartered in Mexico City, Mexico. Its public filings disclose that it is a media company and cable, satellite, and broadband operator. KPMG Mexico issued audit reports that Televisa included in its Form 20-Fs filed with the Commission for fiscal years ended December 31, 2019, and 2021 (the "Televisa Audits").

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

6. **Petróleos Mexicanos** ("Petróleos") is headquartered in Mexico City, Mexico. Its public filings disclose that it is a crude oil and natural gas company. KPMG Mexico issued audit reports that Petróleos included in its Form 20-Fs filed with the Commission for fiscal years ended December 31, 2020, and 2021 (the "Petróleos Audits").

7. Each of the entities identified in paragraphs 2 through 6 was, at all relevant times, an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

8. This matter concerns KPMG Mexico's violations of PCAOB rules and standards in connection with its reporting on the participation of other accounting firms in issuer audits. Specifically, KPMG Mexico filed 10 inaccurate Form APs from 2020 through 2022 in connection with 10 audits of five different issuers, in violation of PCAOB Rule 3211(a).

9. In addition, between 2020 and 2023, KPMG Mexico violated PCAOB quality control standards related to engagement performance by failing to establish appropriate policies and procedures, including monitoring procedures, to provide reasonable assurance that the Firm's audit professionals would accurately identify in required Form AP filings the accounting firms that participated in KPMG Mexico audits and their percentage of participation.

D. KPMG Mexico Filed 10 Inaccurate Form APs in Violation of PCAOB Rule 3211(a)

10. PCAOB Rule 3211 provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.[2]

11. PCAOB Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

12. The instructions to Item 4.1 of Form AP "Part IV - Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm"[3] that incurs more

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[2] Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with Commission, *see* PCAOB Rule 3211(b)(1), subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended, *see* PCAOB Rule 3211(b)(2).

[3] *See* General Instruction No. 2 of Form AP ("'[O]ther accounting firm' means (i) a *registered public accounting firm* other than the Firm; or (ii) any other *person* or entity that opines on the compliance of any entity's financial statements with an applicable financial reporting framework").

than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP.[4]

13. The instructions to Item 4.2 of Form AP "Part IV – Responsibility for the *Audit* Is Not Divided" require that an auditor "[s]tate the number of *other accounting firm(s)* individually representing less than 5% of total *audit* hours" and "[i]ndicate the aggregate percentage of participation" by those other accounting firms.[5]

14. Form AP Item 3.2 notes that an other accounting firm participated in the audit if "the Firm assume[d] responsibility for the work and report of the *other accounting firm* as described in . . . AS 1205, *Part of the Audit Performed by Other Independent Auditors*," or "the *other accounting firm* or any of its principals or professional employees was subject to supervision under AS 1201, *Supervision of the Audit Engagement.*"[6]

15. For 10 audits across five different issuers with fiscal years ending in 2019 through 2021, KPMG Mexico filed Form APs that failed to accurately report information concerning other accounting firm participants in the audits.[7] In particular, the Firm failed to file accurate Form APs in connection with the following:

- the Firm's use of an other accounting firm to review and evaluate the Firm's critical audit matters ("CAMs");
- the Firm's use of an other accounting firm through that firm's professional practice personnel; and
- the Firm's use and reporting of component auditors.

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[4] In the adopting release for PCAOB Rule 3211, the Board explained that information provided on Form AP was "intended to help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

[5] *See* Item 4.2 and Part IV of Form AP.

[6] *See* Note to Item 3.2 of Form AP.

[7] Each of the other accounting firm participants in the Order meets the definition of an "other accounting firm" requiring reporting on Form AP in accordance with the instructions of Form AP. *See* Rule 3211(a) and *supra* note 3.

i. Audits Using a "CAM Hub"

16. In connection with preparing an audit report, "[t]he auditor must determine whether there are any [CAMs] in the audit of the current period's financial statements."[8] A CAM is "any matter arising from the audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved especially challenging, subjective, or complex auditor judgment."[9]

17. During the relevant audits, guidance followed by KPMG Mexico required that another, specifically-designated KPMG International member firm review and evaluate certain CAMs that would be communicated in the auditor's report prior to the issuance of the report. KPMG Mexico referred to that designated member firm as a "CAM Hub."

18. During the relevant audits, another KPMG International member firm in Brazil (the "Brazil Firm") served as the CAM Hub for KPMG Mexico, and KPMG Mexico used that firm to review and evaluate the CAM determinations that KPMG Mexico would communicate in its auditor's reports. As a result, the Brazil Firm participated in the following five audits ("CAM Hub Reviews"):

Issuer	**Fiscal Year(s)**
Aeroportuario	2020
Cemex	2020
Controladora	2021
Petróleos	2020, 2021

19. Following each of the CAM Hub Reviews, KPMG Mexico filed a Form AP. Despite utilizing the work of the Brazil Firm in each of the CAM Hub Reviews, KPMG Mexico failed to report the participation of the Brazil Firm in its Form AP filings.

20. Accordingly, KPMG Mexico violated PCAOB Rule 3211(a) in connection with Form APs filed for the CAM Hub Reviews.

21. On January 25, 2024, KPMG Mexico filed amended Form APs—one for each of the CAM Hub Reviews —to report the Brazil Firm's participation as an other accounting firm representing less than 5% of total audit hours.

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[8] AS 3101.11, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

[9] *Id.*

ii. Audits Using Department of Professional Practice

22. KPMG Mexico utilized the work of an other accounting firm through its Department of Professional Practice (the "DPP Firm") in connection with the Aeroportuario Audits, the Controladora Audit, and the Televisa Audits (collectively, the "Audits Using DPP"). In particular, KPMG Mexico, during the Audits Using DPP, consulted with the DPP Firm on technical accounting and audit topics, including, but not limited to, foreign currency translation, consolidation, and ICFR-related matters. The DPP Firm thereby participated in the Audits Using DPP.

23. Following each of the Audits Using DPP, KPMG Mexico filed a Form AP. Despite utilizing the work of the DPP Firm in each of the Audits Using DPP, KPMG Mexico failed to report the participation of the DPP Firm in those audits in its Form AP filings.

24. Accordingly, KPMG Mexico violated PCAOB Rule 3211(a) in connection with each of the Audits Using DPP.

25. On January 25, 2024, KPMG Mexico filed amended Form APs—one for each of the Audits Using DPP —to report the participation of the DPP Firm as an other accounting firm representing less than 5% of total audit hours.

iii. Audit Using Component Auditors

26. In connection with KPMG Mexico's audit of Cemex's 2019 financial statements (the "2019 Cemex Audit"), KPMG Mexico utilized audit work performed by other KPMG International member firms (generally, "Component Auditors").

27. In particular, KPMG Mexico engaged multiple other KPMG International member firms as Component Auditors to perform various audit procedures. KPMG Mexico was aware that one of those Component Auditors, in turn, utilized the professional staff of another accounting firm to perform certain audit procedures requested by KPMG Mexico. By performing the requested procedures, the Component Auditors and other accounting firm participated in the 2019 Cemex Audit.

28. Following the 2019 Cemex Audit, KPMG Mexico filed a Form AP but failed to report the participation of the other accounting firms in the 2019 Cemex Audit in its Form AP.

29. Accordingly, KPMG Mexico violated PCAOB Rule 3211(a) in connection with its Form AP for the 2019 Cemex Audit.

30. Following reevaluation of its Form AP reporting for the 2019 Cemex Audit, on January 25, 2024, KPMG Mexico filed an amended Form AP for the 2019 Cemex Audit to report the participation of three other accounting firms—each as an other accounting firm

representing less than 5% of total audit hours—thereby increasing the reported number of firms individually representing less than 5% of total audit hours from eight to 11.

E. KPMG Mexico Violated PCAOB Quality Control Standards

31. PCAOB rules require that a registered firm comply with PCAOB quality control standards.[10] Those standards require a firm to "have a system of quality control for its accounting and auditing practice."[11] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[12]

32. PCAOB quality control standards also recognize that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures relating to each of the other elements of quality control are suitably designed and are being effectively applied."[13] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[14]

33. From 2020 through 2023, KPMG Mexico failed to establish and implement adequate policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that the work performed by engagement personnel met applicable regulatory requirements related to accurately reporting on Form AP the participation, including the percentage of participation, of other accounting firms in issuer audits.

34. Although KPMG Mexico had certain quality control policies and procedures relating to Form AP reporting in connection with the use of other accounting firms, the Firm failed to implement and monitor them in an adequate manner. As a result, the Firm filed inaccurate Form APs between 2020 and 2022.

35. Accordingly, the Firm failed to comply with QC § 20 and QC § 30.

IV.

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

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[10] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[11] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[12] QC § 20.17.

[13] QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

[14] *See* QC § 20.20(d); QC § 30.02(d).

determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $275,000 is imposed on KPMG Mexico.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies KPMG Mexico as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by KPMG Mexico. Within three months of the date of this Order, KPMG Mexico shall review and evaluate its quality control policies and procedures to assess whether those policies and procedures provide the

firm with reasonable assurance that its personnel and other associated persons comply with PCAOB Rule 3211.

2. Reporting. Within three months of the date of this Order, KPMG Mexico shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the areas specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG Mexico or, if KPMG Mexico concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the Firm believes changes are not warranted. In addition, KPMG Mexico shall submit any additional information and evidence concerning the Report, the information in the Report, and KPMG Mexico's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within six months of the date of this Order, the individual designated as KPMG Mexico's Senior Partner shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that KPMG Mexico has implemented all of the modifications and additions to its policies and procedures, if any, that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG Mexico's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG Mexico shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. KPMG Mexico understands that a failure to satisfy all applicable undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 11, 2025

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG Auditores Independentes Ltda. (Brazil),

Respondent.

PCAOB Release No. 105-2025-008

March 11, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG Auditores Independentes Ltda. ("KPMG Brazil," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $700,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section V of this Order.

The Board is imposing these sanctions on the basis of its findings that, between 2020 and 2023, the Firm: (a) failed to make certain required communications to the relevant audit committee or audit committee equivalent in connection with 38 issuer audits, in violation of AS 1301.10d, *Communications with Audit Committees*; (b) failed to report on PCAOB Form 2 the audit reports or consents issued by the Firm in connection with six issuer audits, in violation of PCAOB Rule 2200, *Annual Report*; (c) filed two inaccurate Form APs, in violation of PCAOB Rule 3211(a), *Auditor Reporting of Certain Audit Participants*; and (d) violated PCAOB quality control standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG Brazil has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG Auditores Independentes Ltda.** is a public accounting firm headquartered in São Paulo, Brazil. The Firm is a member of the KPMG International Limited network of firms. KPMG Brazil is registered with the Brazilian Securities and Exchange Commission (Comissão de Valores Mobiliários) and issues audit reports in Brazil. KPMG Brazil is licensed to practice public accounting by the Conselho Regional de Contabilidade do Estado de São Paulo (license no. 2SP014428/06). At all relevant times, KPMG Brazil was registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and was a "registered public accounting firm," as that term is defined in Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i). During the period covered by this Order, the Firm annually served as the principal auditor for between 10 and 14 issuer clients.

B. Other Relevant Entity

2. **KPMG Assurance Services Ltda.** ("KPMG Assurance") is a public accounting firm headquartered in São Paulo, Brazil. At all relevant times, KPMG Assurance was not registered with the Board. KPMG Assurance is licensed to practice public accounting by the Conselho Regional de Contabilidade do Estado de São Paulo (license no. 2SP-023228/0), and issues audit reports in Brazil. During the period covered by this Order, KPMG Assurance performed audit procedures in connection with numerous issuer audits KPMG Brazil performed. At all relevant times, KPMG Assurance was a "public accounting firm," as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii).

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

C. Summary

3. This matter concerns KPMG Brazil's repeated violations of PCAOB rules and standards in connection with (a) its failure to make certain required communications to the relevant audit committee or audit committee equivalent in connection with 38 issuer audits the Firm performed for fiscal years between 2019 and 2022, in violation of AS 1301.10d; (b) its failure to report on PCAOB Form 2 audit reports or consents that the Firm issued in connection with six issuer audits, in violation of PCAOB Rule 2200; and (c) its filing of two inaccurate Form APs, in violation of PCAOB Rule 3211(a).

4. This matter also concerns KPMG Brazil's violation of PCAOB quality control standards related to engagement performance and monitoring. Specifically, from 2020 through 2023, KPMG Brazil failed to establish and implement adequate policies and procedures, including monitoring procedures, to provide reasonable assurance that the Firm would make required audit committee communications and file accurate Form 2s and Form APs.

D. KPMG Brazil Failed to Make Required Audit Committee Communications in Violation of AS 1301.10d

5. Pursuant to PCAOB auditing standards, an auditor should communicate with a company's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[2] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment.[3]

6. PCAOB standards specify that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and

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[2] AS 1301.01. For purposes of AS 1301, "audit committee" is defined as "[a] committee (or equivalent body) established by and among the board of directors of a company for the purpose of overseeing the accounting and financial reporting processes of the company and audits of the financial statements of the company; if no such committee exists with respect to the company, the entire board of directors of the company." AS 1301, Appendix A ¶ A2.

[3] AS 1301.09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See Auditing Standard No. 16—Communications With Audit Committees; Related Amendments to PCAOB Standards; and Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (Aug. 15, 2012) ("AS 1301 Adopting Release").

planned responsibilities of other independent public accounting firms[4] or other persons, who were not employed by the auditor, that performed audit procedures in the current period audit.[5]

7. In connection with the 38 audits identified with "X" below, KPMG Brazil used KPMG Assurance to perform certain audit procedures as an other independent public accounting firm.[6] With respect to each of the 38 audits, KPMG Brazil failed to communicate KPMG Assurance's name, location, and planned responsibilities to the relevant issuer's audit committee or audit committee equivalent.

Issuer[7]	**Year Ended December 31, 2019**	**Year Ended December 31, 2020**	**Year Ended December 31, 2021**	**Year Ended December 31, 2022**
Bank Bradesco S.A.	X	X	X	X
Braskem S.A.	X	X		
BRF S.A.	X	X	X	X
CI&T Inc		X	X	X
Companhia de Saneamento Básico do Estado de São Paulo-SABESP	X			
Energy Co of Minas Gerais				X

[4] The term "other independent public accounting firms" in the context of communications with audit committees pursuant to AS 1301 includes "firms that perform audit procedures in the current period audit regardless of whether they otherwise have any relationship with the auditor." AS 1301.10d, Note.

[5] AS 1301.10d. In the AS 1301 Adopting Release, the Board explained the rationale for identifying other independent public accounting firms for the audit committee as follows: "The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators." AS 1301 Adopting Release at Appendix 4, A4-15.

[6] KPMG Brazil also failed to make the required audit committee communications in connection with the Firm's audit of Petróleo Brasileiro S.A. Petrobras for the year ended December 31, 2021 (the "2021 Petrobras Audit"), which the Board addressed in a previous disciplinary order. *See KPMG Auditores Independentes Ltda.*, PCAOB Rel. No. 105-2023-034 (Nov. 14, 2023) ("November 2023 Order").

[7] Each of the issuers referenced in the table was an "issuer," as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), at the time that the Firm issued the relevant audit report(s).

Issuer[7]	Year Ended December 31, 2019	Year Ended December 31, 2020	Year Ended December 31, 2021	Year Ended December 31, 2022
Cosan Ltd.	X			
CPFL Energy Inc ("CPFL")	X			
Gerdau S.A.		X	X	
Gol Intelligent Airlines Inc.	X			
Inter & Co, Inc.		X	X	X
JBS S.A.				X
Natura & Co Holding S.A.	X			
Nu Holdings Ltd.		X	X	X
Petróleo Brasileiro S.A. Petrobras ("Petrobras")	X	X		
Ultrapar Holdings Inc.	X	X	X	
Vasta Platform Limited			X	X
Zenvia Inc. ("Zenvia")		X	X	X

8. Accordingly, KPMG Brazil violated AS 1301.10d in connection with each of the 38 audits identified above.

E. KPMG Brazil Failed to Report on Form 2 Information Related to Issuer Audit Reports and Consents in Violation of PCAOB Rule 2200

9. PCAOB Rule 2200 requires that registered public accounting firms file annual reports with the Board on Form 2 "following the instructions to that form." The instructions to Form 2 require firms to identify and provide certain information relating to issuer or broker or dealer audit reports issued during the reporting period.[8] They also require that a firm representative certify, among other things, that the Form "does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading."[9]

10. With respect to six audits, KPMG Brazil failed to report on Form 2 the audit reports or consents that the Firm issued, as summarized below.

11. KPMG Brazil failed to report on any Form 2 audit reports the Firm issued for the following five audits: (1) the Firm's audit of Gerdau S.A. for the year ended December 31, 2020 (audit report issued April 21, 2021); (2) the Firm's audit of PicS Ltd. for the year ended December 31, 2020 (audit report issued February 10, 2021); (3) the Firm's audit of Zenvia for

[8] Form 2, *Annual Report Form*, Item 4.1 ("Form 2 Instructions").

[9] Form 2 Instructions, Item 10.1(d).

the year ended December 31, 2020 (audit report issued March 24, 2021); (4) the Firm's audit of Inter & Co, Inc.'s predecessor Inter Platform Inc. for the year ended December 31, 2021 (audit report issued April 15, 2022); and (5) the Firm's audit of JBS S.A. for the year ended December 31, 2022 (audit report issued March 29, 2023).

12. KPMG Brazil also failed to identify Zenvia as an audit client on the Firm's Form 2 filed on June 30, 2023, even though during the reporting period for that Form 2, the Firm issued consents on July 7, 2022, and March 8, 2023. Those consents authorized Zenvia to use the audit report the Firm issued on March 31, 2022, in connection with its audit of Zenvia for the year ended December 31, 2021 (the "2021 Zenvia Audit").[10]

13. By failing to report on Form 2 the audit reports or consents issued by the Firm in connection with the six audits described above, KPMG Brazil violated PCAOB Rule 2200.

F. KPMG Brazil Filed Two Inaccurate Form APs in Violation of PCAOB Rule 3211(a)

14. PCAOB Rule 3211 provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP for each audit report issued by the firm for an issuer.

15. PCAOB Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."[11]

16. The instructions to Item 4.1 of Form AP "Part IV – Responsibility for the *Audit* Is Not Divided" require that, where the extent of participation of an "other accounting firm"[12] in an audit constitutes 5% or greater of total audit hours, the auditor must state in the relevant

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[10] The instructions to Form 2 do not require Firms to provide the date of consents to an issuer's use of a previously-issued audit report, but note that "if such consents constitute the only instances of the Firm issuing audit reports for a particular issuer during the reporting period, the Firm should include that issuer in [the relevant Form 2] and include the dates of such consents and indicate whether the dates provided correspond to the issuance of a consent to the use of a previously-issued audit report." Form 2 Instructions, Item 4.1(b), Note.

[11] PCAOB Rule 3211(a).

[12] *See* Form AP, *Auditor Reporting of Certain Audit Participants*, General Instructions ¶ 2 ("'[O]ther accounting firm' means (i) a *registered public accounting firm* other than the Firm [filing the Form AP]; or (ii) any other *person* or entity that opines on the compliance of any entity's financial statements with an applicable financial reporting framework.").

Form AP the legal name of the other accounting firm and the extent of its participation in the audit.[13]

17. As described below, KPMG Brazil filed two inaccurate Form APs in connection with the Firm's audit of CPFL for the year ended December 31, 2019 (the "2019 CPFL Audit") and the 2021 Zenvia Audit, in violation of PCAOB Rule 3211(a).

i. The 2019 CPFL Audit

18. KPMG Brazil's Form AP for the 2019 CPFL Audit, filed on May 29, 2020, listed no participating other accounting firms in Part IV. However, KPMG Brazil had utilized KPMG Assurance to perform approximately 2,000 hours of work in connection with the 2019 CPFL Audit, accounting for over 5% of the total audit hours. As such, KPMG Brazil should have reported KPMG Assurance in its Form AP as a participating other accounting firm.

19. Accordingly, KPMG Brazil violated PCAOB Rule 3211(a) in connection with the Form AP for the 2019 CPFL Audit.

20. KPMG Brazil filed an amended Form AP for the 2019 CPFL Audit on September 29, 2020, amending the previously-filed Form AP to list "KPMG Assurance Services Ltda" as a participating other accounting firm in Item 4.1, with a participation level of 5% to less than 10%.

ii. The 2021 Zenvia Audit

21. In KPMG Brazil's Form AP for the 2021 Zenvia Audit, filed on May 5, 2022, the Firm identified KPMG Assurance as a participating other accounting firm at a 20% to less than 30% level.

22. After being contacted by the Division of Enforcement and Investigations, KPMG Brazil realized that it had incorrectly attributed 138 hours from KPMG Assurance's work on a 2020 local statutory audit to the 2021 Zenvia Audit.

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[13] In the adopting release for PCAOB Rule 3211, the Board indicated that information provided on Form AP was "intended to help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

23. KPMG Brazil filed an amended Form AP on February 8, 2024, and adjusted the level of KPMG Assurance's participation to exclude the statutory audit hours, changing its reported participation to a 10% to less than 20% level.

24. Accordingly, KPMG Brazil violated PCAOB Rule 3211(a) in connection with the Form AP for the 2021 Zenvia Audit.

G. KPMG Brazil Violated PCAOB Quality Control Standards

25. PCAOB rules require that a registered firm comply with PCAOB quality control standards.[14] Those standards require a firm to "have a system of quality control for its accounting and auditing practice."[15] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[16]

26. PCAOB quality control standards also recognize that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures relating to each of the other elements of quality control are suitably designed and are being effectively applied," and that its system of quality control is effective.[17] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[18] Procedures that provide the firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the firm's policies and procedures contribute to the monitoring element.[19]

27. From 2020 through 2023, KPMG Brazil failed to establish and implement adequate policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) the work performed by engagement personnel met applicable professional standards, regulatory requirements, and the firm's standards of quality related to communicating with audit committees and equivalent bodies, Form 2 reporting, and Form AP

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[14] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[15] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*; *see also* QC §§ 20.02-.03.

[16] QC § 20.17.

[17] QC §§ 30.02-.03, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

[18] *See* QC §§ 20.20.d, 30.02.d.

[19] *See* QC § 30.03.

reporting; and (2) the Firm's relevant policies and procedures were suitably designed and were being effectively applied, and its system of quality control was effective.

28. Although KPMG Brazil had certain relevant quality control policies and procedures, the Firm failed to implement and monitor them in an adequate manner. As a result, KPMG Brazil failed to make required audit committee communications in connection with numerous issuer audits the Firm performed for fiscal years between 2019 and 2022 and filed inaccurate Form 2s and Form APs during that time frame.

29. Accordingly, KPMG Brazil failed to comply with QC § 20 and QC § 30.[20]

IV.

30. The Board previously ordered KPMG Brazil to engage in remedial actions to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that Firm personnel will communicate to audit committees all matters required by AS 1301.[21]

31. KPMG Brazil has represented that, following the November 2023 Order, it has established and implemented the following changes to its policies and procedures for the purpose of providing it with reasonable assurance of compliance with PCAOB standards for communications with audit committees and the documentation of those communications:

A. KPMG Brazil has implemented updated audit committee communications templates;

B. KPMG Brazil has communicated requirements related to audit committee communications, and the updated templates, to all personnel working on issuer audits;

C. KPMG Brazil has implemented a requirement that engagement partners and engagement quality reviewers on issuer audits submit confirmations regarding the use of the Firm's updated audit committee communication templates and compliance with audit committee communication requirements;

D. KPMG Brazil has assigned a member of the Firm's Risk Management department to track confirmations received via the procedure described in item (C) above, review each confirmation, and follow up on any concerns with respect to compliance with audit committee communication requirements; and

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[20] *See* QC §§ 20.17, .20; QC §§ 30.02-.03.

[21] *See* November 2023 Order at 5.

E. KPMG Brazil has provided training to issuer audit personnel at the manager level and above regarding audit committee communication requirements.

V.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $700,000 is imposed upon KPMG Brazil.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. KPMG Brazil shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (a) wire transfer pursuant to instructions provided by Board staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies KPMG Brazil as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. KPMG Brazil understands that failure to pay the civil money penalty described above may result in summary suspension of KPMG Brazil's registration, pursuant to PCAOB Rule 5304(a), following written notice to KPMG Brazil at the address on file with the PCAOB at the time of the issuance of this Order.

C. With respect to audit committee communications, pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), KPMG Brazil is required to comply with its revised policies and procedures, including those described in Section IV above, intended to provide reasonable assurance that Firm personnel will comply with PCAOB standards for communications with audit committees and the documentation of those communications.

D. With respect to Form 2s and Form APs, pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by KPMG Brazil. Within ninety (90) days of the date of this Order, KPMG Brazil shall review and evaluate its quality control policies and procedures to assess whether those policies and procedures provide the Firm with reasonable assurance that its personnel and other associated persons (i) file accurate Form 2s in compliance with PCAOB Rule 2200 and (ii) file accurate Form APs in compliance with PCAOB Rule 3211;

2. Reporting. Within ninety (90) days of the date of this Order, KPMG Brazil shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the areas specified in paragraph D.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG Brazil or, if KPMG Brazil concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the Firm believes changes are not warranted. In addition, KPMG Brazil shall submit any additional information and evidence concerning the Report, the information in the Report, and KPMG Brazil's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within one hundred eighty (180) days of the date of this Order, KPMG Brazil's Chief Executive Officer shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that KPMG Brazil has implemented all of the modifications and additions, if any, to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG Brazil's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG Brazil shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

E. KPMG Brazil understands that a failure to satisfy all applicable undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 11, 2025

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG AG (Switzerland),

Respondent.

PCAOB Release No. 105-2025-015

March 11, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG AG ("KPMG Switzerland," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $175,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that, between 2021 and 2023, the Firm: (a) filed four inaccurate Form APs in connection with its audits of three different issuer clients, in violation of PCAOB Rule 3211(a), *Auditor Reporting of Certain Audit Participants*; and (b) violated PCAOB quality control standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG Switzerland has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or

denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG AG** is a public accounting firm headquartered in Zurich, Switzerland. It is a member firm of the KPMG International Limited network of firms ("KPMG International"). At all relevant times, KPMG Switzerland was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm reported that it annually served as the principal auditor for between one and four issuer clients.

B. Issuers

2. **ABB Ltd** ("ABB") is headquartered in Zurich, Switzerland. Its public filings disclose that it is a technology company. ABB was, at all relevant times, an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG Switzerland issued an audit report that ABB included in its Form 20-F filed with the U.S. Securities and Exchange Commission ("Commission") for the fiscal year ended December 31, 2020.

3. **Molecular Partners AG** ("Molecular Partners") is headquartered in Zurich, Switzerland. Its public filings disclose that it is a clinical-stage biopharmaceutical company. Molecular Partners was, at all relevant times, an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG Switzerland issued audit reports that Molecular Partners included in its Form 20-Fs filed with the Commission for the fiscal years ended December 31, 2021, and 2022.

4. **Sportradar Group AG** ("Sportradar") is headquartered in St. Gallen, Switzerland. Its public filings disclose that it is a sports technology company. Sportradar was, at all relevant times, an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG Switzerland issued an audit report that Sportradar included in its Form 20-F filed with the Commission for the fiscal year ended December 31, 2021.

C. Other Relevant Entities

5. **B S R & Co. LLP** ("B S R & Co.") is a public accounting firm headquartered in Mumbai, India. At all relevant times, B S R & Co. was a member firm of KPMG International, was

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

registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and participated in one or more of KPMG Switzerland's issuer audits.

6. **KPMG Delivery Center S.R.L.** ("KPMG Delivery") is a "shared service center"[2] located in Romania that utilized personnel from an other accounting firm that was a KPMG International member firm.

D. Summary

7. This matter concerns KPMG Switzerland's violation of PCAOB rules and standards in connection with its reporting on the participation of other accounting firms in issuer audits. Specifically, KPMG Switzerland filed four inaccurate Form APs from 2021 through 2023 in connection with four audits of three different issuers, in violation of PCAOB Rule 3211(a).

8. In addition, between 2021 and 2023, KPMG Switzerland violated PCAOB quality control standards related to engagement performance by failing to establish appropriate policies and procedures, including monitoring procedures, to provide reasonable assurance that the Firm's audit professionals would accurately identify in required Form AP filings the accounting firms that participated in KPMG Switzerland audits and their percentage of participation.

E. KPMG Switzerland Filed Four Inaccurate Form APs in Violation of PCAOB Rule 3211(a)

9. PCAOB Rule 3211 provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.[3]

10. PCAOB Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

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[2] KPMG Switzerland used the term "shared service center" to describe an entity that centralizes the performance of procedures requested to support an engagement.

[3] Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with Commission, *see* PCAOB Rule 3211(b)(1), subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended, *see* PCAOB Rule 3211(b)(2).

11. The instructions to Item 4.1 of Form AP "Part IV - Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm"[4] that incurs more than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP.[5]

12. The instructions to Item 4.2 of Form AP "Part IV – Responsibility for the *Audit* is Not Divided" require an auditor to "[s]tate the number of *other accounting firm(s)* individually representing less than 5% of total audit hours" and "[i]ndicate the aggregate percentage of participation" by those other accounting firms.[6]

13. Form AP Item 3.2 explains that an other accounting firm participated in the audit if "the Firm assume[d] responsibility for the work and report of the *other accounting firm* as described in . . . AS 1205, *Part of the Audit Performed by Other Independent Auditors*," or "the *other accounting firm* or any of its principals or professional employees was subject to supervision under AS 1201, *Supervision of the Audit Engagement.*"[7]

14. For four audits across three different issuers with fiscal years ending in 2020 through 2022, KPMG Switzerland filed Form APs that failed to accurately report information concerning other accounting firm participants in the audits.[8] In particular, the Firm failed to file accurate Form APs in connection with the following:

- the Firm's use of an other accounting firm to review and evaluate the Firm's critical audit matters ("CAMs");
- the Firm's use of professional practice personnel from an other accounting firm;

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[4] *See* General Instruction No. 2 of Form AP ("'[O]ther accounting firm' means (i) a *registered public accounting firm* other than the Firm; or (ii) any other *person* or entity that opines on the compliance of any entity's financial statements with an applicable financial reporting framework").

[5] In the adopting release for PCAOB Rule 3211, the Board explained that information provided on Form AP was "intended to help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

[6] *See* Item 4.2 and Part IV of Form AP.

[7] *See* Note to Item 3.2 of Form AP.

[8] Each of the other accounting firm participants in the Order meets the definition of an "other accounting firm" requiring reporting on Form AP in accordance with the instructions of Form AP. *See* Rule 3211(a) and *supra* note 4.

- the Firm's use of shared service centers; and
- the Firm's use of personnel borrowed from other accounting firms.

i. Audits Using a "CAM Hub" and an Other Accounting Firm's Department of Professional Practice

15. In connection with preparing an audit report, "[t]he auditor must determine whether there are any [CAMs] in the audit of the current period's financial statements."[9] A CAM is "any matter arising from the audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved especially challenging, subjective, or complex auditor judgment."[10]

16. During the audits of Molecular Partners' 2021 financial statements and 2022 financial statements (collectively, the "Molecular Partners Audits"), guidance followed by KPMG Switzerland required that another, specifically-designated KPMG International-affiliated entity review and evaluate certain CAMs that would be communicated in the auditor's report prior to the issuance of the report. KPMG Switzerland referred to that designated entity as a "CAM Hub."

17. During the Molecular Partners Audits, KPMG Switzerland consulted with and utilized a UK-based CAM Hub, which was a wholly owned subsidiary of an other accounting firm based in England (the "UK Firm"), to review and evaluate its CAM determinations ("CAM Hub Reviews"). The UK Firm directed and supervised its subsidiary's CAM Hub Evaluations on the Molecular Partners Audits. As a result, the UK Firm participated in the Molecular Partners Audits.

18. Additionally, during its audit of Molecular Partners' 2022 financial statements (the "2022 Molecular Partners Audit"), KPMG Switzerland consulted with a US-based other accounting firm's Department of Professional Practice (the "DPP Firm") on an income statement presentation matter. The DPP Firm thereby participated in the 2022 Molecular Partners Audit.

19. Following each of the Molecular Partners Audits, KPMG Switzerland filed a Form AP. In each Form AP filing, KPMG Switzerland failed to report the participation of the UK Firm and, for the 2022 Molecular Partners Audit, the DPP Firm.

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[9] AS 3101.11, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

[10] *Id.*

20. Accordingly, KPMG Switzerland violated PCAOB Rule 3211(a) in connection with the Form APs filed for the Molecular Partners Audits.

21. On April 12, 2024, KPMG Switzerland filed amended Form APs for each of the Molecular Partners Audits. The amended Form APs reported the participation of the UK Firm in both Molecular Partners Audits, and additionally reported the participation the DPP Firm in the 2022 Molecular Partners Audit, as other accounting firms representing less than 5% of total audit hours.

ii. Audits Using Shared Service Centers

22. In connection with KPMG Switzerland's audit of ABB's 2020 financial statements and internal control over financial reporting (the "ABB Audit"), the Firm utilized work performed by a shared service center, KPMG Delivery. During the relevant period, , KPMG Delivery utilized an other accounting firm based in Romania (the "Romanian Firm") to perform certain necessary audit procedures as part of the audit.

23. Following the ABB Audit, KPMG Switzerland filed a Form AP, which failed to report the participation of the Romanian Firm in its Form AP.

24. Accordingly, KPMG Switzerland violated PCAOB Rule 3211(a) in connection with the Form AP for the ABB Audit.

25. On December 14, 2023, KPMG Switzerland filed an amended Form AP for the ABB Audit to report the participation of the Romanian Firm as an other accounting firm representing less than 5% of total audit hours.

iii. Audits Using Personnel Borrowed from Other KPMG International-Affiliated Firms

26. In connection with the audit of Sportradar's 2021 financial statements (the "Sportradar Audit"), KPMG Switzerland utilized, and supervised under AS 1201, personnel that it treated as "borrowed" ("Borrowed Personnel") from two other KPMG International member firms, B S R & Co. and another public accounting firm based in India (the "Indian Firm"), to perform work on the audit.

27. At the time, the Firm distinguished Borrowed Personnel from what the Firm considered "Seconded Employees." KPMG Switzerland understood that it was expected to report the Firm's use of the Borrowed Personnel as participants in the relevant audit for Form AP reporting purposes. In contrast, KPMG Switzerland attributed the work of Seconded

Employees to its own group audit hours for purposes of Form AP.[11]

28. Following the Sportradar Audit, KPMG Switzerland filed a Form AP and reported that B S R & Co. participated in the Sportradar Audit at a level of between 10-20% of total audit hours. Despite utilizing the Indian Firm through Borrowed Personnel, KPMG Switzerland failed to report the participation of the Indian Firm in its Form AP.

29. Accordingly, KPMG Switzerland violated PCAOB Rule 3211(a) in connection with the Form AP for the Sportradar Audit.

30. KPMG Switzerland subsequently reevaluated its Form AP for the Sportradar Audit and determined the Indian Firm had erroneously not been included as a participating other accounting firm. KPMG Switzerland also determined that the B S R & Co. personnel it utilized on the Sportradar Audit should have been considered Seconded Employees, with their work attributable to the Firm.

31. On June 9, 2023, KPMG Switzerland filed an amended Form AP for the Sportradar Audit, which (1) reported the participation of the Indian Firm in Item 4.2 as an other accounting firm representing less than 5% of total audit hours; and (2) removed B S R & Co.'s reported participation from Item 4.1.

F. KPMG Switzerland Violated PCAOB Quality Control Standards

32. PCAOB rules require that a registered firm comply with PCAOB quality control standards.[12] Those standards require a firm to "have a system of quality control for its accounting and auditing practice."[13] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed

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[11] *See* Staff Guidance, Form AP, *Auditor Reporting of Certain Audit Participants, and Related Voluntary Audit Report Disclosure Under AS 3101, The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*, at 7 (Dec. 17, 2021) ("[S]upervision of a professional employee in a secondment arrangement does not, in and of itself, mean that the other accounting firm participated in the audit. A secondment arrangement for purposes of reporting on Form AP is one in which, *for at least three consecutive months*, (1) a professional employee of an accounting firm in one country works for an accounting firm located in another country, and (2) the professional employee performs audit procedures with respect to entities and their operations in that other country and does not perform more than de minimis audit procedures in relation to entities or business operations in the country of his or her employer.").

[12] PCAOB Rule 3400T, *Interim Quality Control Standards*.

[13] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[14]

33. PCAOB quality control standards also recognize that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures relating to each of the other elements of quality control are suitably designed and are being effectively applied."[15] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[16]

34. From 2021 through 2023, KPMG Switzerland failed to establish and implement adequate policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that the work performed by engagement personnel met applicable regulatory requirements related to accurately reporting on Form AP the participation, including the percentage of participation, of other accounting firms in issuer audits.

35. Although KPMG Switzerland had certain quality control policies and procedures relating to Form AP reporting in connection with the use of other accounting firms, the Firm failed to implement and monitor them in an adequate manner. As a result, the Firm filed inaccurate Form APs between 2021 and 2023.

36. Accordingly, the Firm failed to comply with QC § 20 and QC § 30.

IV.

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

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $175,000 is imposed on KPMG Switzerland.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

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[14] QC § 20.17.

[15] QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

[16] *See* QC § 20.20.d; QC § 30.02.d.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies KPMG Switzerland as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by KPMG Switzerland. Within three months of the date of this Order, KPMG Switzerland shall review and evaluate its quality control policies and procedures to assess whether those policies and procedures provide the firm with reasonable assurance that its personnel and other associated persons comply with PCAOB Rule 3211.

2. Reporting. Within three months of the date of this Order, KPMG Switzerland shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the areas specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG Switzerland or, if KPMG Switzerland concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the Firm believes changes are not warranted. In addition, KPMG Switzerland shall submit any additional

information and evidence concerning the Report, the information in the Report, and KPMG Switzerland's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within six months of the date of this Order, KPMG Switzerland's Chairman of the Board shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that KPMG Switzerland has implemented all of the modifications and additions, if any, to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG Switzerland's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG Switzerland shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. KPMG Switzerland understands that a failure to satisfy all applicable undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

March 11, 2025

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of KPMG (Australia),

Respondent.

PCAOB Release No. 105-2025-016

March 11, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring KPMG ("KPMG Australia," the "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $225,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that, between 2020 and 2023, the Firm: (a) failed to make certain required communications to the audit committee of an issuer client in two separate audits, in violation of AS 1301.10d, *Communications with Audit Committees*; (b) filed four inaccurate Form APs in connection with its audits of two issuer clients, in violation of PCAOB Rule 3211(a), *Auditor Reporting of Certain Audit Participants*; and (c) violated PCAOB quality control standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, KPMG Australia has submitted an Offer of Settlement ("Offer") that the Board has

determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **KPMG** is a public accounting firm headquartered in Sydney, Australia. It is a member firm of the KPMG International Limited network of firms ("KPMG International"). At all relevant times, KPMG Australia was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm reported that it annually served as the principal auditor for one or two issuer clients.

B. Issuers

2. **BHP Group Limited** ("BHP Group") is headquartered in Melbourne, Australia. Its public filings disclose that it is a mining company that, with UK-based BHP Group Plc, operated as a combined group known as "BHP." BHP Group was, at all relevant times, an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG Australia issued joint audit reports that BHP Group included in its Form 20-F filed with the Commission for the fiscal year ended June 30, 2019 (the "2019 BHP Audit").

3. **Rio Tinto Limited** ("Rio Tinto") is headquartered in Melbourne, Australia. Its public filings disclose that it is a metal and mining corporation. Rio Tinto was, at all relevant times, an "issuer" as that term is defined in Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). KPMG Australia issued audit reports that Rio Tinto included in its Form 20-Fs filed with the Commission for the fiscal years ended December 31, 2021 and 2022 (the "Rio Tinto Audits").

C. Other Relevant Entities

4. **KPMG LLP** ("KPMG UK") is a public accounting firm headquartered in London, United Kingdom. KPMG UK performed audit work for and jointly issued (with KPMG Australia) audit reports in connection with the 2019 BHP Audit. At all relevant times, KPMG UK was

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

registered with the Board pursuant to Section 102 of the Act and PCAOB rules, was a member firm of KPMG International and participated in one or more of KPMG Australia's issuer audits.

D. Summary

5. This matter concerns KPMG Australia's violations of PCAOB rules and standards in connection with its failure to disclose, or accurately disclose, the participation of other accounting firms in issuer audits. Specifically, KPMG Australia failed to make certain required communications to Rio Tinto's audit committee in the Rio Tinto Audits, in violation of AS 1301.10d. In addition, KPMG Australia filed four inaccurate Form APs from 2020 through 2023 in connection with the 2019 BHP Audit and the Rio Tinto Audits, in violation of PCAOB Rule 3211(a).

6. Finally, between 2020 and 2023, KPMG Australia violated PCAOB quality control standards by failing to establish appropriate policies and procedures, including monitoring procedures, to provide reasonable assurance that the Firm's audit professionals would accurately identify in required Form AP filings the accounting firms that participated in KPMG Australia audits and the percentage of their participation.

E. KPMG Australia Failed to Make Required Audit Committee Communications in Violation of AS 1301.10d

7. Pursuant to PCAOB auditing standards, an auditor should communicate with a company's audit committee regarding certain matters related to the conduct of an audit and obtain certain information from the audit committee relevant to the audit.[2] The auditor should communicate to the audit committee an overview of the overall audit strategy, including the timing of the audit, and discuss with the audit committee the significant risks identified during the auditor's risk assessment.[3]

8. PCAOB standards specify that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms[4] or other persons, who

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[2] *See* AS 1301.01.

[3] *Id*. at .09. In the adopting release for Auditing Standard No. 16 (now known as AS 1301), the Board indicated that "[c]ommunications between the auditor and the audit committee allow the audit committee to be well-informed about accounting and disclosure matters, including the auditor's evaluation of matters that are significant to the financial statements, and to be better able to carry out its oversight role." *See* Auditing Standard No. 16 – *Communications With Audit Committees; Related Amendments to PCAOB Standards*; *and Transitional Amendments to AU Sec. 380*, PCAOB Rel. No. 2012-004, at 2 (Aug. 15, 2012) ("AS 1301 Adopting Release").

[4] The term "other independent public accounting firms" in the context of communications with audit committees pursuant to AS 1301 includes "firms that perform audit procedures in the current

were not employed by the auditor, that performed audit procedures in the current period audit.[5]

9. In connection with KPMG Australia's Rio Tinto Audits, KPMG Australia used another KPMG International member firm to perform certain audit procedures as an other independent accounting firm. However, with respect to the Rio Tinto Audits, KPMG Australia failed to communicate the other accounting firm's name, location, and planned responsibilities to Rio Tinto's audit committee.

10. Accordingly, KPMG Australia violated AS 1301.10d in connection with each of the Rio Tinto Audits.

F. KPMG Australia Filed Four Inaccurate Form APs in Violation of PCAOB Rule 3211(a)

11. PCAOB Rule 3211 provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.[6]

12. PCAOB Rule 3211(a) provides that, "[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form."

13. The instructions to Item 4.1 of Form AP "Part IV - Responsibility for the *Audit* Is Not Divided" require that an auditor who uses an "other accounting firm"[7] that incurs more

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period audit regardless of whether they otherwise have any relationship with the auditor." AS 1301.10d, Note.

[5] AS 1301.10d. In the AS 1301 Adopting Release, the Board explained the rationale for identifying other independent public accounting firms for the audit committee as follows: "The audit committee should be aware of all the participants in the audit. This communication regarding other participants in the audit would enable the audit committee to inquire or otherwise determine, for example, whether the other participants are registered with the Board and are subject to PCAOB inspections and whether they have disciplinary history with the Board or other regulators." AS 1301 Adopting Release at Appendix 4, p. A4-15.

[6] Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with Commission, *see* PCAOB Rule 3211(b)(1), subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended, *see* PCAOB Rule 3211(b)(2).

[7] *See* General Instruction No. 2 of Form AP ("'[O]ther accounting firm' means (i) a *registered public accounting firm* other than the Firm; or (ii) any other *person* or entity that opines on the compliance of any entity's financial statements with an applicable financial reporting framework").

than 5% of the total audit hours "[s]tate the legal name of *other accounting firms* and the extent of participation in the *audit*" in its Form AP.[8]

14. The instructions to Item 4.2 of Form AP "Part IV – Responsibility for the *Audit* Is Not Divided" require an auditor to "[s]tate the number of *other accounting firm(s)* individually representing less than 5% of total audit hours" and "[i]ndicate the aggregate percentage of participation" by those other accounting firms.[9]

15. Form AP Item 3.2 explains that an other accounting firm participated in the audit if "the Firm assume[d] responsibility for the work and report of the *other accounting firm* as described in . . . AS 1205, *Part of the Audit Performed by Other Independent Auditors*," or "the *other accounting firm* or any of its principals or professional employees was subject to supervision under AS 1201, *Supervision of the Audit Engagement*."[10]

16. In connection with the 2019 BHP Audit and the Rio Tinto Audits, KPMG Australia filed Form APs that failed to accurately report information concerning the Firm's use and reporting of component auditors.[11]

i. KPMG Australia Failed to Accurately Report in Form AP the Participation of Other Accounting Firms in its 2019 BHP Audit

17. In connection with KPMG Australia's 2019 BHP Audit, KPMG Australia and KPMG UK both performed audit work and jointly issued audit reports on BHP's consolidated June 30, 2019 financial statements and the effectiveness of BHP's internal controls over financial reporting as of June 30, 2019.

18. KPMG Australia utilized 10 other accounting firms to perform audit work on the 2019 BHP Audit.

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[8] In the adopting release for PCAOB Rule 3211, the Board explained that information provided on Form AP was intended to "help investors understand how much of the audit was performed by the accounting firm signing the auditor's report and how much was performed by other accounting firms," and allow investors to "research publicly available information about the firms identified in the form, such as whether a participating firm is registered with the PCAOB, whether it has been inspected and, if so, what the results were and whether it has any publicly available disciplinary history." *See Improving the Transparency of Audits: Rules to Require Disclosure of Certain Audit Participants on a New PCAOB Form and Related Amendments to Auditing Standards*, PCAOB Rel. No. 2015-008, at 4 (Dec. 15, 2015).

[9] *See* Item 4.2 and Part IV of Form AP.

[10] *See* Note to Item 3.2 of Form AP.

[11] Each of the other accounting firm participants in the Order meet the definition of an "other accounting firm" requiring reporting on Form AP in accordance with the instructions of Form AP. *See* Rule 3211(a) and *supra* note 7.

19. On October 23, 2020, KPMG Australia filed a Form AP for the 2019 BHP Audit that reported the participation of three other accounting firms representing less than 5% of total audit hours, but failed to report the participation of seven other accounting firms, despite knowing of those firms' participation in the 2019 BHP Audit.[12]

20. KPMG Australia filed an amended Form AP for the 2019 BHP Audit on October 13, 2021. The October 13, 2021 amended Form AP made certain changes, but only reported five additional (of the seven) other accounting firms representing less than 5% of total audit hours (and accordingly increased the number of firms individually participating in less than 5% of total audit hours by five, from three to eight).

21. Accordingly, KPMG Australia violated PCAOB Rule 3211(a) in connection with the Form AP and the amended Form AP filed for the 2019 BHP Audit.

22. On November 23, 2023, KPMG Australia filed a second amended Form AP for the 2019 BHP Audit, which reported two additional other accounting firms representing less than 5% of total audit hours, increasing the number of firms individually participating in less than 5% of total audit hours from eight to 10.

ii. KPMG Australia Failed to Report the Participation of a Component Auditor

23. In connection with the Rio Tinto Audits, KPMG Australia directly engaged another KPMG International member firm in India to perform audit procedures to support a component auditor.

24. Following the Rio Tinto Audits, KPMG Australia filed Form APs. In its Form AP filings, despite knowing of the other accounting firm's work on the Rio Tinto Audits, KPMG Australia failed to report the other KPMG International member firm as a participant in the audits.

25. Accordingly, KPMG Australia violated PCAOB Rule 3211(a) in connection with the Form APs for the Rio Tinto Audits.

26. On November 23, 2023, KPMG Australia filed amended Form APs for each of the Rio Tinto Audits to report the participation the KPMG International member firm as an other accounting firm representing less than 5% of total audit hours.

[12] In connection with its audit of BHP's June 30, 2019, financial statements, KPMG Australia and KPMG UK reissued (and dual-dated) their joint audit report on September 22, 2020, resulting in KPMG Australia filing a Form AP on October 23, 2020.

G. KPMG Australia Violated PCAOB Quality Control Standards

27. PCAOB rules require that a registered firm comply with PCAOB quality control standards.[13] Those standards require a firm to "have a system of quality control for its accounting and auditing practice."[14] As part of this requirement, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[15]

28. PCAOB quality control standards also recognize that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures relating to each of the other elements of quality control are suitably designed and are being effectively applied."[16] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, compliance with the firm's policies and procedures.[17]

29. From 2020 through 2023, KPMG Australia failed to establish and implement adequate policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that the work performed by engagement personnel met applicable regulatory requirements related to accurately reporting on Form AP the participation, including the percentage of participation, of other accounting firms in issuer audits.

30. Although KPMG Australia had certain quality control policies and procedures relating to Form AP reporting in connection with the use of other accounting firms, the Firm failed to implement and monitor them in an adequate manner. As a result, the Firm filed four inaccurate Form APs between 2020 and 2023.

31. Accordingly, the Firm failed to comply with QC § 20 and QC § 30.

IV.

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

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13 PCAOB Rule 3400T, *Interim Quality Control Standards*.

14 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

15 QC § 20.17.

16 QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

17 *See* QC § 20.20.d; QC § 30.02.d.

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $225,000 is imposed on KPMG Australia.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies KPMG Australia as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Board orders that:

1. Review by KPMG Australia. Within three months of the date of this Order, KPMG Australia shall review and evaluate its quality control policies and procedures to assess whether those policies and procedures provide the firm with reasonable assurance that its personnel and other associated persons comply with PCAOB Rule 3211; and that such policies and procedures, including monitoring procedures, provide the Firm with

reasonable assurance that Firm personnel will communicate to audit committees all matters required by AS 1301.

2. Reporting. Within three months of the date of this Order, KPMG Australia shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the areas specified in paragraph C.1 above ("Report"). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG Australia or, if KPMG Australia concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the Firm believes changes are not warranted. In addition, KPMG Australia shall submit any additional information and evidence concerning the Report, the information in the Report, and KPMG Australia's compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.

3. Certificate of Implementation. Within six months of the date of this Order, KPMG Australia's Chief Executive Officer shall certify in writing ("Certificate of Implementation") to the Director of the Division of Enforcement and Investigations that KPMG Australia has implemented all of the modifications and additions, if any, to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG Australia's adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG Australia shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. KPMG Australia understands that a failure to satisfy all applicable undertakings may constitute a violation of PCAOB Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown
Secretary

March 11, 2025

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Jaslyn Sellers, CPA,

Respondent.

PCAOB Release No. 105-2025-007

March 11, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Jaslyn Sellers, CPA ("Sellers" or "Respondent");

(2) barring Sellers from being an associated person of a registered public accounting firm;[1] and

(3) imposing a civil money penalty in the amount of $15,000 on Sellers.[2]

The Board is imposing these sanctions on the basis of its findings that Respondent violated PCAOB rules and auditing standards in connection with two issuer audits and violated auditor independence requirements in one of those audits.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent

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

[2] Based on her conduct, Sellers' civil money penalty in this settlement would have been $75,000. The Board determined to accept Sellers' offer of settlement and impose a lower penalty after considering her financial resources.

pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[3]

III.

On the basis of Respondent's Offer, the Board finds that:[4]

A. Respondent

1. **Jaslyn Sellers, CPA** (f/k/a Jaslyn Huynh, CPA) is a certified public accountant under the laws of California (license no. 115956). Sellers served as the engagement partner for the relevant audits, discussed below. At all relevant times, Sellers was an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer

2. **NetSol Technologies, Inc.** ("NTI") is a Nevada corporation headquartered in Encino, California. According to its public filings, it provides financial applications to businesses in the global finance and leasing space. At all relevant times, NTI was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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

[4] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

C. Other Relevant Entity

3. **BF Borgers CPA PC** (the "Firm") was at all relevant times a public accounting firm headquartered in Lakewood, Colorado. The Firm was licensed to practice public accounting in Colorado (license no. FRM.0013157, showing voluntary surrender on September 13, 2024) and multiple other jurisdictions. The Firm at all relevant times was registered with the Board, pursuant to Section 102 of the Act and PCAOB rules.

D. Summary

4. This matter concerns Sellers' repeated violations of multiple PCAOB rules and standards in connection with her role as engagement partner on the Firm's audits of NTI for the fiscal years ended June 30, 2021 ("FY 2021"), and June 30, 2022 ("FY 2022") (each, an "Audit," collectively, the "Audits").

5. Specifically, Sellers failed during the Audits to obtain sufficient appropriate audit evidence in multiple areas that she had identified as significant risks, including revenue recognition and accounting estimates. In addition, Sellers authorized the issuance of audit reports for each of the Audits identifying critical audit matters ("CAMs") that included descriptions of audit procedures intended to address each critical audit matter ("CAM"), but certain of those procedures were not actually performed.

6. Furthermore, as these multiple audit failures illustrate, Sellers failed to appropriately supervise the Audits by failing to adequately evaluate whether work was performed and documented, the objectives of procedures were achieved, and the results of the engagement team's work supported the conclusions reached.

7. Finally, Sellers failed during the Firm's FY 2022 Audit to adhere to U.S. Securities and Exchange Commission ("Commission") and PCAOB independence requirements by serving as the NTI engagement partner for a sixth consecutive year, in violation of partner rotation requirements.

E. Sellers Violated PCAOB Rules and Standards

8. In connection with the preparation and issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor may express an unqualified

[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the Audits.

opinion on an issuer's financial statements only when the auditor has conducted an audit in accordance with PCAOB standards and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[6] PCAOB standards require an auditor to exercise due professional care in the planning and performance of the audit and the preparation of the report, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[7]

9. In addition, an auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether due to error or fraud.[8] PCAOB standards further require the auditor to design and implement overall responses to address the risks of material misstatement, and specify that the auditor should design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[9]

10. The auditor should perform substantive procedures for each relevant assertion of each significant account and disclosure, regardless of the assessed level of control risk.[10] Performing substantive procedures for the relevant assertions of significant accounts and disclosures involves testing whether the significant accounts and disclosures are in conformity with the applicable financial reporting framework.[11]

11. PCAOB standards further provide that when using information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to: (1) test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information; and (2) evaluate whether the information is sufficiently precise and detailed for purposes of the audit.[12]

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[6] *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

[7] *See* AS 1015.01, .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*.

[8] *See* AS 1001.02, *Responsibilities and Functions of the Independent Auditor*; AS 1101.03, *Audit Risk*; AS 2401.01, .12, *Consideration of Fraud in a Financial Statement Audit*.

[9] *See* AS 2301.05, .08.

[10] *See id.* at .36.

[11] *Id*. at Note.

[12] *See* AS 1105.10.

12. As described below, Respondent failed to comply with these and other PCAOB rules and standards during the Audits.

i. Background

13. Sellers served as the engagement partner during the Audits and supervised the engagement team in the planning and performance of each of the Audits. As the engagement partner, Sellers authorized the issuance of the Firm's audit reports on NTI's FY 2021 and FY 2022 financial statements, which NTI included in its Form 10-Ks filed with the Commission.

14. In its Form 10-Ks for FY 2021 and FY 2022, NTI reported consolidated net revenue of approximately $55 million and $57 million, and consolidated total assets of $87 million and $73 million, respectively. The consolidated total assets for FY 2021 and FY 2022 included goodwill of approximately $9.5 million and $9.3 million, and intangible assets of $3.9 million and $1.5 million, respectively.

15. Sellers and the engagement team determined materiality for the FY 2021 and FY 2022 Audits to be $410,000 and $430,000, respectively.

16. Prior to serving as the engagement partner for the Firm's audits and reviews of NTI, Sellers had served as the engagement partner for another registered public accounting firm in connection with that other accounting firm's audits and reviews of NTI's financial statements for FY 2017, 2018, and 2019—three fiscal years total. Sellers then began working with the Firm and continued to serve as the NTI engagement partner during the Firm's audits and reviews of NTI's financial statements for FY 2020, 2021 and 2022—her fourth, fifth, and sixth consecutive years as the NTI engagement partner.

ii. Sellers and the Engagement Team Failed to Obtain Sufficient Appropriate Audit Evidence During the Audits

a. Revenue

17. NTI disclosed in its Form 10-Ks for FY 2021 and FY 2022 that it derived more than 85% of its consolidated net revenue of $55 million and $57 million, respectively, from: (i) software licenses, (ii) services, and (iii) subscription and support. NTI further disclosed that it recognized revenue based on the steps outlined in FASB Accounting Standards Codification ("ASC") 606, *Revenue from Contracts with Customers* ("ASC 606").[13]

[13] ASC 606 includes the following five revenue recognition steps: (1) identify the contract(s) with a customer; (2) identify the performance obligations in the contract; (3) determine the transaction price; (4) allocate the transaction price to the performance obligations; and (5) recognize revenue when (or as) the entity satisfies a performance obligation. *See* ASC 606-10-05-4, *Revenue from Contracts with Customers− Overall− Overview and Background*.

18. During the Audits, Sellers and the engagement team understood that NTI generated revenue from several foreign subsidiaries, including entities located in China, Pakistan, and Europe. Sellers understood during the Audits that these subsidiaries constituted more than 77% and 70% of NTI's net revenue for FY 2021 and FY 2022, respectively.

19. During each of the Audits, Sellers and the engagement team identified revenue recognition as a significant risk.[14] To address the significant risk, Sellers was required to perform substantive procedures, including tests of details, that were specifically responsive to the assessed risk.[15] In addition, Sellers was required to evaluate whether NTI recognized revenue in conformity with ASC 606.[16]

20. During each of the Audits, Sellers and the engagement team tested NTI's net revenue by selecting certain significant revenue transactions recorded by NTI subsidiaries for testing. Sellers and the engagement team then performed contract-specific audit procedures that varied depending on the particular contract being tested and the evidence that needed to be obtained in order to evaluate whether NTI had appropriately recognized revenue for the transactions in conformity with ASC 606.

21. However, in testing these revenue transactions, Sellers and the engagement team generally failed to perform audit procedures to obtain sufficient appropriate audit evidence to evaluate whether NTI was recognizing revenue in conformity with ASC 606. Through these failures, Sellers and the engagement team also generally failed to perform procedures that were specifically responsive to the assessed significant risk for revenue recognition in each of the Audits.

22. For example, to evaluate NTI's license revenue in FY 2021 and service revenue in FY 2022, Sellers and the engagement team selected a multi-year contract between an NTI subsidiary located in China and its customer. In both FY 2021 and FY 2022, the contract contained multiple performance obligations, including the delivery by the subsidiary to the customer of a software license, from which license revenue was derived, and the performance of certain support services by the subsidiary, from which service revenue was derived.

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[14] Sellers and the engagement team also identified revenue recognition as a fraud risk during the Audits. PCAOB standards require the auditor to presume that there is a fraud risk involving improper revenue recognition and evaluate which types of revenue, revenue transactions, or assertions may give rise to such risks. *See* AS 2110.68, *Identifying and Assessing Risks of Material Misstatement*. Such fraud risks are also deemed significant risks. *See id*. at .71b, Note.

[15] *See* AS 2301.11.

[16] *See* AS 2301.36, Note.

23. During FY 2021, the subsidiary did not recognize any service revenue from the contract, but recognized $2.4 million in license revenue, well above the established materiality threshold. In order to evaluate this license revenue during the FY 2021 Audit, Sellers and the engagement team reviewed the contract and obtained evidence that NTI delivered the license to the customer. However, Sellers and the engagement team did not perform audit procedures to test whether the contract price was appropriately allocated to the contract's various performance obligations in the contract, a procedure necessary to evaluate whether the amount of license revenue recognized by NTI during FY 2021 was in conformity with ASC 606.

24. During FY 2022, the Chinese subsidiary did not recognize any license revenue from the same contract, but recognized $2.07 million in service revenue, again, well above the established materiality threshold. Sellers and the engagement team failed, however, to perform any procedures to evaluate whether the Chinese subsidiary had performed the required support services, and failed, as they had in the FY 2021 Audit, to perform audit procedures to test the allocation of the contract price to the performance obligations. Performing each of these procedures was necessary to evaluate whether NTI appropriately recognized revenue on this contract during FY 2022 in conformity with ASC 606.

25. In another example illustrating Sellers' failure to obtain sufficient appropriate audit evidence in testing NTI's reported revenue, Sellers and the engagement team selected certain revenue transactions during the Audits in order to evaluate whether $9.2 million and $7.2 million of service revenue in FY 2021 and FY 2022 recorded by NTI's foreign subsidiaries in Europe and Pakistan, respectively, had been recognized in conformity with ASC 606. In performing the testing, Sellers and the engagement team relied on information produced by these two foreign subsidiaries to evaluate whether the required services were performed prior to recognizing revenue. Sellers and the engagement team did not perform any procedures, however, to test the completeness and accuracy of the company-produced information, as required under PCAOB standards, and should not have relied on the information produced by the two foreign subsidiaries without such testing.[17]

26. Other types of failures by Sellers to obtain sufficient appropriate audit evidence in revenue recognition testing during the Audits included, e.g., relying entirely on NTI management representations that a subsidiary was entitled to receive additional license revenue because certain conditions in a prior year contract had been met—without obtaining any corroborating evidence (such as customer confirmations)—and failing to perform procedures to evaluate whether another subsidiary was recording revenue consistent with the provisions set forth in the applicable sales contract.[18]

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[17] *See* AS 1105.10.

[18] *See* AS 1105.04.

27. In sum, Sellers and the engagement team under her direction failed during the Audits to obtain sufficient appropriate audit evidence and to exercise professional skepticism with respect to NTI's reported net revenue, in violation of AS 1015, AS 1105, and AS 2301.

b. Goodwill

28. NTI's reported assets as of FY 2021 and FY 2022 included goodwill of $9.5 million (11% of total assets) and $9.3 million (13% of total assets), respectively. NTI disclosed that it reviewed its goodwill for impairment on an annual basis, or more frequently if events or changes in circumstances indicated that the carrying amount of its goodwill may be impaired.[19]

29. In both FY 2021 and FY 2022, NTI performed a quantitative assessment to assess whether its reported goodwill was impaired by comparing the book value of each reporting unit against its fair value determined using a discounted cash flow ("DCF") method.[20]

30. During the Audits, Sellers and the engagement team understood that to estimate fair values using the DCF method, NTI began by estimating the cash flows that would be generated by each reporting unit. For the projected cash flows, Sellers and the engagement team understood that NTI management applied certain assumptions, including various projected growth rates. NTI then discounted those cash flows using a discount rate largely based on the 10-year expected return for companies included in the Russell Microcap index (the "Expected Return Assumption").

31. During the Audits, Sellers and the engagement team identified impairment of goodwill as a significant risk. To address the significant risk, Sellers was required to perform substantive procedures, including tests of details, that were specifically responsive to the assessed risk in each of the Audits.[21]

32. Sellers performed certain audit procedures during the Audits concerning NTI's reported goodwill. However, the procedures performed by Sellers and the engagement team to test the company's process used to estimate future cash flows were insufficient.[22] In particular, Sellers and the engagement team did not perform audit procedures to identify and evaluate, as

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[19] *See* NTI's Form 10-Ks filed with the Commission on Sept. 28, 2021, and Sept. 27, 2022, at F-15 and F-15, respectively.

[20] *See* FASB ASC 820-10-05-1, *Fair Value Measurement– Overall– Overview and Background* (defining fair value as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date).

[21] *See* AS 2301.11, .36.

[22] *See* AS 2501.07, .09, *Auditing Accounting Estimates, Including Fair Value Measurements*.

required by PCAOB standards, the reasonableness of the significant assumptions NTI used in estimating cash flows for each reporting unit, including revenue growth rates and estimated earnings before interest, taxes, depreciation, and amortization ("EBITDA") margins.[23]

33. Sellers and the engagement team also did not sufficiently evaluate whether it was reasonable for NTI to determine the discount rate based on the Expected Return Assumption. Specifically, Sellers and the engagement team did not adequately consider the risks particular to NTI's reporting units during FY 2021 and FY 2022, such as industry, geographic, and liquidity risks, in evaluating the reasonableness of NTI using the Expected Return Assumption.[24]

34. By not adequately evaluating the significant assumptions that NTI used to estimate the fair value of its goodwill, Sellers and the engagement team failed to obtain sufficient appropriate audit evidence concerning NTI's goodwill impairment assessment.

35. As a result, Sellers violated AS 1015, AS 1105, AS 2301, and AS 2501.

c. Intangible Assets

36. NTI's assets in FY 2021 and FY 2022 included intangible assets of $3.9 million (4.5% of total assets) and $1.6 million (2.2% of total assets), respectively. NTI disclosed in its FY 2021 and FY 2022 Form 10-Ks that its intangible assets consisted of "product licenses, renewals, enhancements, copyrights, trademarks, trade names, and customer lists," and that "intangible assets with finite lives are amortized over the estimated useful life and evaluated for impairment at least on an annual basis and whenever events or changes in circumstances indicate that the carrying value may not be recoverable."[25]

37. Sellers and the engagement team identified the impairment of intangible assets as a significant risk in the Audits, and PCAOB standards therefore required Sellers and the engagement team to perform substantive procedures, including tests of details, that were specifically responsive to those risks. Sellers and the engagement team failed, however, to perform any audit procedures during the Audits to evaluate whether NTI's reported intangible assets were impaired.

38. As a result, Sellers violated AS 1015, AS 1105, and AS 2301.

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[23] *See* AS 2501.15-.16.

[24] *See* AS 2501.10.

[25] *See* NTI's Form 10-Ks filed with the Commission on Sept. 28, 2021, and Sept. 27, 2022, at F-14 and F-15, respectively.

iii. Sellers and the Engagement Team Failed to Accurately Describe Procedures the Engagement Team Performed to Address CAMs

39. PCAOB standards require the auditor to "communicate in the auditor's report critical audit matters relating to the audit of the current period's financial statements or state that the auditor determined that there are no critical audit matters."[26] In addition, for each CAM communicated in the auditor's report, the auditor must: identify the CAM; describe the principal considerations that led the auditor to determine that the matter is a CAM; describe how the CAM was addressed in the audit; and refer to the relevant financial statement accounts or disclosures that relate to the CAM.[27]

40. Sellers authorized the issuance of the Firm's audit reports for each of the Audits. The audit report for each of the Audits reported a CAM relating to: (i) "[r]evenue recognition identification of contractual terms in certain customer arrangements" (the "Revenue Recognition CAM"); and (ii) impairment of goodwill (the "Goodwill CAM").

41. In each of the Audits, Sellers stated in the audit report that she and her team had performed numerous procedures to address the Revenue Recognition CAM and the Goodwill CAM, when in fact, they had not performed many of those procedures.[28]

42. In particular, to address the Revenue Recognition CAM, Sellers falsely stated that she and the engagement team had performed the following procedure in FY 2021 and FY 2022 when they had not done so:

- "Testing the effectiveness of controls relating to the revenue recognition process, including those related to the identification of contractual terms in customer arrangements that impact the determination of the transaction price and revenue recognition."

43. To address the Goodwill CAM, Sellers falsely stated that she and the engagement team had performed several procedures in FY 2021 and FY 2022 when they had not done so, including the following:

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[26] *See* AS 3101.13 (footnote omitted).

[27] AS 3101.14. The Note to .14c states: "In describing how the critical audit matter was addressed in the audit, the auditor may describe: (1) the auditor's response or approach that was most relevant to the matter; (2) a brief overview of the audit procedures performed; (3) an indication of the outcome of the audit procedures; and (4) key observations with respect to the matter, or some combination of these elements."

[28] The Firm's description of CAM procedures in the FY 2021 audit report generally used identical language to the 2022 audit report, with only minor differences.

- "We tested the effectiveness of internal controls over the goodwill impairment evaluation, including controls over the selection of the discount rates and over forecasts of future revenue growth rates, EBITDA, and EBITDA margin."

- "We evaluated the consistency of estimates and assumptions relating to revenue and EBITDA growth inherent in the discounted cash flow model for the reporting unit to those used by management in other annual forecasting activities."

- "With the assistance of our fair value specialists, we performed a benchmarking exercise comparing management's estimates and assumptions related to revenue growth, EBITDA and EBITDA margin for the reporting unit as of the measurement date to the revenue growth, EBITDA and EBITDA margins of a peer group of public companies for the most recent three years and the projection period."

- "With the assistance of our fair value specialists, we evaluated (1) the valuation methodology used and (2) the projections of long-term revenue growth and the discount rates by testing the underlying source of information, and by developing a range of independent estimates and comparing those to the rates selected by management."

44. As a result, Sellers failed to accurately describe the procedures the engagement team performed to address the CAMs that Sellers and the engagement team identified during the Audits, in violation of AS 3101.

iv. Sellers Failed to Properly Supervise the Audits

45. AS 1201, *Supervision of the Audit Engagement*, states that the engagement partner is responsible for proper supervision of the work of engagement team members.[29]

46. As part of supervising an audit, the engagement partner must "[r]eview the work of engagement team members to evaluate whether: [t]he work was performed and documented; [t]he objectives of the procedures were achieved; and [t]he results of the work support the conclusions reached."[30]

47. During the FY 2021 Audit, Sellers reviewed certain work papers prepared by the engagement team related to the key audit areas identified as significant risks, but she failed to identify that the objectives of the procedures described in those work papers were not achieved and the results of the work performed did not support the conclusions reached. For example, Sellers reviewed the Firm's revenue work papers and concluded, despite obvious

[29] *See* AS 1201.03

[30] *See* AS 1201.05c (internal numbering omitted).

gaps in testing of certain selections and associated lacking documentation, that the work performed provided sufficient audit evidence supporting the Firm's conclusion that NTI was appropriately recognizing revenue.

48. During the FY 2022 Audit, Sellers failed to review most of the work papers related to the key audit areas identified as significant risks, including revenue, and she did not otherwise evaluate whether appropriate work was performed and documented; whether the objectives of planned procedures were achieved; or whether the results of the engagement team's work supported the conclusions reached.

49. As such, Sellers failed during each of the Audits to properly supervise the engagement, in violation of AS 1201.

F. Sellers Violated Applicable Commission and PCAOB Independence Requirements During the FY 2022 Audit

50. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.[31] "[A] registered public accounting firm or associated person's independence obligation with respect to an audit client that is an issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Commission under the federal securities laws."[32]

51. Exchange Act Rule 10A-2 provides that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the partner rotation requirements of Commission Regulation S-X.

52. Rule 2-01 of Commission Regulation S-X states that, with certain exceptions that are not applicable here, an accountant is not independent of an audit client when: "[a]ny audit partner . . . performs . . . [t]he services of a lead partner . . . for more than five consecutive years."[33]

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[31] *See* PCAOB Rule 3520, *Auditor Independence*.

[32] *See* PCAOB Rule 3520, Note 1.

[33] 17 C.F.R. § 210.2-01(c)(6)(A)(1). At all relevant times, the Firm and the prior registered public accounting firm that Sellers worked for had five or more issuer audit clients and did not qualify for the small firm exemption to partner rotation requirements. *Id*. at § 210.2-01(c)(6)(ii).

53. Sellers served as the engagement partner for the FY 2022 Audit and authorized the issuance of the Firm's audit report. The FY 2022 Audit was Sellers' sixth consecutive year as the engagement partner for the audit of NTI's financial statements. By serving as the NTI engagement partner (the "lead partner" under Rule 2-01(f)(7)(ii)(A) of Commission Regulation S-X) for a sixth consecutive year during the FY 2022 Audit, Sellers was not independent of NTI within the meaning of Commission Regulation S-X and violated Exchange Act Rule 10A-2 and PCAOB Rule 3520.

IV.

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

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Jaslyn Sellers is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[34]

C. Pursuant to PCAOB Rule 5302(b), Jaslyn Sellers may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $15,000 is imposed on Jaslyn Sellers.

[34] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Sellers. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Jaslyn Sellers shall pay $5,000 within ten days of the issuance of this Order, $5,000 within six months of the issuance of this Order, and $5,000 within twelve months of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Jaslyn Sellers as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Jaslyn Sellers understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 11, 2025

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Accell Audit & Compliance, P.A.,

Respondent.

PCAOB Release No. 105-2025-017

March 11, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is permanently revoking the registration of Accell Audit & Compliance, P.A. ("Accell," the "Firm," or "Respondent").

The Board is imposing this sanction on the basis of its finding that the Firm failed to comply with a Board order in violation of PCAOB Rule 5000.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

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

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. Accell Audit & Compliance, P.A. is a corporation headquartered in Tampa, Florida. At all relevant times, Accell was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. At all relevant times, Accell was licensed to practice public accounting by the Florida Board of Accountancy (license number AD66617).

B. Accell Failed to Comply with a Board Order in Violation of PCAOB Rule 5000

2. PCAOB Rule 5000, *General*, requires that a registered public accounting firm comply with all Board orders to which the firm is subject.

3. On September 24, 2024, the Board issued an Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions against the Firm, *In the Matter of Accell Audit and Compliance, P.A.*, PCAOB Release No. 105-2024-037 ("September Order"), for Accell's failure to make certain required communications to the audit committees of two issuer clients. Pursuant to the September Order, the Board censured the Firm, ordered the Firm to pay a civil money penalty of $40,000 within ten days of entry of the September Order, and ordered the Firm to undertake certain remedial actions regarding Firm policies and procedures and to provide a certification that the Firm has done so within 120 days of entry of the September Order.

4. Accell has failed to pay the civil money penalty imposed upon it and has failed to provide a certification that it has completed the required remedial measures. Accell therefore failed to comply with the Board's September Order in violation of PCAOB Rule 5000.

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[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

IV.

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

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Accell Audit & Compliance, P.A. is hereby permanently revoked.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

_____

Phoebe W. Brown
Secretary

March 11, 2025

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of James Pai CPA PLLC and Yu-Ching James Pai, CPA,

Respondents.

PCAOB Release No. 105-2025-019

March 25, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring James Pai CPA PLLC ("Firm") and Yu-Ching James Pai ("Pai") (collectively, "Respondents");

(2) revoking the Firm's registration;[1]

(3) barring Pai from being an associated person of a registered public accounting firm;[2]

(4) imposing a civil money penalty in the amount of $40,000, jointly and severally, on the Firm and Pai;

(5) requiring the Firm to undertake certain remedial actions concerning its system of quality control prior to submitting any future registration application and to provide evidence of such measures with any future registration application; and

(6) requiring Pai to complete 40 hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license, before filing any petition for Board consent to associate with a registered public accounting firm.

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[1] The Firm may reapply for registration after three years from the date of this Order.

[2] Pai may file a petition for Board consent to associate with a registered public accounting firm after three years from the date of this Order.

The Board is imposing these sanctions on the basis of its findings that: (a) Respondents violated PCAOB rules and standards in connection with performing two audits of the financial statements of one issuer client; (b) the Firm violated PCAOB standards by failing to obtain an engagement quality review ("EQR") in connection with those audits; (c) the Firm filed inaccurate PCAOB Form APs in connection with one of the audits; (d) the Firm violated PCAOB quality control standards; and (e) Pai directly and substantially contributed to the Firm's EQR, Form AP, and quality control violations.[3]

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement (the "Offers") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[4]

III.

On the basis of Respondents' Offers, the Board finds that:[5]

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[3] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

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

[5] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

A. Respondents

1. **James Pai CPA PLLC** is a public accounting firm headquartered in New York, New York. The Firm is, and at all relevant times was, registered with the PCAOB pursuant to Section 102 of the Act and PCAOB rules. The Firm is licensed to practice public accountancy by the state of New York (Company ID No. 059085).

2. **Yu-Ching James Pai, CPA** is the owner of the Firm and a certified public accountant licensed by the state of New York (license no. 086672). At all relevant times, Pai was the sole partner of the Firm and served as the engagement partner on all issuer audits it conducted, including those discussed in this Order. Pai is, and at all relevant times was, an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuer

3. **SUIC Worldwide Holdings, Ltd.** ("SUIC" or the "Company") (f/k/a Sino United Worldwide Consolidated, Ltd.) was, at all relevant times, a Nevada corporation headquartered in New York, New York. SUIC's public filings disclose that it was engaged in the business of providing IT-related products and services. SUIC was, at all relevant times, an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). The Firm audited SUIC's financial statements for the years ended December 31, 2021, and December 31, 2022 (the "2021 SUIC Audit" and "2022 SUIC Audit," respectively, and collectively, the "SUIC Audits").

C. Summary

4. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the SUIC Audits. Specifically, in both SUIC Audits, Respondents failed to: (1) properly plan and perform risk assessments; (2) obtain sufficient appropriate audit evidence in testing revenue, accounts receivable, and related parties; (3) determine and communicate critical audit matters ("CAMs"); (4) make or document the audit committee communications required by PCAOB standards; and (5) comply with PCAOB audit documentation requirements. Additionally, Respondents failed to obtain written representations from SUIC's management for the 2021 SUIC Audit.

5. The Firm also violated PCAOB standards by failing to obtain EQRs for each of the SUIC Audits.

6. In addition, the Firm violated PCAOB Rule 3211 by failing to file accurate Form APs in connection with the 2022 SUIC Audit.

7. The Firm also violated PCAOB rules and PCAOB quality control standards because it failed to establish and implement a system of quality control to provide it with reasonable

assurance that the work performed by engagement personnel met applicable professional standards and regulatory requirements, specifically with respect to obtaining sufficient appropriate audit evidence in the performance of audits, obtaining EQRs, filing accurate Form APs, and preparing adequate audit documentation. In addition, the Firm failed to establish policies and procedures, including monitoring procedures, to provide it with reasonable assurance that its system of quality control was suitably designed and effectively applied.

8. Finally, Pai violated PCAOB Rule 3502 by knowingly or recklessly, and directly and substantially, contributing to the Firm's EQR, Form AP, and quality control violations.

D. Respondents Violated PCAOB Rules and Standards in Performing the SUIC Audits

9. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing and related professional practice standards.[6] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has conducted an audit in accordance with PCAOB standards and "concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework."[7] PCAOB standards require an auditor to exercise due professional care in the planning and performance of the audit and the preparation of the report, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[8]

10. As described below, Respondents failed to comply with these and other PCAOB rules and standards in the SUIC Audits.

i. Respondents Failed to Properly Plan and Perform Risk Assessment for the SUIC Audits

11. PCAOB standards require the auditor to "properly plan the audit."[9] Proper planning includes "establishing the overall audit strategy for the engagement and developing an

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[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[7] AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion* (footnotes omitted).

[8] *See* AS 1015.01, .07, *Due Professional Care in the Performance of Work*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 1105.04, *Audit Evidence*.

[9] AS 2101.04, *Audit Planning*.

audit plan, which includes, in particular, planned risk assessment procedures and planned responses to the risks of material misstatement."[10]

12. PCAOB standards also require the auditor to plan and perform audit procedures to detect misstatements that, individually or in combination with other misstatements, would result in a material misstatement of the financial statements.[11] "To plan the nature, timing, and extent of audit procedures, the auditor should establish a materiality level for the financial statements as a whole that is appropriate in light of the particular circumstances."[12]

13. PCAOB standards require that the auditor "identify and assess the risks of material misstatement at the financial statement level and the assertion level."[13] PCAOB standards also require the auditor to "presume that there is a fraud risk involving improper revenue recognition and evaluate which types of revenue, revenue transactions, or assertions may give rise to such risks."[14]

14. For the SUIC Audits, Respondents failed to establish an overall audit strategy for the engagements and develop an audit plan; failed to appropriately consider materiality in planning the 2021 SUIC Audit, including establishing a materiality level and determining a tolerable misstatement amount; and failed to perform any risk assessment procedures to identify and assess the risks of material misstatement. Respondents also failed to presume that there was a fraud risk involving improper revenue recognition during the SUIC Audits.

15. As a result, Respondents failed to perform the procedures necessary to properly plan and perform risk assessment for the SUIC Audits, in violation of AS 2101, AS 2105, and AS 2110.

ii. Respondents Failed to Obtain Sufficient Appropriate Audit Evidence in Testing Revenue, Accounts Receivable, and Related Parties in the SUIC Audits

16. PCAOB standards require the auditor to design and implement overall responses to address the assessed risks of material misstatement, and specify that the auditor should design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[15] "For

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10 *Id.* at .05.

11 *See* AS 2105.03, *Consideration of Materiality in Planning and Performing an Audit*.

12 *Id.* at .06.

13 AS 2110.59, *Identifying and Assessing Risks of Material Misstatement*.

14 *Id.* at .68.

15 *See* AS 2301.05, .08.

significant risks, the auditor should perform substantive procedures, including tests of details, that are specifically responsive to the assessed risks."[16] "The auditor must evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework."[17]

17. PCAOB standards further provide that when using information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to: (1) test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information; and (2) evaluate whether the information is sufficiently precise and detailed for purposes of the audit.[18]

18. PCAOB standards require the auditor to design and implement audit responses that address the risks of material misstatement identified and assessed in accordance with AS 2110.[19] This includes applying substantive procedures to accounting estimates in significant accounts and disclosures.[20]

19. PCAOB standards require the auditor to "evaluate whether identified misstatements might be indicative of fraud and, in turn, how they affect the auditor's evaluation of materiality and the related audit responses."[21]

20. PCAOB standards also require the auditor to perform procedures to obtain an understanding of the company's relationships and transactions with its related parties that might reasonably be expected to affect the risks of material misstatement of the financial statements.[22]

21. PCAOB standards require the auditor to evaluate "whether the company has properly identified its related parties and relationships and transactions with related parties."[23] In addition, "[i]f the auditor identifies information that indicates that related parties or relationships or transactions with related parties previously undisclosed to the auditor might

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16 *Id.* at .11.

17 AS 2810.30, *Evaluating Audit Results* (footnote omitted).

18 *See* AS 1105.10.

19 *See* AS 2301.05.

20 *See* AS 2501.05, *Auditing Accounting Estimates, Including Fair Value Measurements.*

21 AS 2810.20 (footnote omitted).

22 *See* AS 2410.03, *Related Parties*.

23 AS 2410.14.

exist, the auditor should perform the procedures necessary to determine whether previously undisclosed relationships or transactions with related parties, in fact, exist."[24]

22. PCAOB standards also require the auditor to "evaluate whether related party transactions have been properly accounted for and disclosed in the financial statements. This includes evaluating whether the financial statements contain the information regarding relationships and transactions with related parties essential for a fair presentation in conformity with the applicable financial reporting framework."[25]

a. Revenue

23. SUIC disclosed that it derived its revenues by providing IT services to customers pursuant to sales contracts. As of and for the years ended December 31, 2021, and December 31, 2022, SUIC reported revenues of approximately $379,000 and $221,000, respectively.

24. In the 2021 SUIC Audit, Respondents failed to obtain sufficient appropriate audit evidence as to SUIC's reported revenue.[26] To test SUIC's revenue, Respondents obtained sales contracts and traced the revenue amounts to the Company's general ledger and to Company-generated invoices. However, Respondents failed to obtain any evidence that SUIC had actually performed the services described in the invoices, that the revenue amounts SUIC recorded were accurate, or that any such amounts were collectible.[27]

25. In addition, Respondents failed to adequately evaluate (1) the sales contracts under FASB Accounting Standard Codification ("ASC") 606, *Revenue from Contracts with Customers*, which became effective for SUIC on January 1, 2018, including whether SUIC identified all separate performance obligations in the contracts, and determined and allocated the transaction price to the performance obligations; and (2) SUIC's financial statement disclosures, which stated that SUIC was reporting revenue in accordance with ASC 605, *Revenue Recognition*, which ASC 606 superseded.

26. In the 2022 SUIC Audit, Respondents also failed to obtain sufficient appropriate audit evidence for the revenue SUIC recognized under the sales contracts, again failing to obtain sufficient evidence that SUIC had met its performance obligations under the contracts. Although Respondents obtained an acknowledgement from a related party of SUIC that the Company had performed services, that acknowledgement was dated April 1, 2022,

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[24] *Id.* at .15 (footnote omitted).

[25] *Id.* at .17 (footnote omitted).

[26] *See* AS 1105.04.

[27] *See* AS 2301.08.

approximately nine months before year-end, and addressed only a specific portion of services for which SUIC had recorded revenue.

27. Accordingly, in both of the SUIC Audits, Respondents violated AS 1105, AS 2301, and AS 2810 in evaluating the revenue SUIC reported. Respondents also violated AS 1015 by failing to exercise due professional care, including professional skepticism.

b. Accounts Receivable

28. In the SUIC Audits, Respondents also failed to obtain sufficient appropriate audit evidence concerning the valuation of SUIC's reported accounts receivable, including by failing to apply substantive procedures to appropriately evaluate SUIC's decision not to record any allowance for doubtful accounts, despite accounts receivable going unpaid for an extended period.[28]

29. In its December 31, 2021 financial statements, SUIC reported accounts receivable of approximately $339,000, with receivables greater than 90 days past due representing 28% and 16% of the Company's total accounts receivable and total assets, respectively. As of December 31, 2021, SUIC did not record any allowance for doubtful accounts.

30. To test accounts receivable in the 2021 SUIC Audit, Respondents obtained an accounts receivable aging schedule from SUIC, but they failed to test either the completeness and accuracy of the amounts within each aging category or SUIC's controls over the accuracy and completeness of the amounts within each aging category.[29] In addition, Respondents failed to appropriately test SUIC's assertion that an allowance for doubtful accounts was not necessary, despite the significant portion of receivables that were greater than 90 days past due.[30]

31. As of December 31, 2022, SUIC reported accounts receivable of $362,525, approximately 79% ($288,000) of which were more than 90 days past due. Again, SUIC recorded no allowance for doubtful accounts.

32. In the 2022 SUIC Audit, Respondents again obtained SUIC's accounts receivable aging schedule and identified a $55,000 account that was greater than 90 days past due as of December 31, 2022. Respondents understood that this account had become uncollectible due to the impacts of COVID-19 and proposed an audit adjustment for the account, which the

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[28] *See* AS 1105.04; AS 2301.05; AS 2501.05.

[29] *See* AS 1105.10.

[30] *See* AS 2301.05; AS 2501.05.

Company recorded. However, Respondents failed to test the collectability of any other long past due accounts receivables or appropriately evaluate SUIC's decision not to record any allowance for doubtful accounts.

33. Moreover, although the $55,000 audit adjustment proposed by Respondents was over eight times Respondents' materiality threshold and related to an entity in which SUIC held a 10% investment, Respondents failed to evaluate whether the misstatement might have been indicative of fraud and, in turn, how it affected Respondents' evaluation of materiality and the related audit response.[31]

34. Accordingly, in both of the SUIC Audits, Respondents also violated AS 1105, AS 2501, and AS 2810 in evaluating SUIC's reported accounts receivable.

c. Related Parties

35. During 2021 and 2022, SUIC attributed 100% of its revenue to agreements with two parties, Entity A and Entity B. Specifically, in 2021, SUIC recorded 55% of its revenue from Entity A and 45% from Entity B, and in 2022, SUIC recorded 100% of its revenue from Entity A. In addition, as of December 31, 2021, and December 31, 2022, SUIC reported a convertible promissory notes balance of $287,000 and disclosed that the holder of all the notes was Shoou Chyn Kan ("Kan"). In the Notes to its 2021 financial statements, SUIC disclosed that it had entered into no related party transactions and had no related party balances. In the Notes to its 2022 financial statements, SUIC disclosed Kan's convertible notes as related party transactions.

36. Despite obtaining evidence during the SUIC Audits that Entity A, Entity B, and Kan were, or may have been, related parties, Respondents failed to appropriately evaluate SUIC's identification of, accounting for, and disclosure of its relationships and transactions with Entity A, Entity B, and Kan.

37. First, during the SUIC Audits, Respondents failed to appropriately evaluate whether SUIC should have disclosed and accounted for its sales agreements with Entity A as related party transactions in its 2021 or 2022 financial statements. Respondents failed to do so, despite obtaining a document from SUIC during the 2021 SUIC Audit that listed Entity A as a related party due to Entity A's relationship with a SUIC shareholder.

38. Second, during the 2021 SUIC Audit, Respondents also failed to perform the procedures necessary to determine whether SUIC should have disclosed and accounted for its sales agreements with Entity B as related party transactions in its 2021 financial statements. That failure occurred even though Respondents were aware that SUIC had entered into a joint

[31] *See* AS 2810.20.

venture agreement with Entity B to create a company known as SUIC Beneway USA (formerly SUIC QQ Pay USA).

39. Finally, Respondents also failed to appropriately evaluate whether SUIC should have disclosed and accounted for Kan's convertible notes as related party transactions in its 2021 financial statements. They failed to do so despite Respondents' 2021 work papers containing statements indicating that (a) Kan signed checks and made payments on behalf of SUIC; and (b) Kan was an authorized representative of SUIC in connection with a loan agreement between SUIC and a financial institution.

40. As a result, during the SUIC Audits, Respondents violated AS 1105, AS 2410, and AS 2810 by failing to obtain sufficient appropriate audit evidence to determine whether SUIC had properly identified, accounted for, and disclosed in its financial statements related parties and relationships and transactions with related parties.

iii. Respondents Failed to Determine and Communicate CAMs during the SUIC Audits

41. PCAOB standards establish "requirements regarding the content of the auditor's written report when the auditor expresses an unqualified opinion on the financial statements."[32] Among other things, "[t]he auditor must determine whether there are any critical audit matters in the audit of the current period's financial statements."[33] PCAOB standards require the auditor to "communicate in the auditor's report [CAMs] relating to the audit of the current period's financial statements or state that the auditor determined that there are no [CAMs]."[34]

42. A CAM is "any matter arising from the audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved especially challenging, subjective, or complex auditor judgment."[35] PCAOB standards identify factors the auditor should consider in its evaluation of whether a matter is a CAM.[36]

43. During the SUIC Audits, Respondents failed to perform any evaluation of whether there were CAMs. In the SUIC 2021 Audit, the Firm's audit report failed to refer to CAMs at all. In the 2022 SUIC Audit, the Firm's audit report stated that the Firm "determined

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32 AS 3101.01.

33 *Id.* at .11.

34 *Id.* at .13 (footnote omitted).

35 *Id.* at .11.

36 *Id*. at .12.

that there are no [CAMs].” In fact, however, Respondents never performed the evaluation necessary to make that determination.

44. As a result, Respondents violated AS 3101.

iv. Respondents Failed to Make or Document the Audit Committee Communications Required by PCAOB Standards During the SUIC Audits

45. PCAOB standards require the auditor to communicate certain matters related to the conduct of an audit to the issuer’s audit committee.[37] These matters include the overall audit strategy; the significant risks identified during the auditor’s risk assessment procedures; significant and critical accounting policies and practices; critical accounting estimates; and the results of the auditor’s evaluation of whether the presentation of the financial statements and the related disclosures are in conformity with the applicable financial reporting framework.[38]

46. PCAOB rules also require that a registered public accounting firm, at least annually for each audit client, describe in writing to the audit committee of an audit client relationships between the firm and the client that may reasonably be thought to bear on independence.[39]

47. In connection with the SUIC Audits, Respondents failed to make required communications to SUIC’s audit committee related to: (1) the significant risks identified during the engagement team’s risk assessment procedures; (2) significant accounting policies and practices; (3) critical accounting policies and practices; (4) critical accounting estimates; and (5) the results of the Firm’s evaluation of whether the presentation of the financial statements and the related disclosures were in conformity with the applicable financial reporting framework.[40]

48. In addition, the Firm failed to make any communication in writing to the SUIC audit committee about the relationship between the Firm and SUIC that may reasonably be thought to bear on independence.[41]

49. Accordingly, Respondents violated AS 1301, and the Firm violated PCAOB Rule 3526.

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37 *See* AS 1301.01, *Communications with Audit Committees*.

38 *See id*. at .09, .12-.13.

39 *See* PCAOB Rule 3526, *Communication with Audit Committees Concerning Independence*.

40 *See* AS 1301.09, .12-.13.

41 *See* PCAOB Rule 3526.

v. Respondents Failed to Comply with PCAOB Audit Documentation Requirements in the SUIC Audits

50. PCAOB standards require that the auditor "prepare audit documentation in connection with each engagement conducted pursuant to the standards of the PCAOB."[42] PCAOB standards further provide that "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[43] In addition, although "[c]ircumstances may require additions to audit documentation after the report release date[,]" any documentation added "must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[44]

51. In connection with each of the SUIC Audits, Respondents failed to assemble a complete and final set of audit documentation by the documentation completion dates. The majority of work papers were modified between approximately three months and nine months after the documentation completion dates for the 2021 SUIC Audit and 2022 SUIC Audit. Respondents failed to indicate the date the information was added to the work papers, the name of the individual(s) who prepared the additional documentation, and the reason for adding it.

52. As a result, Respondents violated AS 1215.

vi. Respondents Failed to Obtain Written Representations from SUIC's Management for the 2021 SUIC Audit

53. PCAOB standards provide that the auditor should obtain written representations from management "for all financial statements and periods covered by the auditor's report."[45]

54. For the 2021 SUIC Audit, Respondents failed to obtain written representations from SUIC's management.

55. As a result, Respondents violated AS 2805.

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42 AS 1215.04, *Audit Documentation*.

43 *Id*. at .15.

44 *Id.* at .16.

45 *See* AS 2805.05, *Management Representations*.

E. The Firm Violated PCAOB Standards Relating to EQRs

56. PCAOB standards require that an EQR be performed on all audit engagements.[46] A firm may grant permission to a client to use the audit report only after an engagement quality reviewer provides concurring approval of the issuance of the report.[47]

57. The Firm failed to obtain EQRs for either of the SUIC Audits, in violation of AS 1220.

F. The Firm Violated PCAOB Rule 3211 by Failing to File Accurate Form APs

58. PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*, requires every registered public accounting firm to file a Form AP for each audit report it issues for an issuer, and to include the identity of the engagement partner and certain information about the issuer and other accounting firms that participated in the audit.

59. A Form AP must be filed by the 35th day after the date a firm's audit report is first included in a document filed with the U.S. Securities and Exchange Commission ("Commission") or, in the case of a registration statement under the Securities Act of 1933, by the tenth day after the date the audit report is first included in a document filed with the Commission.[48]

60. For the 2022 SUIC Audit, the Firm initially filed a Form AP two weeks *before* it issued its audit report. In that Form AP and in an amended Form AP the Firm filed *after* it issued its audit report, the Firm listed another accounting firm ("Firm A") as a participant in the 2022 SUIC Audit. However, in fact, Firm A did not participate in the 2022 SUIC Audit. Thus, the Firm provided incorrect information about Firm A's participation in both of the Form APs it filed. The Firm never corrected the Form APs. The Firm filed those inaccurate Form APs after the Board already had sanctioned it for failing to comply with Form AP reporting requirements in each of its four prior audits of SUIC.[49]

61. As a result, the Firm violated PCAOB Rule 3211 in connection with the 2022 SUIC Audit.

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[46] *See* AS 1220.01, *Engagement Quality Review*.

[47] *See id*. at .13.

[48] *See* PCAOB Rule 3211(b).

[49] *See James Pai CPA PLLC*, PCAOB Rel. No. 105-2022-021 (Oct. 4, 2022).

G. The Firm Violated PCAOB Rules and Quality Control Standards

62. PCAOB rules require a registered public accounting firm and its associated persons to comply with PCAOB quality control standards.[50] These standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice.[51] "A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and procedures established to provide the firm with reasonable assurance of complying with professional standards."[52]

63. As described below, the Firm failed to establish policies and procedures sufficient to provide reasonable assurance that its personnel complied with applicable professional standards and regulatory requirements.

i. The Firm's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Engagement Performance

64. A firm's system of quality control should include policies and procedures "to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[53] To the extent appropriate and as required by applicable professional standards, these policies and procedures should cover planning, performing, and documenting the results of each engagement, and should address EQRs.[54] During the period covered by the SUIC Audits, the Firm's quality control policies and procedures related to engagement performance were deficient in multiple respects.

65. As illustrated by Respondents' multiple violations in connection with the SUIC Audits, the Firm failed to establish and implement sufficient policies and procedures to provide reasonable assurance that (a) it would plan and perform audits consistent with PCAOB standards; (b) it would comply with AS 1215's requirements regarding the assembly and retention of audit documentation; (c) EQRs would be performed on all of its audits in accordance with PCAOB standards; and (d) it would comply with PCAOB requirements for the filing of Form APs.

66. As a result, the Firm violated QC § 20.

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50 *See* PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

51 *See* QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

52 *Id.* at .04.

53 *Id.* at .17.

54 *See id.* at .18.

ii. The Firm's System of Quality Control Failed to Provide Reasonable Assurance with Respect to Monitoring

67. PCAOB quality control standards require that a firm's system of quality control contain a monitoring component.[55] Through monitoring, a firm should establish policies and procedures to provide reasonable assurance that the firm's policies and procedures "are suitably designed and are being effectively applied," and that "its system of quality control is effective."[56]

68. During the period covered by this Order, the Firm failed to perform any internal inspection procedures or any other monitoring procedures to assess the effectiveness of its system of quality control.

69. As a result, the Firm violated QC § 20 and QC § 30.

H. Pai Directly and Substantially Contributed to the Firm's Violations

70. "A person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[57]

71. Pai is, and at all relevant times was, the Firm's sole owner and partner, served as the engagement partner for the SUIC Audits, and was the individual in charge of the Firm's system of quality control. Accordingly, Pai was responsible for ensuring that the Firm complied with PCAOB rules and standards. He was also responsible for developing and maintaining quality control policies and procedures applicable to the Firm's auditing practice. As evidenced by the numerous audit and quality control violations described above, Pai repeatedly failed to carry out those responsibilities.

72. Pai knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's EQR, Form AP, and quality control violations described above. As a result, Pai violated PCAOB Rule 3502.

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55 *See* QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; QC § 20.20.

56 QC §§ 30.02-.03; QC § 20.20.

57 PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm and Pai are hereby censured.

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the Firm's registration is revoked.

C. After three years from the date of this Order, the Firm may reapply for registration by filing an application for registration pursuant to PCAOB Rule 2101.

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Pai is barred from being an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[58]

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

F. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $40,000 is imposed, jointly and severally, on the Firm and Pai.

   1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

   2. Respondents shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions

[58] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Pai. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the Firm and Pai as respondents in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. By consenting to this Order, the Firm acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any reapplication for registration pursuant to PCAOB Rule 2101.

5. By consenting to this Order, Pai acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b).

G. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Before filing with the Board any future registration application, to establish, revise, or supplement, as necessary, policies and procedures to provide the Firm with reasonable assurance that: (a) Firm personnel will comply with PCAOB standards when conducting issuer audits; (b) Firm personnel will obtain, and adequately document, EQRs for all issuer audits in accordance with applicable professional standards; (c) the Firm will properly assemble for retention complete and final sets of audit documentation in accordance with professional standards; and (d) the Firm will comply with PCAOB reporting requirements on a timely basis, including with respect to Form AP.

2. To provide with any future registration application a written certification, signed by the individual ultimately responsible for the Firm's system of quality control, to the Director of the PCAOB's Division

of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.G.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of Enforcement and Investigations or the staff of the Division of Registration and Inspections may reasonably request.

H. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Pai is required to complete, prior to filing any petition to terminate his bar and for Board consent to associate with a registered public accounting firm, 40 hours of continuing professional education and training relating to PCAOB auditing standards (such hours shall be in addition to, and shall not be counted in, the continuing professional education he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

March 25, 2025

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Adeptus Partners LLC, and Howard S. Krant, CPA,

Respondents.

PCAOB Release No. 105-2025-020

April 22, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Adeptus Partners LLC ("Adeptus" or the "Firm"), a registered public accounting firm, and Howard S. Krant, CPA ("Krant") (collectively, "Respondents");

(2) suspending Krant from being an associated person of a registered public accounting firm for a period of one year from the date of this Order and imposing a $50,000 civil money penalty on him;

(3) imposing a $75,000 civil money penalty on the Firm; and

(4) requiring the Firm to engage an independent consultant to review and make recommendations concerning Adeptus' system of quality control as specified in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that: (a) Krant violated PCAOB rules and standards in connection with the audits of two issuers; and (b) Adeptus violated PCAOB rules and quality control standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **Howard S. Krant** is a certified public accountant licensed by the state of New York (license no. 039908). Krant is, and at all relevant times was, an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). At all relevant times, Krant was the engagement partner in charge of the Firm's audits of Blockchain of Things, Inc. ("Blockchain of Things"), and Applied UV, Inc. ("Applied UV").

2. **Adeptus Partners LLC** is a public accounting firm headquartered in New York, New York. The Firm is licensed to practice public accounting by the New Jersey State Board of Accountancy (license no. 20CB00572700) and the Maryland Board of Public Accountancy (license no. 0041109). Adeptus is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Issuers

3. **Blockchain of Things, Inc.** was, at all relevant times, a Delaware corporation. Its public filings disclose that Blockchain of Things is a technology company established to develop

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

[2] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

and implement blockchain technology, specifically by providing a platform, or web services layer, designed to improve upon existing blockchain technology, including its security and ease of use. At all relevant times, Blockchain of Things was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. **Applied UV, Inc.** was, at all relevant times, a Delaware corporation. Its public filings disclose that Applied UV is focused on the development and acquisition of technology that addresses infection prevention in healthcare, hospitality, commercial, and residential industries. At all relevant times, Applied UV was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

5. This matter concerns Krant's violation of PCAOB rules and standards in connection with the Firm's audits of Blockchain of Things for the years ended December 31, 2020, and December 31, 2021, and the Firm's audit of Applied UV for the year ended December 31, 2020. Specifically, Krant failed to adequately supervise the engagement teams on the 2020 Blockchain of Things and Applied UV audits (the "2020 Audits"), and Krant failed to properly review the engagement team's work on deferred revenue for the Blockchain of Things 2021 audit to ensure that sufficient appropriate audit evidence was obtained.

6. Additionally, this matter concerns the Firm's violations of PCAOB rules and quality control standards, as evidenced by multiple violations of PCAOB rules and standards during the Firm's audits of Blockchain of Things and Applied UV. These audit deficiencies across multiple audits involving multiple Firm personnel demonstrate that the Firm failed to maintain a system of quality control sufficient to provide the Firm with reasonable assurance that engagement teams performed issuer audits in accordance with applicable professional standards and regulatory requirements.

D. Respondents Violated PCAOB Rules and Standards in Connection with the Audits

7. In connection with the preparation or issuance of an audit report, PCAOB rules require that the associated persons of a registered public accounting firm comply with the Board's auditing and related professional practice standards.[3]

[3] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audit being discussed.

8. PCAOB standards require that an auditor exercise due professional care and skepticism in planning and performing an audit.[4] Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[5] To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based.[6] Audit evidence consists of both information that supports and corroborates management's assertions regarding the financial statements or internal control over financial reporting and information that contradicts such assertions.[7] If audit evidence obtained from one source is inconsistent with audit evidence obtained from another source, "the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit."[8]

9. When an auditor uses information produced by a company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to, among other things, test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information.[9]

10. An auditor should design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[10] PCAOB standards further require an auditor to evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[11] Evaluation of the information disclosed in the financial statements includes consideration of the form, arrangement, and content of the financial statements (including the accompanying notes), encompassing matters such as the classification of items in the statements, and the bases of amounts set forth.[12]

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4 AS 1015.01 and .07, *Due Professional Care in the Performance of Work*.

5 AS 1105.04, *Audit Evidence*.

6 *Id.* at .06.

7 *Id.* at .02.

8 *Id.* at .29.

9 *Id.* at .10.

10 AS 2301.08, *The Auditor's Responses to the Risks of Material Misstatement*.

11 AS 2810.30, *Evaluating Audit Results*.

12 *Id.* at .31.

11. In addition, the engagement partner is responsible for the engagement and its performance. Accordingly, the engagement partner is responsible for proper supervision of the work of engagement team members and for compliance with PCAOB standards.[13] AS 1201.05c requires the engagement partner to "[r]eview the work of engagement team members to evaluate whether: (1) The work was performed and documented; (2) The objectives of the procedures were achieved; and (3) The results of the work support the conclusions reached."

i. The 2020 Blockchain of Things and Applied UV Audits

12. Adeptus audited the financial statements of Blockchain of Things as of and for the year ended December 31, 2020, and issued an audit report dated March 29, 2021, which was included in Blockchain of Things' financial statements filed with the U.S. Securities and Exchange Commission ("SEC") on March 31, 2021. Adeptus audited the financial statements of Applied UV as of and for the year ended December 31, 2020, and issued an audit report dated March 30, 2021, which was included in Applied UV's financial statements filed with the SEC on the same day.

13. Krant was the engagement partner for both of the 2020 Audits. Despite his role as engagement partner, Krant did not review a single work paper for the 2020 Audits, nor did he obtain computer access to review the work papers for the audits.[14] He signed the Firm's audit reports for the 2020 Audits, authorizing their release, based solely on discussions with the engagement team and the engagement quality review ("EQR") partner.

14. As a result, Krant failed to fulfill his responsibilities as the engagement partner on the 2020 Audits to ensure the work was performed and documented, the objectives of the procedures were achieved, and the results of the work supported the conclusions reached, in violation of PCAOB standards.[15]

ii. The 2021 Blockchain of Things Audit

1. Blockchain of Things' Digital Tokens

15. According to its public filings, Blockchain of Things was a technology company established to develop and implement blockchain technology, specifically by providing a platform designed to improve upon existing blockchain technology. From December 2017 through July 2018, Blockchain of Things offered and sold digital tokens ("tokens" or the

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[13] AS 1201.03, *Supervision of the Audit Engagement.*

[14] Another partner of the Firm also served on the 2020 Audits and provided some guidance and supervision for the staff.

[15] AS 1201.03, .05c; AS 1015.

"Offering") to raise money to develop and implement its business plan, which included developing and maintaining its blockchain platform and technology.

16. Blockchain of Things raised more than $12 million worth of cryptocurrency assets through the Offering. According to a December 18, 2019 SEC Order ("SEC Order"), Blockchain of Things did not register its Offering pursuant to the federal securities laws, nor did it qualify for an exemption to the registration requirements.[16] Under the SEC Order, Blockchain of Things was required to pay amounts due under Section 12(a) of the Securities Act of 1933 to persons and entities who purchased tokens before and including July 31, 2018 and who submitted a claim form by a deadline determined in accordance with the SEC Order. In SEC filings, Blockchain of Things identified the deadline as February 21, 2021.[17]

17. As of December 31, 2020, Blockchain of Things' Form 10-K disclosed $12.4 million in cryptocurrency-related liabilities, which was 95% of total liabilities. This cryptocurrency-related liability, called the "Token Refund Liability," was the result of claims made pursuant to the SEC Order.

18. As of December 31, 2021, the time for making a claim pursuant to the SEC Order had ended, and Blockchain of Things reclassified the Token Refund Liability as a "Deferred Revenue" liability of $12.2 million ($226,258 had been issued in claims), which represented 99% of Blockchain of Things' total liabilities. In its 2021 Form 10-K, Blockchain of Things discussed that it treated the Token Refund Liability as deferred revenue because it was "akin to prepayments of future services" the company would provide.[18]

2. Krant Failed to Obtain Sufficient Appropriate Audit Evidence Concerning Deferred Revenue

19. Krant served as the engagement partner on the Firm's 2021 audit of Blockchain of Things, and he signed off as a reviewer on the engagement team's deferred revenue work. However, Krant failed to test the amount of the reported liability and failed to adequately evaluate whether the liability was appropriately reclassified as deferred revenue.

20. First, with respect to the amount of the liability, Krant and the engagement team merely agreed the reported $12.2 million to the SEC Order less the claims the company had paid. However, Krant and the engagement team never obtained written agreements or other evidence to establish that persons and entities had purchased $12.4 million in tokens (the

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16 *See In the Matter of Blockchain of Things*, SEC Rel. No. 33-10736 (Dec. 18, 2019).

17 *See, e.g.*, Blockchain of Things' Form 10-K for fiscal year ended December 31, 2020, at F-14.

18 *See id.* at F-7.

cryptocurrency received for these tokens represented 98% of Blockchain of Things' total assets for 2020 and 2021).

21. Second, in violation of PCAOB standards, Krant and the engagement team relied exclusively on management representations in concluding that the Token Refund Liability had been appropriately reclassified as deferred revenue.[19] Further, Krant accepted management's representations despite evidence that appeared to contradict those representations.

22. Specifically, although management characterized the deferred revenue liability as "akin to prepayments of future services" and represented that the company would be able to provide those services, Krant was aware of evidence that called into question whether Blockchain of Things would ever be able to do so. For example, Blockchain of Things' software platform was its only product and had been in development since 2017, but the company had never recognized any revenue from the platform, including through December 31, 2021. Moreover, the Company disclosed in its 2020 and 2021 Form 10-Ks that it was "uncertain whether this [software platform] business line will ever be successfully implemented." The Company also never reported capitalized software costs related to the software platform, which indicated that the software platform had not yet reached technological feasibility in 2021.

23. Additionally, no person or entity ever used the tokens the company had sold because the product never went live; indeed, not a single person or entity was ever able to redeem a token to access the software platform.[20]

24. Accordingly, Krant failed to plan and perform appropriate audit procedures to obtain sufficient appropriate audit evidence regarding the deferred revenue balance, failed to evaluate whether the balance was appropriately recorded as deferred revenue, and failed to resolve inconsistent audit evidence.[21]

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[19] *See* AS 2805.02, *Management Representations* ("[R]epresentations from management are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit.").

[20] On January 26, 2023, Blockchain of Things moved its software platform to an open-source repository. Blockchain of Things ultimately went out of business on February 28, 2023, less than a year after issuance of the 2021 audit report.

[21] *See* AS 1105.04, .29; AS 2810.33; and AS 1015.07-.09.

E. The Firm Violated PCAOB Rules and Quality Control Standards

25. PCAOB rules require a registered public accounting firm and its associated persons to comply with PCAOB quality control standards.[22] These standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice.[23] A firm's system of quality control encompasses the firm's organizational structure and the policies adopted and procedures established to provide the firm with reasonable assurance of complying with professional standards.[24] These quality control policies and procedures should provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[25] A firm's "policies and procedures should cover planning, performing, supervising, reviewing, documenting, and communicating the results of each engagement."[26]

26. The Firm failed to establish policies and procedures to provide it with reasonable assurance that engagement personnel would comply with AS 1215, *Audit Documentation*, in violation of QC 20.17 and .18.

27. For example, it was the regular practice of one audit partner (not Krant) on the 2020 Audits and the 2021 Blockchain of Things audit to sign off on work papers as a reviewer to remove error messages in order to archive the binder, even though he had not actually reviewed the corresponding work papers. As a result, it was unclear who actually reviewed the work papers, or if significant changes were made to the work papers after they had been reviewed.

28. For the 2020 Audits, there was also inadequate control over signatures evidencing review within work papers. Krant's signature appeared as a reviewer within multiple audit work papers, despite Krant never having electronic access to the work papers. In addition, no one on the engagement teams or at the Firm, including Krant himself, was aware of how his electronic signature and date of his signature appeared within these documents.

29. For the 2020 Audits and the 2021 Blockchain of Things audit, there also was incomplete audit documentation: the EQR sections of the supervision, review, and approval forms were blank, unsigned, and undated. The EQR partners who completed these sections did

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22 *See* PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

23 *See* QC 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

24 *Id.* at .04.

25 *Id.* at .17.

26 *Id.* at .18.

not know why they were blank in the complete and final set of audit documentation for the audits.

30. Additionally, for the 2020 Audits and the 2021 Blockchain of Things audit, there was inadequate documentation of journal entry testing, which the engagement team identified as a response to address the significant risk and fraud risk related to management override of controls. The journal entry testing documentation consisted of a short one-page memo, which did not accurately reflect the entirety of the journal entry testing performed.

31. These failures illustrate that the Firm violated QC 20 by failing to establish policies and procedures sufficient to provide it with reasonable assurance that the work performed by Firm personnel met the requirements of AS 1215.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rules 5300(a)(5), Adeptus Partners LLC and Howard S. Krant, CPA are hereby censured.

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Howard S. Krant, CPA is suspended, for one year from the date of this Order, from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[27]

C. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

    1. Adeptus Partners LLC: $75,000; and

[27] As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Krant. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

2. Howard S. Krant, CPA: $50,000;

    a. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act.

    b. Respondents shall pay these civil money penalties within ten (10) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the firm or the person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

    c. Respondent Adeptus Partners LLC understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent Adeptus Partners LLC at the address on file with the PCAOB at the time of the issuance of this Order.

    d. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to interest.

D. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rules 5300(a)(8) and (9), the Board orders that:

1. <u>Independent Consultant</u>

    a. Adeptus Partners LLC shall retain and pay for an independent consultant ("Independent Consultant"), not unacceptable to the PCAOB staff, to review and make recommendations regarding

Adeptus Partners LLC's quality control policies and procedures applicable to audits and reviews conducted pursuant to PCAOB standards. The Independent Consultant must have experience with, and be knowledgeable concerning, PCAOB quality control and auditing standards. Within thirty days after the entry of this Order, Adeptus Partners LLC shall submit to the PCAOB staff a proposal setting forth the identity, qualifications, and proposed terms of retention of the Independent Consultant. Adeptus Partners LLC may not hire as the Independent Consultant any individual who has provided legal, auditing, or other services to, or has had any affiliation with, Adeptus Partners LLC during the two years prior to entry of this Order.

b. To ensure the independence of the Independent Consultant, Adeptus Partners LLC: (i) shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the PCAOB staff; and (ii) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

c. Adeptus Partners LLC shall cooperate fully with the Independent Consultant and shall provide reasonable access to its personnel, information, and records as the Independent Consultant may reasonably request for the Independent Consultant's review, evaluation, and reports.

d. If Adeptus Partners LLC, despite its best, good faith efforts, is unable to identify an Independent Consultant candidate that meets all of the above-listed criteria, it may seek approval from the PCAOB staff of alternative candidates or alternative terms that Adeptus Partners LLC believes to be otherwise suitable.

e. Within 90 days of this Order, Adeptus Partners LLC will review, evaluate, and implement, under the supervision of the Independent Consultant, any necessary enhancements to Adeptus Partners LLC's quality control policies and procedures applicable to audits and reviews conducted pursuant to PCAOB standards. If, as a result of that review and evaluation, it appears to the Independent Consultant that any further enhancements to the

system of quality control are necessary, it shall recommend such enhancements to Adeptus Partners LLC.

f. Within 120 days of this Order, Adeptus Partners LLC shall (1) implement any recommendations received from the Independent Consultant, pursuant to Paragraph IV.D.1.e, and (2) require the Independent Consultant to review a sample of the Firm's most recent public company audits to ensure those audits comply with PCAOB auditing standards and that those audits were conducted in accordance with PCAOB quality control standards and the Firm's enhanced quality control policies and procedures. If Adeptus Partners LLC does not implement recommendations received from the Independent Consultant pursuant to Paragraph IV.D.1.e, it shall communicate to the Director of the Division of Enforcement and Investigations the recommendations of the Independent Consultant it did not implement and the reasons for not doing so.

2. Firm Certification

a. Within 270 days of the date of this Order, Adeptus Partners LLC shall certify in writing to the Director of the Division of Enforcement and Investigations, PCAOB, 1666 K Street N.W., Washington, DC 20006, the Firm's compliance with the above paragraphs ("Final Certification"). The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The certification shall include a description of the specific enhancements implemented to Adeptus Partners LLC's system of quality control from the time of the conduct described in this Order. Adeptus Partners LLC shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

b. For good cause shown, the PCAOB staff may extend any of the procedural dates relating to these undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered the last day.

E. The Firm understands that the failure to satisfy the above conditions and undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 22, 2025

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Heaton & Company, PLLC, and Kristofer Heaton, CPA,

Respondents.

PCAOB Release No. 105-2025-021

June 12, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Heaton & Company, PLLC (d/b/a Pinnacle Accountancy Group of Utah) ("Heaton & Co." or the "Firm"), and Kristofer Heaton, CPA ("Heaton") (collectively "Respondents");

(2) revoking the Firm's registration and barring Heaton from being associated with a registered public accounting firm;[1]

(3) imposing a $35,000 civil money penalty on the Firm and a $25,000 civil money penalty on Heaton;

(4) requiring the Firm, in the event it submits any future registration application, to undertake certain remedial measures before such submission, as described in Section IV of this Order; and

(5) requiring Heaton to complete 40 hours of continuing professional education ("CPE"), in addition to any CPE required in connection with any professional license he holds, before filing any petition for Board consent to associate with a registered public accounting firm.

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

The Board is imposing these sanctions on the basis of its findings that: (a) the Firm failed to timely assemble for retention a complete and final set of audit documentation in connection with the audits of five issuers, (b) Heaton failed to adequately perform an engagement quality review ("EQR") for five issuer audits, (c) the Firm violated PCAOB quality control standards, and (d) Heaton directly and substantially contributed to the Firm's violations of PCAOB quality control standards.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents submitted Offers of Settlement ("Offers") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[2]

III.

On the basis of Respondents' Offers, the Board finds that:[3]

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

[3] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

A. Respondents

1. **Heaton & Company, PLLC (d/b/a Pinnacle Accountancy Group of Utah)** is a public accounting firm located in Farmington, Utah, and is licensed to practice public accounting by the Utah Board of Accountancy (license no. 9284621-2603) and certain other states. At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

2. **Kristofer Heaton, CPA** is, and at all relevant times was, a certified public accountant licensed by the state of Utah (license no. 7374393-2601). At all relevant times, Heaton was a partner and the head of quality control at the Firm and served as the EQR partner for each of the Firm's audits of the financial statements of the issuers discussed below. Heaton was, at all relevant times, an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Relevant Issuers and Individual

3. **Issuer A** was incorporated in Wyoming and, at all relevant times, had its principal executive office in New York, New York. At all relevant times, Issuer A was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Issuer A's public filings disclose that it was a mobile application company. The Firm issued an audit report dated March 31, 2022, on Issuer A's financial statements that Issuer A included in its Form 10-K filed with the U.S. Securities and Exchange Commission ("Commission") for the fiscal year ended December 31, 2021 ("Issuer A Audit").

4. **Issuer B** was incorporated in Colorado and, at all relevant times, had its principal executive office in Huntington Beach, California. At all relevant times, Issuer B was an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Issuer B's public filings disclose that that it was engaged in the manufacture, distribution, and sale of ready-to-use food. The Firm issued an audit report dated July 27, 2021, on Issuer B's financial statements that Issuer B included in its Form 10-K filed with the Commission for the fiscal year ended May 31, 2021 ("Issuer B Audit").

5. **Natalie Murphy, CPA** ("Murphy") is, and at all relevant times was, a certified public accountant licensed by the state of Utah (license no. 7388678-2601). At all relevant times, Murphy was a partner at Heaton & Co. and served as the engagement partner for each of the Firm's audits of the financial statements of the issuers described above and below.[4]

[4] *See Natalie Murphy, CPA*, PCAOB Rel. No. 105-2025-006 (Feb. 25, 2025).

C. Summary

6. This matter involves the Firm's and Heaton's repeated violations of PCAOB rules and standards.[5] First, in 2021 and 2022, the Firm violated PCAOB audit documentation standards because it failed to timely assemble for retention a complete and final set of audit documentation for five issuer audits, including the Issuer A Audit and Issuer B Audit.

7. Second, Heaton, as the EQR partner on all five audits, failed to perform his review in accordance with PCAOB standards. Specifically, Heaton provided concurring approval of issuance of the audit report in each of the five audits despite the limited amount of audit documentation that existed at the time he performed his reviews. As a result of that lack of documentation, Heaton did not, as required by PCAOB standards, adequately evaluate in each of the five engagements whether the engagement documentation (a) indicated that the engagement team responded appropriately to significant risks and (b) supported the engagement team's conclusions on matters Heaton was required to review.

8. Third, the Firm failed to establish and implement adequate policies and procedures to provide reasonable assurance that engagement personnel complied with audit documentation standards, and the Firm further failed to perform any monitoring procedures to determine whether its policies and procedures were suitably designed and effectively applied. Finally, Heaton, as head of quality control at the Firm, directly and substantially contributed to those quality control violations.

9. Accordingly, and as described below, the Firm violated AS 1215, *Audit Documentation*, QC § 20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*, and QC § 30, *Monitoring a CPA Firm's Accounting and Auditing Practice*; and Heaton violated AS 1220, *Engagement Quality Review*, and PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

D. Respondents Violated PCAOB Rules and Standards

10. PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[6] Among

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[5] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the conduct discussed herein.

[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

other requirements, registered firms and their associated persons must comply with auditing and quality control standards adopted by the Board.[7]

i. The Firm Violated AS 1215 by Failing to Assemble for Retention a Complete and Final Set of Audit Documentation for Five Audits

11. The PCAOB's audit documentation standard requires an auditor to prepare and retain audit documentation in connection with audit engagements.[8] The documentation standard specifically provides that "[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it."[9]

12. The documentation completion date for the Issuer A Audit was no later than May 15, 2022 (45 days after the release of the Firm's report). The documentation completion date for the Issuer B Audit was no later than September 10, 2021. Consequently, the Firm was required to assemble a complete and final set of audit documentation for the two audits by May 15, 2022, and September 10, 2021, respectively.

13. The Firm was notified by staff of the PCAOB's Division of Registration and Inspections (the "Inspection Staff") on August 5, 2022, that the Issuer A Audit and the Issuer B Audit had been selected for inspection. After this notification, but prior to the commencement of inspection fieldwork, the Firm informed the Inspection Staff that it had failed to assemble complete and final sets of audit work papers for these two audits.

14. Murphy, the engagement partner on both audits, told the Inspection Staff that the work papers were located on various local hard drives of audit staff, and she needed time to compile the work papers. Over the next few weeks, however, Murphy not only compiled but also created and modified work paper documentation for the Issuer A Audit and the Issuer B Audit.

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7 *See* PCAOB Rule 3200, *Auditing Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

8 *See* AS 1215.01.

9 *Id.* at .15-.16.

15. Shortly thereafter, the Firm provided the Inspection Staff with work papers for the Issuer A Audit and the Issuer B Audit. Although the Firm generally disclosed in the work papers provided to the Inspection Staff that work papers had been created and modified after the respective documentation completion dates for the Issuer A Audit and Issuer B Audit, those additions and modifications were not adequately documented.

16. The work papers provided to the Inspection Staff for the Issuer A Audit and the Issuer B Audit each included a memorandum ("45-Day Memo") created by Murphy and dated July 30, 2022, and August 26, 2022, respectively. Murphy stated in each 45-Day Memo that, for various reasons, modifications and additions to the work papers were required to be made after the documentation completion date.

17. The Issuer A 45-Day Memo included a list of work papers that were modified as of July 30, 2022, and stated that no changes were made to any work papers other than the specified work papers. However, Murphy did not update the listing of modified work papers to include those she modified in August 2022, after the date of the Issuer A 45-Day Memo. The Issuer B 45-Day Memo did not include a list of work papers that had been modified. Nor did the Firm create any other record to adequately document the additions and modifications to the Issuer A Audit and Issuer B Audit work papers. The Firm, therefore, failed to adequately document the additions and modifications made to the work papers for both audits.[10]

18. Furthermore, the Firm failed on three other issuer audits (the "Additional Audits"), the reports for which were issued in 2021 and 2022, to assemble a complete and final set of audit documentation by the documentation completion date. The PCAOB's Division of Enforcement and Investigations requested the work papers for the Additional Audits in connection with the investigation of this matter. In response to that request, Murphy attempted to assemble a complete and final set of audit documentation for one of the Additional Audits. In doing so, Murphy created and modified over 90% of the work papers for that audit almost two years after the documentation completion date. Murphy made no attempt to assemble a complete and final set of audit documentation for the other two Additional Audits, both of which contained numerous incomplete work papers and one of which contained several work papers related to a different client of the Firm.

19. Accordingly, the Firm repeatedly violated AS 1215.

[10] *See* AS 1215.16.

ii. Heaton Violated AS 1220 by Failing to Appropriately Evaluate Audit Documentation on Five Audits

20. Under PCAOB standards, an EQR is required for all issuer audit engagements,[11] and the engagement quality reviewer is required to make certain evaluations before providing his or her concurring approval of issuance of an audit report.[12] Specifically, the engagement quality reviewer should evaluate the engagement team's assessment of, and audit responses to, significant risks identified by the engagement team, including fraud risks.[13] The engagement quality reviewer should also evaluate whether the engagement documentation that he or she reviewed "[i]ndicates that the engagement team responded appropriately to significant risks" and "[s]upports the conclusions reached by the engagement team with respect to the matters reviewed."[14]

21. Heaton was the EQR partner on the Issuer A Audit, the Issuer B Audit, and the Additional Audits described above.

22. At the time that Heaton provided his concurring approval of issuance in each of the five audits, certain audit documentation that Heaton was required to review in connection with his engagement quality review either did not exist or was insufficient to indicate that the engagement team had responded appropriately to significant risks or supported the conclusions reached by the engagement team. Nonetheless, Heaton provided his concurring approval of issuance for each of the five audits, in violation of PCAOB standards.

23. Accordingly, Heaton repeatedly violated AS 1220.

iii. The Firm's System of Quality Control Failed to Provide Reasonable Assurance with Respect to the Assembly of Audit Documentation for Retention

24. PCAOB quality control standards require that a registered firm have a system of quality control for its accounting and auditing practice.[15] Those standards require firms to establish policies and procedures sufficient to provide it with "reasonable assurance that the

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11 *See* AS 1220.01.

12 *See id.* at .09-.12.

13 *See id.* at .10b.

14 *Id.* at .11.

15 *See* QC § 20.01.

work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."[16]

25. PCAOB quality control standards also require firms to establish monitoring policies and procedures "to provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the other elements of quality control . . . are suitably designed and are being effectively applied."[17] PCAOB standards explain that procedures that provide the firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the firm's policies and procedures contribute to the monitoring element.[18]

26. The Firm failed to establish and implement adequate policies and procedures that provided reasonable assurance it would comply with the audit documentation requirements in AS 1215. Although the Firm had a written policy that required documentation for issuer audits to be assembled for retention within 45 days of the release of an audit report, the Firm failed to develop sufficient procedures to implement that policy, as illustrated by the Firm's failure to timely assemble complete and final sets of audit documentation for five audits.

27. The Firm's monitoring procedures were also severely deficient. In fact, the Firm had not conducted any internal inspections of their audits since 2018, though it was peer-reviewed twice on non-PCAOB audits and was inspected by the PCAOB three times. Furthermore, in an internal inspection conducted in 2018, one of the findings was that "[i]n the audits inspected, the audit files were not archived using the functionality of the Firm audit software and the occasional modification date was noted after 45 days of report issuance." The Firm, however, failed to take sufficient actions to remediate the identified quality control finding. Instead, the Firm continued to rely upon the individual engagement partners to timely assemble audit documentation for retention, without any oversight or tracking of those partners' compliance.

28. Accordingly, the Firm violated QC § 20 and QC § 30.

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16 *Id.* at .17.

17 *Id.* at .20; *see also* QC § 30.02.

18 *See* QC § 30.03.

iv. Heaton Directly and Substantially Contributed to the Firm's Quality Control Violations

29. PCAOB rules provide that "[a] person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[19]

30. At all relevant times, Heaton was the Firm's head of quality control and responsible for developing and maintaining quality control policies and procedures applicable to the Firm's auditing practice.

31. Despite those responsibilities, Heaton failed to ensure that the Firm would design, implement, and maintain adequate policies and procedures to provide the Firm with reasonable assurance that its engagement personnel would comply with AS 1215. Further, Heaton was aware of the 2018 internal inspection finding discussed above but failed to take sufficient steps to address and remedy that deficiency.

32. As a result, Heaton knew, or was reckless in not knowing, that his above-described acts and omissions would directly and substantially contribute to the Firm's violations of QC § 20 and QC § 30.

33. Accordingly, Heaton violated PCAOB Rule 3502.

IV.

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

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Heaton & Company, PLLC, and Kristofer Heaton are hereby censured.

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19 PCAOB Rule 3502.

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Heaton & Company, PLLC, is revoked.

C. Pursuant to PCAOB Rules 2101 and 5302(a), after two years from the date of this Order, Heaton & Company, PLLC, may reapply for registration.

D. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Kristofer Heaton is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[20]

E. Pursuant to PCAOB Rule 5302(b), Kristofer Heaton may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

F. Pursuant to Sections 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), civil money penalties are imposed on Respondents in the following amounts: (i) Heaton & Company, PLLC – $35,000, and (ii) Kristofer Heaton – $25,000.

    1. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act.

    2. Respondents shall pay the foregoing civil money penalties within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff, or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy

[20] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Heaton. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Heaton & Company, PLLC understands that its failure to pay the civil money penalty imposed on it may alone be grounds to deny any application, pursuant to PCAOB Rule 2106, for registration with the Board.

5. Kristofer Heaton understands that his failure to pay the civil money penalty imposed on him may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.

G. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Heaton & Company, PLLC is required:

1. before filing with the Board any future registration application, to (a) establish policies and procedures for the purpose of providing Heaton & Company, PLLC with reasonable assurance of compliance with AS 1215, *Audit Documentation*, applicable to audits and reviews of issuers, brokers, and dealers; (b) establish a policy of ensuring training of personnel, whether internal or external, on an annual or more frequent regular basis, concerning the requirements of AS 1215; and (c) ensure training pursuant to that policy on at least one occasion prior to submission of the registration application; and

2. to provide with any future registration application a written certification, signed by its CEO or equivalent, of compliance with the above requirements, written evidence of compliance in the form of a narrative, exhibits sufficient to demonstrate compliance, and such additional evidence of and information concerning compliance as the Registration staff of the Division of Registration and Inspections may reasonably request.

H. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Kristofer Heaton is required to complete, prior to filing any petition to terminate his bar and for Board consent to reassociate with a registered public accounting firm, 40 hours

of continuing professional education and training relating to PCAOB auditing standards (such hours shall be in addition to, and shall not be counted in, the continuing professional education he is required to obtain in connection with any professional license).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 12, 2025

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of PricewaterhouseCoopers Accountants N.V.,

Respondent.

PCAOB Release No. 105-2025-025

June 24, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon PricewaterhouseCoopers Accountants N.V. ("PwC Netherlands," the "Firm," or "Respondent"). The Board is:

(1) censuring the Firm;

(2) imposing a civil money penalty in the amount of $3,000,000 on PwC Netherlands; and

(3) requiring PwC Netherlands to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that PwC Netherlands violated PCAOB rules and quality control standards over several years in connection with the Firm's internal training program.

I.

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

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings contained herein, except as to the Board's jurisdiction over Respondent and the subject matter of this proceeding, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **PricewaterhouseCoopers Accountants N.V.** is a public accounting firm headquartered in Amsterdam, Netherlands. PwC Netherlands is a member of the PricewaterhouseCoopers International Limited network. The Firm is registered with the Dutch Authority for the Financial Markets ("AFM"), and at all relevant times was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. PwC Netherlands is, and at all relevant times was, a "registered public accounting firm" as that term is defined by Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i).

B. Summary

2. From at least 2018 to 2022, PwC Netherlands violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing internal training tests. Those quality control failures prevented the Firm from identifying that, during the relevant period, hundreds of Firm personnel were involved in improper answer sharing—either by providing access to test questions or answers, or by receiving such access without reporting it—in connection with online tests for mandatory internal training courses. These courses related

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

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

to a variety of topics, including U.S. auditing standards, U.S. generally accepted accounting principles ("GAAP"), and professional ethics. Firm personnel engaged in the answer sharing through a variety of unauthorized methods, including sending or receiving answers through electronic communications and taking tests jointly. The majority of the professionals who engaged in improper answer sharing performed work for the Firm's Audit and Assurance practice.

C. PwC Netherlands Violated PCAOB Rules and Standards

i. Applicable PCAOB Rules and Quality Control Standards[3]

3. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[4] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[5]

4. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[6] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[7] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[8]

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[3] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the conduct discussed herein.

[4] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[5] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[6] QC § 20.09.

[7] QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control – Competencies Required by a Practitioner-in-Charge of an Attest Engagement.*

[8] QC § 20.13.c; QC § 40.02.c.

5. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[9] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[10] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[11]

ii. Training Requirements for PwC Netherlands Personnel

6. As part of PwC Netherlands' personnel management system, the Firm utilizes internal training programs for its personnel. The training programs are intended to develop knowledge, skills, and competencies for continuing professional development as part of the Firm's quality control processes, and to help employees satisfy some of the continuing professional education requirements imposed by the accountancy board that registers PwC Netherlands' auditors. The Firm's training requirements are intended to be relevant to, among other things, the independence of the Firm's personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. The training requirements can vary by a professional's position, role, and industry practice area.

7. Since at least 2018, the Firm has utilized online platforms to offer training to its personnel. The platforms enable the Firm to deliver, track, and record completion of mandatory internal training and testing. The platforms record the dates and times when personnel access and complete the training and testing.

8. The internal trainings utilized by the Firm often include a testing component. For training courses with a testing component, the Firm does not credit personnel with completing the training until they pass the related test.

iii. Failures by PwC Netherlands to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

9. Between 2018 and 2022, PwC Netherlands had in place certain quality control policies and procedures intended to address integrity and personnel management. For example, the Firm's Code of Conduct generally advised personnel that they should act with integrity and emphasized that Firm professionals have a responsibility to report breaches of the Code of Conduct when discovered. However, the Code of Conduct did not specifically discuss

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9 QC § 20.08.

10 *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice; see also* QC § 20.20.

11 *See* QC § 20.20.c-.d; QC § 30.02.c-.d.

the sharing of answers or questions to training tests. The Firm did not amend its Code of Conduct to specifically discuss the sharing of training test answers or questions until after 2022.

10. In June 2019, PwC Netherlands became aware of substantial answer sharing at a U.S. member firm of the KPMG International Limited network of firms, through that firm's settlement of an enforcement action brought by the U.S. Securities and Exchange Commission.[12] Even after learning of that misconduct, PwC Netherlands did not appropriately evaluate and address the risk of improper answer sharing among its personnel.

11. Starting in August 2020, the Firm added specific language to some of its training tests warning against answer sharing in connection with the tests, but this warning language had still not been included in all of the Firm's mandatory audit and compliance trainings as of the end of 2022. Additionally, it was not until mid-2022 that the Firm supplemented the training test warnings with broader messaging to its personnel, such as through firmwide postings, specifying that improper answer sharing was prohibited.

12. As described below, the Firm's policies and procedures were inadequate to prevent or detect the extensive improper answer sharing on training tests that occurred among PwC Netherlands personnel over multiple years.

iv. Widespread Sharing of Answers to Training Tests at PwC Netherlands

13. From at least 2018 to 2022, hundreds of PwC Netherlands personnel engaged in improper answer sharing related to training tests. This misconduct occurred through a variety of methods, including Firm personnel emailing questions and answers to colleagues and taking tests together that were intended to assess individual knowledge. During this time period, no one reported this misconduct to appropriate parties within the Firm.

14. Instances of improper answer sharing occurred in connection with tests that were a part of PwC Netherlands' mandatory training. Firm personnel engaged in such misconduct in connection with tests for trainings concerning professional independence, PCAOB audit requirements, U.S. GAAP, and professional integrity.

15. The improper answer sharing at PwC Netherlands included a number of the Firm's partners and directors, and involved some Firm leaders. For example, a Firm partner stepped down from a PwC Netherlands' senior leadership role after the Firm discovered that the partner and another colleague had met together while taking a mandatory test. None of these individuals reported their misconduct to appropriate parties at the Firm before the Firm became the subject of a regulatory investigation in 2023.

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12 *See KPMG LLP*, SEC Rel. No. 34-86118 (June 17, 2019).

16. As illustrated by the misconduct described above, from 2018 to 2022, PwC Netherlands failed to establish and implement policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (1) PwC Netherlands personnel performed all professional responsibilities with integrity; (2) PwC Netherlands personnel to whom work was assigned had the degree of technical training and proficiency required in the circumstances; and (3) PwC Netherlands personnel participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies. Accordingly, the Firm violated PCAOB quality control standards related to integrity and personnel management.[13]

IV.

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

In ordering sanctions, the Board took into account that the Firm will be subject to an intensive supervision program conducted by the AFM, which conducted a concurrent investigation with the PCAOB in this matter. The Board understands that this supervision program will include remediation, conducting a root cause analysis, establishing policies and procedures to prevent and detect improper answer sharing at the Firm, and exploring further appropriate changes to Firm culture.

The Board also took into account the Firm's extraordinary cooperation in this matter.[14] Specifically, the Firm provided substantial assistance to the PCAOB's investigation by conducting, and providing to the PCAOB the results of, an extensive internal investigation into improper answer sharing among its personnel. As part of the internal investigation, the Firm collected and analyzed a voluminous amount of electronic data using an expansive array of search parameters. Additionally, the Firm applied optical character recognition to millions of electronic records of hundreds of individuals to optimize the review process. The Firm also interviewed hundreds of Firm personnel, encouraged self-reporting by individuals, and met frequently, on a regular basis, with the PCAOB to provide comprehensive, detailed reports and to receive feedback on the ongoing internal investigation.

Additionally, since the answer sharing misconduct occurred, the Firm has implemented remedial and corrective measures aimed at ending improper answer sharing at the Firm.

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[13] *See* QC § 20.09, .13.b-.c, .20; QC § 30.02; and QC § 40.02.b-.c.

[14] *See Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations*, PCAOB Rel. No. 2013-003 (Apr. 24, 2013).

Among other actions, the Firm implemented an annual confirmation for personnel to certify that they have complied with the Firm's policies, which now include an explicit ban on improper answer sharing. The Firm also increased messaging and training among its personnel to communicate that improper answer sharing is prohibited. Additionally, the Firm disciplined Firm personnel who were found to have engaged in improper answer sharing.

Absent this extraordinary cooperation, the civil money penalty imposed would have been significantly larger, and the Board may have imposed additional sanctions.

Accordingly, it is hereby ORDERED that:

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

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $3,000,000 is imposed on PwC Netherlands.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. PwC Netherlands shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board; (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (iii) submitted under a cover letter which identifies PwC Netherlands as the Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street N.W, Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. PwC Netherlands understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), PwC Netherlands is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures as described in QC § 20.20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*, to provide the Firm with reasonable assurance that (a) personnel perform all internal training and tests associated with such training with integrity; (b) personnel to whom work has been assigned have the degree of technical training and proficiency required in the circumstances; (c) personnel participate in general and industry-specific continuing professional education that enable them to fulfill responsibilities assigned; and (d) the above-described policies and procedures are suitably designed and are being effectively applied.[15]

2. Within 120 days of the entry of this Order, to provide a certification, signed by its CEO, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with Section IV.C.1. above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. PwC Netherlands shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of the Enforcement and Investigations may reasonably request.

3. To make available to the PCAOB any document or report submitted by the Firm to the AFM as part of its intensive supervision of the Firm, within

[15] On December 15, 2025, QC 1000, *A Firm's System of Quality Control,* will become effective. By that date, the Firm must be in compliance with that quality control standard with respect to these matters.

14 days of any such request by the Division of Enforcement and Investigations.

4. The Firm understands that the failure to satisfy any provision of Section IV.C. may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 24, 2025

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Order Making Findings and Imposing Sanctions

In the Matter of Michael T. Studer CPA P.C. and Michael T. Studer, CPA,

Respondents.

PCAOB Release No. 105-2025-022

June 24, 2025

By this Order Making Findings and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Michael T. Studer CPA P.C. ("Firm") and Michael T. Studer, CPA ("Studer") (collectively, "Respondents");

(2) revoking the Firm's registration;

(3) barring Studer from being an associated person of a registered public accounting firm; and

(4) imposing a civil money penalty in the amount of $20,000, jointly and severally, on the Firm and Studer.

The Board is imposing these sanctions on the basis of its findings that: (a) Respondents violated PCAOB rules and standards in connection with performing the audit of the financial statements of an issuer client; (b) Studer failed to properly supervise the work of the engagement team on that audit; (c) the Firm violated PCAOB standards by failing to obtain an engagement quality review ("EQR") in connection with that audit; (d) the Firm violated PCAOB quality control standards; and (e) Studer directly and substantially contributed to the Firm's EQR and quality control violations.

I.

On June 20, 2024, the Board instituted disciplinary proceedings against Respondents pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and

PCAOB Rule 5200(a)(1). The Board determined, under Section 105(c)(2) of the Act and PCAOB Rule 5203, that good cause was shown to make the hearing in this proceeding public, and the Division of Enforcement and Investigations consented to making the hearing public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, Respondents did not consent to make the hearing in this proceeding public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement (the "Offers") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[1]

III.

On the basis of Respondents' Offers, the Board finds that:[2]

A. Respondents

1. **Michael T. Studer CPA P.C.** is a public accounting firm located in Freeport, New York. The Firm registered with the Board on November 5, 2003, pursuant to Section 102 of the Act and PCAOB rules. The Firm audited and issued audit reports containing unqualified opinions, with explanatory paragraphs regarding going concern, for (a) the financial statements for the fiscal year ended December 31, 2018 of JMU Limited ("JMU") on June 28, 2019 ("JMU Audit"); (b) the financial statements for the fiscal year ended August 31, 2018 of UBI Blockchain Internet Ltd. ("UBI") on December 5, 2018 ("UBI Audit"); and (c) the financial statements for the fiscal year ended December 31, 2018 of The Greater Cannabis Company, Inc. ("TGCC") on April 15, 2019 ("TGCC Audit") (collectively, the "Audits").

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

[2] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

2. **Michael T. Studer CPA** is a certified public accountant licensed by the state of New York (license no. 033662), and is the founder, sole stockholder, and president of the Firm. He is an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Studer served as the engagement partner for each of the Audits.

B. Issuers

3. **JMU Limited** (n/k/a Mercurity Fintech Holding Inc.) is a foreign private issuer incorporated in the Cayman Islands and was, at all relevant times, headquartered in Beijing, People's Republic of China ("China"). According to JMU's fiscal year ("FY") 2018 financial statements, JMU was an offshore holding company primarily engaged in operating a business-to-business online e-commerce platform to provide services to suppliers and consumers in the catering industry in China. On May 21, 2019, JMU acquired Mercurity Limited, f/k/a Unicorn Investment Limited, to establish its blockchain-based infrastructure solutions digital asset business. JMU was, at all relevant times, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

4. **UBI Blockchain Internet Ltd.** was, at all relevant times, incorporated in Delaware and headquartered in Hong Kong, a Special Administrative Region of China. UBI disclosed in its public filings that, during 2018, it was primarily focused on research and development and application of blockchain technology, including the combination of Internet of Things and other technologies, to health industry issues prevalent in China. UBI was, at all relevant times, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. **The Greater Cannabis Company, Inc.** is incorporated in Florida and headquartered in Baltimore, Maryland. TGCC disclosed in its public filings that it is an emerging growth company currently engaged in the commercialization of its technology for medicinal or recreational cannabis. TGCC was, at all relevant times, an "issuer" as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

6. This matter concerns Respondents' violations of PCAOB rules and auditing standards in connection with the JMU Audit.[3] Specifically, during the JMU Audit, Respondents failed to test a material revenue stream comprising 12% of JMU's total reported revenue; failed to obtain sufficient appropriate audit evidence to support the remaining 88% of JMU's reported revenue; failed to test management's estimates underlying its full impairment of $106 million in goodwill intangible assets; and failed to adequately document Respondents' work on the audit.

[3] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the JMU Audit.

Studer also failed to appropriately supervise work performed by the JMU Audit engagement team. Additionally, the Firm failed to obtain concurring approval of issuance of the JMU Audit report from an engagement quality reviewer.

7. This matter also concerns the Firm's violations of PCAOB rules and quality control standards during the time of the JMU Audit by failing to implement adequate quality control policies and procedures, including monitoring procedures, to provide it with reasonable assurance that the work performed by engagement personnel met applicable professional standards and regulatory requirements. These violations are illustrated by Respondents' failures to (a) adequately perform journal entry testing to address certain identified fraud risks, and (b) make mandatory audit committee communications when performing the Audits; and (c) properly assemble and retain audit documentation in accordance with PCAOB standards when performing the JMU Audit and UBI Audit.

8. Finally, Studer, as the Firm's sole owner and partner and as the individual responsible for the Firm's system of quality control, knowingly or recklessly, and directly and substantially, contributed to the above quality control and EQR violations by the Firm, in violation of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

9. The above-described violations occurred despite the PCAOB's previous notice to Respondents that such misconduct ran afoul of PCAOB auditing standards and quality control standards. For example, in 2012, the Board issued a disciplinary order against Respondents (the "2012 Disciplinary Order") finding violations similar to the ones Respondents committed in the Audits for 2018. The 2012 Disciplinary Order identified violations of PCAOB auditing standards in connection with five issuer audits, and violations of quality control standards.[4] The violations included Respondents' failure to appropriately test the valuation of an intangible asset, failure to satisfy PCAOB audit documentation standards, and failure to adequately monitor compliance with the Firm's quality control policies and procedures. The 2012 Disciplinary Order required the Firm to improve its system of quality control, with the help of an independent monitor, and the order restricted the professional activities that Respondents were allowed to perform, the last restriction expiring in September 2015.

10. Respondents were also on notice of such issues from the findings of PCAOB inspections of the Firm conducted before the Audits. The inspection findings identified multiple Firm audits containing deficiencies similar to the above-described failures to test journal

[4] *See In the Matter of Michael T. Studer, CPA, P.C. and Michael T. Studer, CPA*, PCAOB Rel. No. 105-2012-007 (Sept. 7, 2012).

entries, make required audit committee communications, and assemble and retain audit documentation, as well as quality control deficiencies.

11. Despite these repeated notices from the PCAOB, including a Board order requiring the Firm to improve its system of quality control, Respondents persisted in committing the same types of misconduct during the Audits, in violation of PCAOB auditing standards and quality control standards.

D. Respondents Violated PCAOB Rules and Standards in Connection with the JMU Audit

12. In connection with the preparation or issuance of an audit report, PCAOB rules require that registered public accounting firms and their associated persons comply with the Board's auditing and related professional practice standards.[5] An auditor is in a position to express an unqualified opinion on the financial statements when the auditor conducted an audit in accordance with the standards of the PCAOB and concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework.[6]

13. PCAOB standards also require that an auditor exercise due professional care in planning and performing an audit.[7] Due professional care requires that the auditor exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence.[8] "[P]rofessional skepticism requires an ongoing questioning of whether the information and evidence obtained suggests that a material misstatement due to fraud has occurred."[9]

14. PCAOB standards require that the auditor "design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant

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[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[6] *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*; *see also* AS 2810.30-.31, *Evaluating Audit Results* (requiring auditors to evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework, including whether the financial statements contain the information essential for a fair presentation).

[7] AS 1015.01, *Due Professional Care in the Performance of Work*.

[8] *See id.* at .07; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 2401.13, *Consideration of Fraud in a Financial Statement Audit*.

[9] AS 2401.13.

assertion of each significant account and disclosure."[10] "The audit procedures that are necessary to address the assessed fraud risks depend upon the types of risks and the relevant assertions that might be affected."[11]

15. Auditors are required to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report, including obtaining reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud.[12]

16. As described below, Respondents failed to comply with these and other PCAOB rules and standards in connection with the JMU Audit.

i. Respondents Failed to Obtain Sufficient Appropriate Audit Evidence Regarding JMU's Reported Revenue

17. "[T]he auditor should perform substantive procedures, including tests of details, that are specifically responsive to the assessed fraud risks."[13]

18. "Audit evidence consists of both information that supports and corroborates management's assertions regarding the financial statements . . . and information that contradicts such assertions."[14] Appropriateness is the measure of the quality of audit evidence, i.e., its relevance and reliability. To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based.[15]

19. If audit evidence obtained from one source is inconsistent with audit evidence obtained from another source, "the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit."[16]

20. When an auditor uses information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to, among other things, test the accuracy and

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[10] AS 2301.08.

[11] *Id.* at .12; *see also* AS 2401.52.

[12] *See* AS 1101.03, *Audit Risk*; AS 1105.04, *Audit Evidence*.

[13] AS 2301.13.

[14] AS 1105.02.

[15] *Id.* at .06.

[16] *Id.* at .29.

completeness of the information, or test the controls over the accuracy and completeness of that information.[17]

21. "If a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made," and, based on the circumstances, should "consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified."[18]

22. PCAOB standards require an auditor to evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.[19]

a. Respondents Failed to Test Material Portions of JMU's Reported Revenue

23. As Respondents were aware, JMU reported in its 2018 Form 20-F that the company's total annual revenue was $36.5 million. However, the company's revenue lead sheet that Studer reviewed reflected only $32.1 million of revenue for 2018, and Studer noted on the sheet that this amount differed from the financial statements by $4.4 million, without documenting any explanation for the difference. Respondents failed to reconcile this difference, despite the fact that it represented 12% of JMU's reported revenue, and Respondents had identified revenue recognition as a fraud risk and a significant risk of material misstatement for the JMU Audit.

24. During the JMU Audit, management represented to Respondents that the $4.4 million of JMU's 2018 revenue was from online platform services income and exhibit income. But this representation conflicted with JMU's 2018 Form 20-F, which disclosed that revenues related to online platform services for 2018 were only "nominal" and "nil."

25. Despite receiving conflicting representations from management about the $4.4 million, which was over 15 times the audit planning materiality amount of $283,000 that Respondents set for the JMU Audit, Respondents failed to perform any procedures to resolve management's contradictory claims, or to determine whether the $4.4 million was from other sources. When the PCAOB reviewed the JMU Audit during an inspection and identified this failure as an audit deficiency, Respondents wrote in response that they did not perform such

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17 *See id.* at .10.

18 AS 2805.04, *Management Representations*.

19 *See* AS 2810.33-.35.

procedures because online platform services revenue was "only" 12% of total revenue, and JMU's Form 20-F had represented that online platform services revenue was "nominal."

26. Respondents' failures to perform such procedures exhibited (a) a lack of professional skepticism, based on an unquestioning acceptance of management's representation that the $4.4 million in revenue transactions had occurred and was not material; and (b) a lack of due professional care in failing to obtain sufficient appropriate evidence for a material portion of JMU's reported revenue.

27. Accordingly, in addition to failing to perform any procedures in the JMU Audit to test the $4.4 million of purported revenue, in violation of multiple PCAOB standards,[20] Respondents also violated AS 1105.29 by (a) failing to perform audit procedures necessary to resolve management's inconsistent representations about the amount of such revenue; and (b) failing to determine the inconsistency's effect on other aspects of the audit.

b. Respondents Failed to Sufficiently Test JMU's Revenue for Online Direct Sales

28. JMU's online direct sales[21] generated the other 88% of the company's reported revenue in 2018. Respondents' testing of JMU's online direct sales was inadequate because their selection of transactions for testing was not representative of the entire population of such sales.

29. Respondents planned to test JMU's online direct sales through audit sampling, which PCAOB standards describe as "the application of an audit procedure to less than 100 percent of the items within an account balance or class of transactions."[22] To determine the number of items to be selected in a sample, the auditor should take into account tolerable misstatement for the population; the allowable risk of incorrect acceptance (based on the assessments of certain risks); and the characteristics of the population, including the expected size and frequency of misstatements.[23] When an auditor uses audit sampling, "[s]ample items

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[20] *See, e.g.*, AS 1105.04; AS 2301.09, .11, .13; AS 2810.33, .35.

[21] JMU's 2018 Form 20-F disclosed that the company "sells rice, flavoring, oil, seafood, wine and other products relating to catering and hotel industries through online direct sales" to customers.

[22] AS 2315.01, *Audit Sampling*.

[23] *See id.* at .23; *see also id.* at .16. "*The risk of incorrect acceptance* is the risk that the sample supports the conclusion that the recorded account balance is not materially misstated when it is materially misstated." *Id.* at .12.

should be selected in such a way that the sample can be expected to be representative of the population. Therefore, all items in the population should have an opportunity to be selected."[24]

30. Respondents' work papers state that, in testing JMU's online direct sales, Respondents drew their sample of transactions for testing from JMU's accounts receivable activity reports of the customers with the ten largest outstanding receivable balances as of December 31, 2018. Such a sample would have excluded revenue transactions related to customers with accounts receivable balances smaller than those of the above ten customers, as well as revenue transactions for customers with no receivable balance at December 31, 2018. As a result, not all online direct sales transactions had the opportunity to be selected for testing, so Respondents' testing failed to meet the requirements under PCAOB standards for selecting a test sample.[25]

31. In addition, Respondents also failed to determine and select an adequate number of items for the purported sample. In connection with the JMU Audit, Respondents failed to take into account tolerable misstatement for the population, the allowable risk of incorrect acceptance, and the characteristics of the population, as called for by PCAOB standards.[26] Significantly, the Firm's quality control policies required use of a standardized audit form providing step-by-step guidance on how to comply with these standards. Although Respondents used this form to calculate the sample size for their audit sampling of JMU's accounts receivable, which was equivalent to only 13% of total revenue, they failed to use the form when testing the much larger population of JMU's revenue.

32. If Respondents had used the required sampling form for the revenue testing, it would have guided them to select several hundred items for the test sample. But Respondents selected only 72 transactions for their revenue testing. Additionally, Respondents selected the revenue items based on transaction characteristics like larger dollar amounts and unusual transaction descriptions, but this testing of items selected according to specified characteristics does not constitute audit sampling, because not all items in the population had the opportunity to be selected for testing, and the results of those audit procedures cannot legitimately be projected to the entire population.[27]

33. Despite excluding a significant portion of revenue transactions from their sample testing, and failing to adequately determine the number of sample items to select, Respondents relied on the results of that testing to support their audit conclusions over the company's

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[24] *Id.* at .24.

[25] *Id.*

[26] *See id.* at .16, .23.

[27] *See* AS 1105.25-.27.

reported revenue for the year. Respondents did not perform any other procedures to test the excluded transactions, which was an egregious failure, given that approximately 80% of JMU's online direct sales revenue did not have the opportunity to be selected for testing. As a result, the only revenue for which Respondents could expect to obtain sufficient appropriate audit evidence was the revenue transactions that they tested directly, which was, at best, only about $1.4 million of online direct sales revenue, or less than 4% of JMU's total revenue.

34. Accordingly, Respondents' procedures to test online direct sales revenue failed to comply with PCAOB standards regarding audit sampling, and resulted in Respondents failing to obtain sufficient appropriate audit evidence supporting JMU's reported revenue.[28]

ii. Respondents Failed to Adequately Evaluate JMU's Goodwill Impairment Estimate

35. Respondents knew that JMU disclosed in its Form 20-F that it recognized an estimated impairment loss to goodwill of $106 million, which comprised 86% of JMU's total net loss for 2018. The 2018 goodwill impairment charge fully impaired goodwill from JMU's previous FY 2017 balance.

36. PCAOB standards require the auditor to evaluate the reasonableness of accounting estimates made by management in the context of the financial statements taken as a whole.[29]

37. "In evaluating reasonableness, the auditor should obtain an understanding of how management developed the estimate."[30] Based on that understanding, the auditor should then use one or a combination of the following approaches to test the accounting estimate: (1) review and test the process used by management to develop the estimate; (2) develop an independent expectation of the estimate to corroborate the reasonableness of management's estimate; or (3) review subsequent events or transactions occurring prior to the date of the auditor's report.[31] In addition, when evaluating the reasonableness of an estimate, the auditor normally concentrates on key factors and assumptions that are significant to the estimate.[32]

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28 *See, e.g.*, AS 2315.24; AS 2810.33 & .35; and AS 1105.04.

29 AS 2501.04, *Auditing Accounting Estimates*.

30 *Id.* at .10.

31 *Id.*

32 *Id.* at .09.

38. During the JMU Audit, Respondents identified income/expense, including any estimated impairment loss related to goodwill, as a significant audit area and a significant risk of material misstatement.

39. During the audit, Respondents knew or should have known that U.S. Generally Accepted Accounting Principles require companies to test goodwill for impairment on at least an annual basis.[33] Consistent with this requirement, JMU's 2018 Form 20-F disclosed that management tested goodwill for impairment at least annually on December 31, and that the primary technique it used for estimating fair value was the discounted cash flow method.

40. However, Respondents did not obtain an adequate understanding of how management developed its goodwill impairment estimate, and thus could not appropriately evaluate the reasonableness of that estimate in accordance with PCAOB standards.

41. *First*, Respondents failed to obtain management's discounted cash flow analysis or any other analysis regarding how JMU management arrived at the fair value of goodwill. Because Respondents failed to obtain an understanding of the primary technique management used for estimating goodwill impairment, they failed to obtain an adequate understanding of how management developed that estimate, including whether management accumulated relevant, sufficient, and reliable data to arrive at the estimate.

42. *Second*, Respondents failed to employ any of the three evaluation approaches prescribed by AS 2501 to evaluate the impairment estimate. Respondents' audit planning document failed even to identify which of these approaches the engagement team would use, beyond simply planning to "check client calculations" related to the impairment. Moreover, Respondents failed to perform *any* audit procedures to identify, much less evaluate the reasonableness of, key factors and assumptions in JMU's goodwill impairment analysis, and Respondents failed to test any underlying data JMU used in the valuation of goodwill, in violation of PCAOB standards.

43. Accordingly, Respondents violated PCAOB standards by failing to understand how management developed a material estimate and failing to evaluate its reasonableness.[34] Respondents also violated PCAOB standards by failing to design and perform substantive procedures to address an identified significant risk of material misstatement,[35] and failing to obtain sufficient appropriate audit evidence[36] supporting JMU's goodwill valuation.

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[33] *See* ASC 350, *Intangibles – Goodwill and Other*.

[34] *See, e.g.,* AS 2501.04, .07, .09, .10.

[35] *See, e.g.,* AS 2301.08-.09, .11.

[36] *See, e.g.*, AS 1105.04; AS 1015.01, .07-.09.

iii. Studer Failed to Properly Supervise the Work of the JMU Audit Engagement Team

44. According to PCAOB standards, the engagement partner is responsible for the engagement and its performance, including proper supervision of the work of engagement team members and compliance with PCAOB standards.[37] The engagement partner should "[r]eview the work of engagement team members to evaluate whether: (1) [t]he work was performed and documented; (2) [t]he objectives of the procedures were achieved; and (3) [t]he results of the work support the conclusions reached."[38] To determine the extent of supervision necessary for engagement team members to perform their work as directed and form appropriate conclusions, the engagement partner should take into account, among other things, the risks of material misstatement.[39]

45. Studer failed to satisfy these supervisory obligations in multiple ways. *First*, he failed to ensure appropriate supervision of a new contractor auditor (the "Contractor") who resided in mainland China and had never previously worked with Respondents. This supervision failure was particularly serious because, as reflected in the JMU Audit work papers, the Contractor purportedly performed large sections of the JMU Audit.

46. The Contractor performed his work on the JMU Audit in China. Studer never traveled to China for the JMU Audit, and interacted directly with the Contractor regarding the JMU Audit only once, on the date they were introduced to each other during a phone call.

47. *Second*, Studer failed to ensure that the JMU Audit engagement team was instructed on how to document their audit work. This failure contributed to the repeated violations of PCAOB audit documentation standards that are described below.

48. *Third*, multiple JMU Audit work papers that Studer claimed to have reviewed were incomplete or contained errors that he should have corrected during any such review. For example, one work paper identified the Contractor as the auditor who performed certain planning procedures, such as determining staff assignments and the extent of supervision necessary, yet Studer later claimed that he performed those duties himself. Another work paper that Studer signed off as having reviewed was incorrectly included in the Firm's audit file as one of the *Firm's* work papers for the JMU Audit, even though the work paper was generated by another registered accounting firm and the procedures documented in that work paper were not performed by anyone on the JMU Audit engagement team.

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[37] *See* AS 1201.03, *Supervision of the Audit Engagement*.

[38] *Id.* at .05 (footnote omitted).

[39] *See id.* at .06.

49. These deficiencies reflect that Studer failed to supervise the work of the JMU Audit engagement team members with the requisite due professional care. Studer violated PCAOB standards by (a) failing to inform engagement team members of their responsibilities;[40] and (b) failing to adequately review the work of engagement team members to evaluate whether (i) the work was performed and documented, (ii) the objectives of the procedures were achieved, and (iii) the results of the work support the conclusions reached.[41]

iv. Respondents Failed to Follow PCAOB Audit Documentation Standards in Connection with the JMU Audit

50. "Audit documentation is the written record of the basis for the auditor's conclusions that provides the support for the auditor's representations;" it also "facilitates the . . . supervision of the engagement, and is the basis for the review of the quality of the work."[42]

51. Audit documentation should be prepared in sufficient detail to provide a clear understanding of its purpose, source, and the conclusions reached, and organized to provide a clear link to the significant findings or issues in the audit.[43]

52. The auditor must document the actions taken to address significant risks of material misstatement, the results of the procedures performed in response to those risks, and the basis for the conclusions reached in connection with the engagement.[44]

53. Audit documentation also must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the nature, timing, extent, and results of the procedures performed, as well as who performed the work, the date such work was completed, and who reviewed the work and the date of such review.[45]

54. PCAOB standards also provide that an auditor should assemble a complete and final set of audit documentation "for retention as of a date not more than 45 days after the report release date (*documentation completion date*)."[46]

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40 *See id.* at .05a.

41 *See id.* at .05c.

42 AS 1215.02.

43 *See id.* at .04.

44 *See id.* at .12f-1.

45 *See id*. at .06.

46 *Id.* at .15.

55. Respondents failed to satisfy these PCAOB standards related to audit documentation for the JMU Audit.

56. *First*, Respondents failed to appropriately assemble the JMU Audit documentation for retention. Respondents' JMU Audit file was spread across both hard copy documents and a host of unorganized emails and email attachments in various locations. These emails and their attachments lacked internal references to other work papers and failed to provide naming, labeling, or any other context to indicate the documents' purpose or the audit procedures to which they related. Subsequent to the deadline for assembling a complete JMU Audit file, Studer was unable to find documentation of particular work in the JMU Audit file that Respondents claimed should be there.

57. *Second*, for various audit areas, the JMU Audit file after the documentation completion date contained no, or incomplete, evidence of the nature, timing, and extent of audit procedures performed.

58. For example, the revenue-related work papers for online direct sales were comprised only of several high-level schedules that do not clearly evidence their purpose, what if any specific procedures were performed, what if any transactions were selected for testing, what if any evidence was obtained, or the conclusions reached. The JMU Audit file only generally describes *how* transactions were selected and states that engagement team members obtained and tested supporting evidence, without including that evidence or the results of that testing. The audit programs relating to revenue merely reference work papers prepared by another accounting firm that had assisted JMU management in the preparation of its 2018 financial statements, not documentation of audit procedures performed by Respondents.

59. As such, Respondents' JMU Audit documentation was not prepared in sufficient detail to provide a clear understanding of its purpose, source, and the conclusions reached, nor was it appropriately organized to provide a clear link to the significant findings or issues in the audit, as required by PCAOB standards.[47]

60. *Third*, the JMU Audit work papers failed to reliably demonstrate who performed the work, the date such work was completed, and who reviewed the work and the date of such review. This deficiency was a result of Respondents' failure to ensure that the engagement team followed a consistent practice for how to sign off on work papers or otherwise indicate the completion and review of audit work. Symptomatic of this failure is an audit program in the JMU Audit file in which Studer entered sign-offs on behalf of other team members to signify that those team members had performed certain audit procedures, even though they did not actually perform those procedures. Similarly, another work paper in the JMU Audit file contains

[47] *See id.* at .06.

sign-offs for the Contractor signifying that he performed multiple audit procedures, even though Studer later claimed that Studer himself performed those procedures.

61. Accordingly, Respondents violated PCAOB audit documentation standards by failing to ensure that the JMU Audit documentation clearly demonstrates the procedures performed, who performed and reviewed the work and when, the evidence obtained, and the basis for the conclusions reached.

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62. As stated above, all of Respondents' above-described misconduct on the JMU Audit is particularly egregious because they already had been sanctioned for the same types of misconduct in the PCAOB's 2012 Disciplinary Order. This repeated misconduct includes Respondents' failure to appropriately test the valuation of an intangible asset, failure to adequately supervise Firm personnel, and failure to satisfy PCAOB audit documentation standards. Despite the sanctions the Board imposed on Respondents for such misconduct in 2012, including a requirement that they remediate, with the aid of an independent monitor, the deficiencies the Board found, Respondents failed to correct these deficiencies, as demonstrated by their committing the same types of violations during the JMU Audit.

v. The Firm Failed to Obtain Concurring Approval of Issuance from an Engagement Quality Reviewer for the JMU Audit

63. PCAOB standards require that an engagement quality review be performed on all audits.[48] A firm may grant permission to a client to use the engagement report only after an engagement quality reviewer provides concurring approval of issuance of the report.[49] Proper documentation of an engagement quality review should be included in the engagement documentation.[50]

64. The Firm failed to obtain concurring approval of issuance from an engagement quality reviewer prior to the Firm granting to JMU permission to use the engagement report for the JMU Audit, in violation of AS 1220.13.

65. The Firm engaged an outside auditor to serve as the engagement quality reviewer for the JMU Audit (the "Engagement Quality Reviewer"). However, the Engagement Quality Reviewer did not complete his engagement quality review, and the Firm failed to obtain the Engagement Quality Reviewer's concurring approval to issue its engagement report.

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48 AS 1220.01, *Engagement Quality Review*.

49 *See id.* at .13.

50 *See id.* at .19-.20.

66. To the contrary, just hours before the Firm issued the JMU Audit report, the Engagement Quality Reviewer identified several procedures that the engagement team had not yet completed, and he requested additional documentation that he needed in order to provide his concurring approval.

67. The engagement team did not complete those procedures, nor did they provide the Engagement Quality Reviewer with the documents he requested, prior to the Firm issuing its engagement report. Rather, the engagement team did not complete those procedures until November 2019, months after the Firm issued the JMU Audit report. Indeed, the Engagement Quality Reviewer never completed his review or provided his concurring approval of issuance for the JMU Audit.

68. Accordingly, the Firm failed to obtain the Engagement Quality Reviewer's concurring approval of issuance of the engagement report in connection with the JMU Audit, thereby violating AS 1220.13.

E. The Firm Violated PCAOB Rules and Quality Control Standards, and Respondents Violated Other PCAOB Auditing Standards at the Time of the JMU Audit

69. PCAOB rules require a registered public accounting firm and its associated persons to comply with PCAOB quality control standards.[51] These standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice.[52] A firm's system of quality control provides a critical foundation and infrastructure for a firm's audit quality, and should "'ensure that services are competently delivered and adequately supervised.'"[53] The quality control system should include policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality.[54]

70. Quality control policies and procedures for engagement performance should encompass all phases of the design and execution of an engagement.[55] To the extent appropriate and as required by applicable professional standards, these policies and procedures

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51 *See* PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

52 *See* QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

53 *See id.* § .02 (quoting AICPA Code of Professional Conduct, "Article VI—Scope and Nature of Services").

54 *See id.* § 20.17.

55 *See id.* § .18.

should also cover, among other things, planning, performing, and documenting the results of each engagement.[56]

71. Policies and procedures, including monitoring procedures, should be established to provide the firm with reasonable assurance that its system of quality control is suitably designed and being effectively applied.[57] Monitoring involves an ongoing consideration and evaluation of: (1) the relevance and adequacy of the firm's policies and procedures; (2) the appropriateness of the firm's guidance materials and any practice aids; (3) the effectiveness of professional development activities; and (4) compliance with the firm's policies and procedures.[58]

72. Monitoring procedures taken as a whole should enable the firm to obtain reasonable assurance that its system of quality control is effective.[59] "Procedures that provide the firm with a means of identifying and communicating circumstances that may necessitate changes to or the need to improve compliance with the firm's policies and procedures contribute to the monitoring element."[60]

73. A firm's monitoring procedures may include inspection procedures, determination of any corrective actions to be taken and improvements to be made in the quality control system, communication to appropriate firm personnel of any weaknesses identified, and follow up to ensure that any necessary modifications are made to the quality control policies and procedures on a timely basis.[61] The need for, and extent of, inspection procedures depends in part on the existence and effectiveness of the other monitoring procedures employed, including the results of previous inspection procedures and practice reviews, such as PCAOB inspections of the firm.[62]

74. During multiple years in advance of the Audits, PCAOB inspections of the Firm provided Respondents repeated notice that the Firm had deficiencies with respect to certain PCAOB auditing standards and failed to implement policies and procedures sufficient to provide reasonable assurance that its personnel complied with the same applicable professional standards and regulatory requirements that Respondents would later violate during the Audits.

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56 *See id.*

57 *See id.* § .20; *see also* QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

58 QC § 30.02; *see also* QC § 20.20.

59 QC § 30.03.

60 *Id.*

61 *Id.*; *see also* QC §§ 30.04-.08.

62 *See id.* at .05.

Despite this notice, the Firm continued to fail to appropriately implement, and monitor compliance with, such policies and procedures up to and throughout the time of the Audits. These failures related to a number of areas of the Firm's audit practice, including journal entry testing, audit committee communications, and audit documentation.

i. Journal Entry Testing

75. PCAOB auditing standards specify that "[m]aterial misstatements of financial statements due to fraud often involve the manipulation of the financial reporting process by (*a*) recording inappropriate or unauthorized journal entries throughout the year or at period end, or (*b*) making adjustments to amounts reported in the financial statements that are not reflected in formal journal entries."[63] Accordingly, auditors "should . . . [i]dentify and select journal entries and other adjustments for testing."[64] The auditor should obtain an understanding of the company's controls over journal entries and determine whether they are suitably designed and have been placed in operation.[65]

76. Moreover, "even though controls [over the preparation and posting of journal entries and adjustments] might be implemented and operating effectively, the auditor's substantive procedures for testing journal entries and other adjustments should include the identification and substantive testing of specific items."[66] "[T]he auditor's procedures should include selecting from the general ledger journal entries to be tested and examining support for those items."[67]

77. PCAOB auditing standards also specify that "management is in a unique position to perpetrate fraud because of its ability to directly or indirectly manipulate accounting records and prepare fraudulent financial statements by overriding established controls."[68] Accordingly, auditors should perform procedures to specifically address the risk of management override of controls.[69]

78. During the Audits, the Firm's system of quality control failed to provide reasonable assurance that Firm personnel would comply with these standards. The

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63 AS 2401.58.

64 *See id.*

65 *See id.* at .60.

66 *See id.* at .61.

67 *Id.*

68 *Id.* at .57.

69 *See id.*

engagement teams for the Audits, led by Studer, routinely violated the standards, illustrating the failures in the Firm's system of quality control.

79. For example, for each of the Audits, Respondents failed to perform journal entry testing in accordance with PCAOB standards. The engagement teams for the Audits failed to perform and document any procedures to obtain an understanding of the issuers' internal controls over the preparation and posting of journal entries. Similarly, although an audit program for each of the Audits states that the relevant engagement teams had performed journal entry testing, these audit programs contain no reference to any documentation of actual journal entry testing. Nor is any such testing reflected anywhere in the Firm's work papers for the Audits.

80. Moreover, for the JMU Audit, Studer entered sign offs on behalf of certain engagement team members in an audit program to signify that they had performed journal entry testing procedures, when those members never actually performed those procedures.

81. The Firm's failure to adequately perform journal entry testing for the Audits, and to implement sufficient policies and procedures to provide reasonable assurance that such testing would be performed appropriately, was particularly egregious because, prior to the Audits, the Firm had been put on notice of deficiencies in its journal entry testing. For example, during a 2013 PCAOB inspection of the Firm, the PCAOB informed the Firm that it failed to address the risk of management override of controls by testing journal entries with respect to two issuer audits. Studer submitted the Firm's response to the PCAOB, which stated that the Firm would do a better job of documenting its journal entry procedures and better supervise personnel in this area in the future. But as later demonstrated by the Audits, Respondents failed to take adequate remedial action.

82. This pattern of deficiencies continued after the Audits. During the PCAOB's 2021 inspection of the Firm, the PCAOB notified Respondents of their failure to test journal entries for evidence of possible material misstatements due to fraud in connection with two FY 2020 issuer audits. Again, Studer provided the PCAOB with the Firm's response, which admitted that the Firm failed to document journal entry testing procedures for the two FY 2020 audits.

83. In summary, despite being on notice of deficiencies in its journal entry testing, a necessary audit procedure under PCAOB standards, the Firm repeatedly failed to implement timely and necessary corrective action. Collectively, these repeated failures over multiple audits and multiple years illustrate the Firm's violations of PCAOB quality control standards. Specifically, the Firm failed to implement policies and procedures, including monitoring procedures, sufficient to provide it with reasonable assurance that the work performed by Firm personnel with respect to journal entry testing met the requirements of AS 2401. Accordingly, the Firm violated QC § 20 and QC § 30, and Respondents violated AS 2401, at the time of the JMU Audit.

ii. Audit Committee Communications

84. PCAOB standards provide that auditors should communicate certain matters related to the conduct of the audit to the issuer's audit committee, including significant risks identified during risk assessment procedures; the results of the audit; and, when applicable, certain matters relating to the auditor's evaluation of the issuer's ability to continue as a going concern.[70] Auditors should make these communications before issuance of the audit report, and must document them in the work papers.[71]

85. During the Audits, the Firm's system of quality control failed to provide reasonable assurance that Firm personnel would comply with these standards. As a result, the Firm's personnel failed to timely communicate, and document, numerous matters to the clients' audit committees in accordance with PCAOB standards. For example, for all three Audits, the Firm failed to discuss all significant risks identified during the Firm's risk assessment procedures with each of the issuers' audit committees. Additionally, in connection with the JMU Audit and TGCC Audit, the Firm failed to timely communicate its audit results, including its evaluation of each issuer's ability to continue as a going concern, prior to the issuance of each respective audit report.

86. As they were with their deficient journal entry testing, Respondents were on notice before the Audits of deficiencies in the Firm's audit committee communications. For example, during a 2017 PCAOB inspection of the Firm, the PCAOB informed the Firm that it failed to communicate the significant risks and fraud risks it had identified through its risk assessment procedures to the audit committees of issuers in three FY 2016 audits. Studer submitted the Firm's response to the PCAOB, stating that the Firm would document communication of all significant risks to audit committees in the future. However, between 2017 and when it performed the FY 2018 Audits, the Firm failed to make any changes to its system of quality control to provide reasonable assurance that the Firm's personnel would make these audit committee communications.

87. This pattern of deficiencies continued after the Audits. During the PCAOB's 2021 inspection of the Firm, the PCAOB notified Respondents that, with respect to the FY 2020 audits of TGCC and another issuer, the Firm again failed to communicate to those issuers' audit committees significant risks identified during the engagement team's risk assessment. Again, Studer provided the PCAOB with the Firm's response, which admitted that the Firm failed to make such communications, but claimed that the Firm did not consider the risks significant enough to mention to the audit committees.

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[70] *See* AS 1301.09, .12-.13, .17, *Communications with Audit Committees*.

[71] *See id*. at .25-.26.

88. Despite being on notice of deficiencies in its audit committee communications, the Firm repeatedly failed to implement timely and necessary corrective action. Collectively, these repeated failures over multiple audits and multiple years illustrate the Firm's violations of PCAOB quality control standards. Specifically, the Firm failed to establish and implement policies and procedures, including monitoring procedures, sufficient to provide it with reasonable assurance that the work performed by Firm personnel met the requirements of AS 1301. Accordingly, the Firm violated QC § 20 and QC § 30, and Respondents violated AS 1301, at the time of the JMU Audit.

iii. Audit Documentation

89. As illustrated by the pervasive audit documentation failures in connection with the 2018 JMU Audit, the Firm failed to implement, and monitor compliance with, policies and procedures to provide it with reasonable assurance that its personnel documented audit work in accordance with PCAOB standards. In particular, the Firm's quality control system failed to provide reasonable assurance that its personnel prepared documentation with sufficient information to allow an experienced auditor with no prior connection to the audit to determine the procedures performed, evidence obtained, basis for the conclusions reached, as well as who performed and reviewed the work and when. Further illustrating the Firm's failure to implement and monitor compliance with policies and procedures regarding documentation, the JMU Audit file failed to contain multiple work papers that the Firm's quality control policies required in an audit file, such as a Supervision, Review, and Approval form; an Engagement Completion Document; and a Fraud Risk Discussion form.

90. This misconduct is particularly egregious because Respondents failed to appropriately respond to prior notice that the same type of misconduct violated PCAOB standards. The PCAOB's 2012 Disciplinary Order identified audit documentation violations in five of Respondents' issuer audits because the work papers for multiple audit areas failed to indicate who performed the work, the date such work was completed, who reviewed the work, and the date of such review. Additionally, several audit files failed to contain fraud risk procedures work papers. Despite the sanctions the Board imposed on Respondents for such misconduct, including a requirement to remediate the deficiencies with the aid of an independent monitor, Respondents failed to correct these deficiencies, as later demonstrated by the failure to prepare adequate documentation for the JMU Audit.

91. Additionally, the Firm continuously failed to implement effective policies and procedures, including monitoring procedures, to provide it with reasonable assurance that its personnel would assemble for retention a complete and final set of audit documentation by the documentation completion date for each audit.[72]

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[72] *See* AS 1215.15.

92. As an illustration of the deficiencies in the Firm's policies and procedures in that area, the Firm failed to assemble a complete and final set of audit documentation for the JMU Audit and UBI Audit by the applicable documentation completion dates. Consequently, during a PCAOB inspection reviewing those two audits in December 2019, which occurred after the respective documentation completion dates, the Firm provided incomplete audit files to the PCAOB. When the PCAOB informed Studer that many work papers were not included in the audit files, the Firm had to search through email systems to find work papers that Studer claimed routinely reside in email attachments. At the time of the Audits, the Firm had not developed an adequate system to keep track of hard copy work papers, or other documents that the Firm considered to be work papers and that resided in attachments to emails.

93. Again, these repeated failures by the Firm to assemble a complete and final set of audit documentation by the applicable documentation completion date are particularly egregious because the Board found the same type of misconduct to have violated PCAOB standards in the 2012 Disciplinary Order. The 2012 Disciplinary Order identified violations based on two of Respondents' issuer audits where audit programs covering multiple audit areas were not added to the respective audit files until several months after the applicable audit document completion dates. Despite the sanctions the Board imposed on Respondents for such misconduct, including a requirement to remediate the deficiencies with the aid of an independent monitor, Respondents failed to correct these deficiencies, as later demonstrated by their failure to assemble a complete and final set of audit documentation in accordance with PCAOB standards for the JMU Audit.

94. Collectively, the Firm's repeated audit documentation failures over multiple audits and multiple years demonstrate the Firm's failure to implement policies and procedures, including monitoring procedures, sufficient to provide it with reasonable assurance that it would comply with AS 1215. Accordingly, the Firm violated QC § 20 and QC § 30, and Respondents violated AS 1215, at the time of the JMU Audit.

F. Studer at Least Recklessly, and Directly and Substantially, Contributed to the Firm's Violations

95. Studer repeatedly violated PCAOB Rule 3502 by knowingly or recklessly, and directly and substantially, contributing to the Firm's above-described violations of PCAOB auditing standards relating to engagement quality reviews and PCAOB quality control standards.

96. At the relevant time, PCAOB Rule 3502 provided, "A person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations

and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."

97. At all relevant times, Studer was the Firm's sole owner and partner. He was principally responsible for developing, implementing, and monitoring compliance with the Firm's quality control policies and procedures applicable to its auditing practice. As the engagement partner for the Audits, Studer had overall responsibility for the performance of the Audits and compliance with PCAOB standards.[73] Studer also was responsible for ensuring that an engagement quality review was conducted for the JMU Audit.

98. Studer, however, continually disregarded those responsibilities. Despite the PCAOB repeatedly putting him on notice, through its inspections process and through the 2012 Disciplinary Order, of many of the above-mentioned deficiencies in his performance as an engagement partner and in the Firm's system of quality control, Studer failed to adequately remediate his and his engagement teams' performance and his Firm's system of quality control. These circumstances demonstrate that Studer knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to (a) the Firm's failure to obtain concurring approval from an engagement quality reviewer for the JMU Audit; and (b) the Firm's violation of PCAOB quality control standards at the time of the JMU Audit. As a result, Studer violated PCAOB Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm and Studer are hereby censured.

B. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the Firm's registration is revoked.

[73] *See* AS 1201.03.

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Studer is barred from being an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[74]

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $20,000 is imposed, jointly and severally, on the Firm and Studer.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondents shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, bank cashier's check, or attorney escrow account check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the Firm and Studer as respondents in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. By consenting to this Order, the Firm acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny a request for leave pursuant to PCAOB Rule 5302(c) to file an application

[74] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Studer. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

for registration or to deny an application for registration pursuant to PCAOB Rule 2101.

5. By consenting to this Order, Studer acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any request for leave pursuant to PCAOB Rule 5302(c) to petition to terminate a bar or to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 24, 2025

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of EY Accountants B.V.,

Respondent.

PCAOB Release No. 105-2025-024

June 24, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon EY Accountants B.V. ("EY Netherlands," the "Firm," or "Respondent"). The Board is:

(1) censuring the Firm;

(2) imposing a civil money penalty in the amount of $2,500,000 on EY Netherlands; and

(3) requiring EY Netherlands to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that EY Netherlands violated PCAOB rules and quality control standards over several years in connection with the Firm's internal training program.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings contained herein, except as to the Board's jurisdiction over Respondent and the subject matter of this proceeding, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **EY Accountants B.V.** is a public accounting firm headquartered in Rotterdam, Netherlands. EY Netherlands is a member firm of Ernst & Young Global Limited. The Firm is registered with the Dutch Authority for the Financial Markets ("AFM"), and at all relevant times was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. EY Netherlands is, and at all relevant times was, a "registered public accounting firm" as that term is defined by Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i).

B. Summary

2. From at least 2018 to 2022, EY Netherlands violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing internal training tests. Those quality control failures prevented the Firm from identifying that, during the relevant period, hundreds of Firm personnel were involved in improper answer sharing—either by providing access to test questions or answers, or by receiving such access without reporting it—

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

in connection with online tests for mandatory internal training courses. These courses related to a variety of topics, including U.S. auditing standards, U.S. generally accepted accounting principles ("GAAP"), and professional ethics. Firm personnel engaged in the answer sharing through a variety of unauthorized methods, including sending or receiving answers through electronic communications and taking tests jointly. The majority of the professionals who engaged in improper answer sharing performed work for the Firm's Assurance practice.

C. EY Netherlands Violated PCAOB Rules and Standards

i. Applicable PCAOB Rules and Quality Control Standards[3]

3. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[4] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[5]

4. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[6] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[7] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[8]

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[3] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the conduct discussed herein.

[4] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[5] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[6] QC § 20.09.

[7] QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control – Competencies Required by a Practitioner-in-Charge of an Attest Engagement.*

[8] QC § 20.13.c; QC § 40.02.c.

5. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[9] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[10] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[11]

ii. Training Requirements for EY Netherlands Personnel

6. As part of EY Netherlands' personnel management system, the Firm utilizes internal training programs for its personnel. The training programs are intended to develop knowledge, skills, and competencies for continuing professional development as part of the Firm's quality control processes, and to help employees satisfy some of the continuing professional education requirements imposed by the accountancy board that registers EY Netherlands' auditors. The Firm's training requirements are intended to be relevant to, among other things, the independence of the Firm's personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. The training requirements can vary by a professional's position, role, and industry practice area.

7. Since at least 2018, the Firm has utilized online platforms to offer training to its personnel. The platforms enable the Firm to deliver, track, and record completion of mandatory internal training and testing. The platforms record the dates and times when personnel access and complete the training and testing.

8. The internal trainings utilized by the Firm often include a testing component. For training courses with a testing component, the Firm does not credit personnel with completing the training until they pass the related test.

iii. Failures by EY Netherlands to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

9. Between 2018 and 2022, EY Netherlands had in place certain quality control policies and procedures intended to address integrity and personnel management. For example, throughout this period the Firm's Code of Conduct generally advised personnel that

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9 QC § 20.08.

10 *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice; see also* QC § 20.20.

11 *See* QC § 20.20.c-.d; QC § 30.02.c-.d.

they should act with integrity and emphasized that Firm professionals have a responsibility to report breaches of the Code of Conduct when discovered. However, the Code of Conduct did not specifically discuss the sharing of answers or questions to training tests. On an annual basis, the Firm sent all personnel an affirmation form for confirming their compliance with the Code of Conduct, but the Firm did not amend the affirmation form to specifically discuss the sharing of training test answers or questions until mid-2022.

10. In June 2019, EY Netherlands became aware of substantial answer sharing at a U.S. member firm of the KPMG International Limited network of firms, through that firm's settlement of an enforcement action brought by the U.S. Securities and Exchange Commission.[12] Even after learning of that misconduct, EY Netherlands did not appropriately evaluate and address the risk of improper answer sharing among its personnel.

11. Although in June 2020 the Firm started adding mandatory attestations to its training tests warning against answer sharing in connection with the tests, the Firm did not include these attestations in all of the Firm's mandatory audit and compliance training known to have tests until mid-2021.

12. It was not until December 2022 that the Firm engaged in messaging to all of its personnel through firmwide emails or postings specifying that improper answer sharing was prohibited.

13. As described below, the Firm's policies and procedures were inadequate to prevent or detect the extensive improper answer sharing on training tests that occurred among EY Netherlands personnel over multiple years.

iv. Widespread Sharing of Answers to Training Tests at EY Netherlands

14. From at least 2018 to 2022, hundreds of EY Netherlands personnel, including a number of partners and directors, engaged in improper answer sharing related to training tests. This misconduct occurred through a variety of methods, including Firm personnel emailing questions and answers to colleagues and taking tests together that were intended to assess individual knowledge. During this time period, no one reported this misconduct to appropriate parties within the Firm.

15. Instances of improper answer sharing occurred in connection with tests that were a part of EY Netherlands' mandatory training. Firm personnel engaged in such misconduct

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12 *See KPMG LLP*, SEC Rel. No. 34-86118 (June 17, 2019).

in connection with tests for trainings concerning professional independence, PCAOB audit requirements, U.S. GAAP, and professional integrity.

16. As illustrated by the misconduct described above, from 2018 to 2022, EY Netherlands failed to establish and implement policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (a) EY Netherlands personnel performed all professional responsibilities with integrity; (b) EY Netherlands personnel to whom work was assigned had the degree of technical training and proficiency required in the circumstances; and (c) EY Netherlands personnel participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies. Accordingly, the Firm violated PCAOB quality control standards related to integrity and personnel management.[13]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

In ordering sanctions, the Board took into account that the Firm will be subject to an intensive supervision program conducted by the AFM, which conducted a concurrent investigation with the PCAOB in this matter. The Board understands that this supervision program will include remediation, conducting a root cause analysis, establishing policies and procedures to prevent and detect improper answer sharing at the Firm, and exploring further appropriate changes to Firm culture.

The Board also took into account the Firm's extraordinary cooperation in this matter.[14] Specifically, the Firm provided substantial assistance to the PCAOB's investigation by conducting, and providing to the PCAOB the results of, an extensive internal investigation into improper answer sharing among its personnel. As part of the internal investigation, the Firm collected and analyzed a voluminous amount of electronic data using an expansive array of search parameters. Additionally, the Firm applied optical character recognition to millions of electronic records of hundreds of individuals to optimize the review process. The Firm also interviewed hundreds of Firm personnel, encouraged self-reporting by individuals, and met

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[13] *See* QC § 20.09, .13.b-.c, .20; QC § 30.02; and QC § 40.02.b-.c.

[14] *See Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations*, PCAOB Rel. No. 2013-003 (Apr. 24, 2013).

frequently, on a regular basis, with the PCAOB to provide comprehensive, detailed reports and to receive feedback on the ongoing internal investigation.

Additionally, since the answer sharing misconduct occurred, the Firm has implemented remedial and corrective measures aimed at ending improper answer sharing at the Firm. Among other actions, the Firm implemented an annual confirmation for personnel to certify that they have complied with the Firm's policies, which now include an explicit ban on improper answer sharing. The Firm also increased messaging and training among its personnel to communicate that improper answer sharing is prohibited. The Firm also required some personnel to reperform trainings. Additionally, the Firm disciplined Firm personnel who were found to have engaged in improper answer sharing.

Absent this extraordinary cooperation, the civil money penalty imposed would have been significantly larger, and the Board may have imposed additional sanctions.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), EY Netherlands is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $2,500,000 is imposed on EY Netherlands.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. EY Netherlands shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board; (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (iii) submitted under a cover letter which identifies EY Netherlands as the Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown,

Secretary, Public Company Accounting Oversight Board, 1666 K Street N.W, Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. EY Netherlands understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), EY Netherlands is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures as described in QC § 20.20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*, to provide the Firm with reasonable assurance that (a) personnel perform all internal training and tests associated with such training with integrity; (b) personnel to whom work has been assigned have the degree of technical training and proficiency required in the circumstances; (c) personnel participate in general and industry-specific continuing professional education that enable them to fulfill responsibilities assigned; and (d) the above-described policies and procedures are suitably designed and are being effectively applied.[15]

2. Within 120 days of the entry of this Order, to provide a certification, signed by its Assurance Managing Partner, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with Section IV.C.1. above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide

[15] On December 15, 2025, QC 1000, *A Firm's System of Quality Control,* will become effective. By that date, the Firm must be in compliance with that quality control standard with respect to these matters.

written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. EY Netherlands shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of the Enforcement and Investigations may reasonably request.

3. To make available to the PCAOB any document or report submitted by the Firm to the AFM as part of its intensive supervision of the Firm, within 14 days of any such request by the Division of Enforcement and Investigations.

4. The Firm understands that the failure to satisfy any provision of Section IV.C. may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 24, 2025

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Deloitte Accountants B.V.,

Respondent.

PCAOB Release No. 105-2025-023

June 24, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is imposing sanctions upon Deloitte Accountants B.V. ("Deloitte Netherlands," the "Firm," or "Respondent"). The Board is:

(1) censuring the Firm;

(2) imposing a civil money penalty in the amount of $3,000,000 on Deloitte Netherlands; and

(3) requiring Deloitte Netherlands to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that Deloitte Netherlands violated PCAOB rules and quality control standards over several years in connection with the Firm's internal training program.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings contained herein, except as to the Board's jurisdiction over Respondent and the subject matter of this proceeding, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:[2]

A. Respondent

1. **Deloitte Accountants B.V.** is a public accounting firm headquartered in Rotterdam, Netherlands. Deloitte Netherlands is an affiliate of a member firm of the Deloitte Touche Tohmatsu Limited ("Deloitte Global") network. The Firm is registered with the Dutch Authority for the Financial Markets ("AFM"), and at all relevant times was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. Deloitte Netherlands is, and at all relevant times was, a "registered public accounting firm" as that term is defined by Section 2(a)(12) of the Act and PCAOB Rule 1001(r)(i).

B. Summary

2. From at least 2018 to 2022, Deloitte Netherlands violated PCAOB rules and quality control standards related to integrity and personnel management by failing to establish appropriate policies and procedures for administering and overseeing internal training tests. Those quality control failures prevented the Firm from identifying that, during the relevant period, hundreds of Firm personnel were involved in improper answer sharing—either by providing access to test questions or answers, or by receiving such access without reporting it—

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

in connection with online tests for mandatory internal training courses. These courses related to a variety of topics, including U.S. auditing standards, U.S. generally accepted accounting principles ("GAAP"), and professional ethics. Firm personnel engaged in the answer sharing through a variety of unauthorized methods, including sending or receiving answers through electronic communications and taking tests jointly. The majority of the professionals who engaged in improper answer sharing performed work for the Firm's Audit & Assurance practice.

C. Deloitte Netherlands Violated PCAOB Rules and Standards

i. Applicable PCAOB Rules and Quality Control Standards[3]

3. PCAOB rules require that a registered public accounting firm comply with the Board's quality control standards,[4] which provide that a registered firm "shall have a system of quality control for its accounting and auditing practice."[5]

4. As part of a firm's system of quality control, "[p]olicies and procedures should be established to provide the firm with reasonable assurance that personnel . . . perform all professional responsibilities with integrity."[6] In addition, PCAOB quality control standards related to personnel management state that "policies and procedures should be established to provide the firm with reasonable assurance that . . . [w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances."[7] Moreover, "policies and procedures should be established to provide the firm with reasonable assurance that . . . [p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned, and satisfy applicable continuing professional education requirements of . . . regulatory agencies."[8]

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[3] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the conduct discussed herein.

[4] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*.

[5] QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

[6] QC § 20.09.

[7] QC § 20.13.b; QC § 40.02.b, *The Personnel Management Element of a Firm's System of Quality Control – Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.

[8] QC § 20.13.c; QC § 40.02.c.

5. PCAOB quality control standards recognize that "[t]he elements of quality control are interrelated,"[9] and that monitoring procedures are necessary "to provide the firm with reasonable assurance that the policies and procedures related to each of the other elements of quality control are suitably designed and are being effectively applied."[10] Under PCAOB standards, monitoring involves an ongoing consideration and evaluation of, among other things, the effectiveness of professional development activities and compliance with the firm's policies and procedures.[11]

ii. Training Requirements for Deloitte Netherlands Personnel

6. As part of Deloitte Netherlands' personnel management system, the Firm utilizes internal training programs for its personnel. The training programs are intended to develop knowledge, skills, and competencies for continuing professional development as part of the Firm's quality control processes, and to help employees satisfy some of the continuing professional education requirements imposed by the accountancy board that registers Deloitte Netherlands' auditors. The Firm's training requirements are intended to be relevant to, among other things, the independence of the Firm's personnel, the audit work they perform, and the integrity with which they carry out their professional responsibilities. The training requirements can vary by a professional's position, role, and industry practice area.

7. Since at least 2018, the Firm has utilized online platforms to offer training to its personnel. The platforms enable the Firm to deliver, track, and record completion of mandatory internal training and testing. The platforms record the dates and times when personnel access and complete the training and testing.

8. The internal trainings utilized by the Firm often include a testing component. For training courses with a testing component, the Firm does not credit personnel with completing the training until they pass the related test.

iii. Failures by Deloitte Netherlands to Establish Adequate Quality Control Policies and Procedures Related to Integrity and Personnel Management

9. Between 2018 and 2022, Deloitte Netherlands had in place certain quality control policies and procedures intended to address integrity and personnel management. For example, the Firm adopted the Global Principles of Business Conduct (the "Global Code") promulgated by Deloitte Global to outline a shared commitment to ethics and integrity across

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9 QC § 20.08.

10 *Id.*; QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*; *see also* QC § 20.20.

11 *See* QC § 20.20.c-.d; QC § 30.02.c-.d.

the global network of Deloitte firms. The Global Code emphasized to Firm professionals that each of them is accountable for demonstrating high levels of integrity and professionalism at all times, and that they must report breaches of the Global Code when discovered. However, the Global Code did not specifically discuss the sharing of answers or questions to training tests. The Firm did not amend its code of conduct to specifically discuss the sharing of training test answers or questions until after 2022.

10. In June 2019, Deloitte Netherlands became aware of substantial answer sharing at a U.S. member firm of the KPMG International Limited network of firms, through that firm's settlement of an enforcement action brought by the U.S. Securities and Exchange Commission.[12] Even after learning of that misconduct, Deloitte Netherlands did not appropriately evaluate and address the risk of improper answer sharing among its personnel.

11. Although, in November 2019, the Firm started adding language to some of its training tests warning against answer sharing in connection with the tests, the Firm did not include this warning language in all of the Firm's mandatory audit and compliance trainings until 2022. Additionally, it was not until late 2021 that the Firm supplemented the training test warnings with broader messaging via an intranet posting to all Audit & Assurance personnel specifying that improper answer sharing was prohibited.

12. As described below, the Firm's policies and procedures were inadequate to prevent or detect the extensive improper answer sharing on training tests that occurred among Deloitte Netherlands personnel over multiple years.

iv. Widespread Sharing of Answers to Training Tests at Deloitte Netherlands

13. From at least 2018 to 2022, hundreds of Deloitte Netherlands personnel engaged in improper answer sharing related to training tests. This misconduct occurred through a variety of methods, including Firm personnel emailing questions and answers to colleagues and taking tests together that were intended to assess individual knowledge. During this time period, no one reported this misconduct to appropriate parties within the Firm.

14. Instances of improper answer sharing occurred in connection with tests that were a part of Deloitte Netherlands' mandatory training. Firm personnel engaged in such misconduct in connection with tests for trainings concerning professional independence, PCAOB audit requirements, U.S. GAAP, and professional integrity.

15. The improper answer sharing at Deloitte Netherlands included a number of the Firm's partners and directors, and involved some Firm leaders. For example, a member of the

[12] *See KPMG LLP*, SEC Rel. No. 34-86118 (June 17, 2019).

Firm's Executive Board serving as the Firm's Chief Quality Officer resigned in October 2023 after the Firm discovered that he had received the answers to a mandatory test shortly before taking the test. None of these individuals reported their misconduct to appropriate parties at the Firm before the Firm became the subject of a regulatory investigation in 2023.

16. As illustrated by the misconduct described above, from 2018 to 2022, Deloitte Netherlands failed to establish and implement policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that (a) Deloitte Netherlands personnel performed all professional responsibilities with integrity; (b) Deloitte Netherlands personnel to whom work was assigned had the degree of technical training and proficiency required in the circumstances; and (c) Deloitte Netherlands personnel participated in general and industry-specific continuing professional education that enabled them to fulfill responsibilities assigned and satisfy applicable continuing professional education requirements of regulatory agencies. Accordingly, the Firm violated PCAOB quality control standards related to integrity and personnel management.[13]

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

In ordering sanctions, the Board took into account that the Firm will be subject to an intensive supervision program conducted by the AFM, which conducted a concurrent investigation with the PCAOB in this matter. The Board understands that this supervision program will include remediation, conducting a root cause analysis, establishing policies and procedures to prevent and detect improper answer sharing at the Firm, and exploring further appropriate changes to Firm culture.

The Board also took into account the Firm's extraordinary cooperation in this matter.[14] Specifically, the Firm provided substantial assistance to the PCAOB's investigation by conducting, and providing to the PCAOB the results of, an extensive internal investigation into improper answer sharing among its personnel. As part of the internal investigation, the Firm collected and analyzed a voluminous amount of electronic data using an expansive array of search parameters. Additionally, the Firm applied optical character recognition to millions of electronic records of hundreds of individuals to optimize the review process. The Firm also

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[13] *See* QC § 20.09, .13.b-.c, .20; QC § 30.02; and QC § 40.02.b-.c.

[14] *See Policy Statement Regarding Credit for Extraordinary Cooperation in Connection with Board Investigations*, PCAOB Rel. No. 2013-003 (Apr. 24, 2013).

interviewed hundreds of Firm personnel, encouraged self-reporting by individuals, and met frequently, on a regular basis, with the PCAOB to provide comprehensive, detailed reports and to receive feedback on the ongoing internal investigation.

Additionally, since the answer sharing misconduct occurred, the Firm has implemented remedial and corrective measures aimed at ending improper answer sharing at the Firm. Among other actions, the Firm implemented an annual confirmation for personnel to certify that they have complied with the Firm's policies, which now include an explicit ban on improper answer sharing. The Firm also increased messaging and training among its personnel to communicate that improper answer sharing is prohibited. The Firm also required some personnel to reperform trainings. Additionally, the Firm disciplined Firm personnel who were found to have engaged in improper answer sharing.

Absent this extraordinary cooperation, the civil money penalty imposed would have been significantly larger, and the Board may have imposed additional sanctions.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Deloitte Netherlands is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $3,000,000 is imposed on Deloitte Netherlands.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Deloitte Netherlands shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board; (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (iii) submitted under a cover letter which identifies Deloitte Netherlands as the Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W.

Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street N.W, Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Deloitte Netherlands understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Deloitte Netherlands is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures as described in QC § 20.20, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*, to provide the Firm with reasonable assurance that (a) personnel perform all internal training and tests associated with such training with integrity; (b) personnel to whom work has been assigned have the degree of technical training and proficiency required in the circumstances; (c) personnel participate in general and industry-specific continuing professional education that enable them to fulfill responsibilities assigned; and (d) the above-described policies and procedures are suitably designed and are being effectively applied.[15]

2. Within 120 days of the entry of this Order, to provide a certification, signed by its Business Lead for Audit & Assurance, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with Section IV.C.1. above. The certification shall identify the actions undertaken to satisfy the conditions specified above

[15] On December 15, 2025, QC 1000, *A Firm's System of Quality Control,* will become effective. By that date, the Firm must be in compliance with that quality control standard with respect to these matters.

(including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. Deloitte Netherlands shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of the Enforcement and Investigations may reasonably request.

3. To make available to the PCAOB any document or report submitted by the Firm to the AFM as part of its intensive supervision of the Firm, within 14 days of any such request by the Division of Enforcement and Investigations.

4. The Firm understands that the failure to satisfy any provision of Section IV.C. may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

June 24, 2025

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Raymond Chabot Grant Thornton LLP,

Respondent.

PCAOB Release No. 105-2025-028

July 8, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Raymond Chabot Grant Thornton LLP ("Raymond Chabot," "Firm," or "Respondent");

(2) imposing a $30,000 civil money penalty on Raymond Chabot; and

(3) requiring Raymond Chabot to comply with its policies and procedures directed toward ensuring compliance with PCAOB reporting requirements.

The Board is imposing these sanctions on the basis of its findings that Raymond Chabot failed to disclose certain reportable events to the PCAOB on Form 3, *Special Report*, on a timely basis.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has

determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings here, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Raymond Chabot Grant Thornton LLP** is a public accounting firm organized under the laws of Canada. The Firm is headquartered in Montréal, Québec. Raymond Chabot is, and at all relevant times was, registered with the PCAOB pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns Raymond Chabot's failure to timely disclose to the PCAOB on Form 3 six reportable events concerning three proceedings brought against it by a local regulator (the "Regulator").[2] PCAOB rules require registered firms, including Raymond Chabot, to complete and file with the PCAOB a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence. Among the events that Raymond Chabot is required to report on Form 3 are the Firm becoming aware that it has become a respondent in certain proceedings and the conclusion of such proceedings.

3. Between April 2022 and February 2024, the Regulator initiated and concluded three separate proceedings against the Firm pertaining to professional services performed for Firm clients.

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Pursuant to PCAOB Rule 2300(b)(1), a registered accounting firm "may request confidential treatment of information on" Form 3. Raymond Chabot requested confidential treatment of certain information concerning the relevant proceedings initiated against the Firm when it belatedly filed a Form 3 to report those proceedings on December 19, 2024. That request is pending a determination by the Board. Accordingly, the Board has anonymized certain information about the matters.

4. The initiation and conclusion of each of these proceedings constituted a reportable event under Form 3, but Raymond Chabot failed to report them on Form 3 until after the applicable deadlines.

C. Respondent Failed to Timely Disclose Certain Reportable Events to the Board, in Violation of PCAOB Rules

5. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[3] One such event occurs when a firm "has become aware that, in a matter arising out of the Firm's conduct in the course of providing professional services for a client, the Firm has become a defendant or respondent in a civil or alternative dispute resolution proceeding initiated by a governmental entity or in an administrative or disciplinary proceeding other than a Board disciplinary proceeding."[4]

6. Another reportable event occurs when a firm has become aware that a reportable proceeding (i.e., a reportable event under Items 2.4 – 2.9 of Form 3) has been concluded as to the firm.[5]

7. In April 2022, Raymond Chabot became aware that the Regulator had initiated and concluded a proceeding against the Firm pertaining to professional services performed for Firm clients ("April 2022 Proceeding").

8. In February 2023, Raymond Chabot became aware that the Regulator had initiated and concluded another proceeding against the Firm pertaining to professional services performed for Firm clients ("February 2023 Proceeding").

9. In February 2024, Raymond Chabot became aware that the Regulator had initiated a third proceeding against the Firm pertaining to professional services performed for a

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[3] See PCAOB Rule 2203, *Special Reports*. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." *Rules on Periodic Reporting by Registered Public Accounting Firms*, PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[4] PCAOB Form 3, at Item 2.7 (italics in the original removed).

[5] *Id*. at Item 2.10.

Firm client ("February 2024 Proceeding"). In March 2024, Raymond Chabot became aware that the Regulator had concluded the February 2024 Proceeding.

10. The initiation and conclusion of each of these proceedings constituted a reportable event under Form 3. Accordingly, the Firm was required to report those events to the PCAOB on Form 3 within thirty days of their occurrence.[6] However, despite being aware of the initiation and conclusion of each proceeding on or around the date they occurred, the Firm failed to report each of these events until December 19, 2024. Those Form 3 filings came approximately 32 months after the initiation and conclusion of the April 2022 Proceeding, 22 months after the initiation and conclusion of the February 2023 Proceeding, and 9 months after the initiation and conclusion of February 2024 Proceeding.

11. Raymond Chabot's internal compliance and reporting systems failed to identify the initiation and conclusion of the three proceedings as being reportable to the PCAOB on Form 3 on a timely basis. As a result, Raymond Chabot inappropriately failed to notify the PCAOB of six reportable events concerning relevant proceedings by the applicable deadline, in violation of PCAOB Rule 2203.

IV.

12. Raymond Chabot has represented to the Board that, since the events described in this Order, it has established and implemented the following changes to its policies and procedures for the purpose of providing Raymond Chabot with reasonable assurance of compliance with PCAOB reporting requirements:

a. Raymond Chabot has revised and supplemented its policies and procedures for the purpose of providing Raymond Chabot with reasonable assurance of compliance with PCAOB reporting requirements, including policies and procedures providing reasonable assurance that reportable events are identified by Raymond Chabot personnel who participate in Raymond Chabot's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

b. Raymond Chabot has established policies to ensure training concerning PCAOB reporting requirements, at least annually, of any Raymond Chabot personnel who participate in the Firm's PCAOB reporting process; and

[6] *See* PCAOB Rule 2203(a).

c. Raymond Chabot has assigned the role of compliance with PCAOB reporting matters to a team of individuals within the Firm who possess adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within Raymond Chabot to fulfill those requirements on behalf of Raymond Chabot.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Raymond Chabot is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $30,000 is imposed upon Raymond Chabot.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Raymond Chabot shall pay this civil money penalty within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by PCAOB staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies Raymond Chabot as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Raymond Chabot understands that failure to pay the civil money penalty described above may result in summary suspension of Raymond Chabot's registration, pursuant to PCAOB Rule 5304(a), following written notice to Raymond Chabot at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Raymond Chabot is required to comply with its revised PCAOB reporting policies and procedures, including:

1. those intended to provide reasonable assurance that reportable events are identified by Raymond Chabot personnel who participate in Raymond Chabot's PCAOB reporting process and that those events are reported on the applicable PCAOB form in a timely and complete manner;

2. those ensuring training concerning PCAOB reporting requirements, at least annually, of any Raymond Chabot personnel who participate in Raymond Chabot's PCAOB reporting process; and

3. those assigning the role of compliance with PCAOB reporting matters to a team of individuals within Raymond Chabot who possess adequate knowledge and experience with PCAOB reporting requirements and sufficient authority within Raymond Chabot to fulfill those requirements on behalf of Raymond Chabot.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 8, 2025

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of PWR CPA LLP,

Respondent.

PCAOB Release No. 105-2025-029

July 8, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring PWR CPA LLP ("PWR," "Respondent," or the "Firm");

(2) imposing a civil money penalty in the amount of $60,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order prior to submitting any future registration application and to provide evidence of the remedial actions with any future registration application.[1]

The Board is imposing these sanctions on the basis of its findings that the Firm violated PCAOB rules and standards in an audit of one issuer and repeatedly failed to comply with PCAOB reporting requirements.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c)

[1] PWR filed a Form 1-WD on January 17, 2025, requesting leave to withdraw from registration with the Board. That request will be addressed by the Board in accordance with PCAOB Rule 2107, *Withdrawal from Registration*. PWR will not withdraw its Form 1-WD prior to establishing, revising, or supplementing, as necessary, its policies and procedures as described in Paragraph IV.C.1 of this Order and submitting the written certification described in Paragraph IV.C.2 of this Order.

of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order.[2]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **PWR CPA LLP** is a public accounting firm located in Houston, Texas. PWR is licensed to practice public accounting by the Texas State Board of Public Accountancy (license number P05877). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Issuers

2. **Ainos, Inc.** ("Ainos"), at all relevant times, was a Texas company headquartered in San Diego, California. According to its public filings in the relevant period, Ainos was engaged in developing medical technologies for point-of-care testing and safe and novel medical treatment for a broad range of disease indications. At all relevant times, Ainos was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

3. **ADM Endeavors, Inc.** ("ADMQ"), at all relevant times, was a Nevada company headquartered in Haltom City, Texas. According to its public filings, ADMQ was, during the relevant period, the parent company of, and conducted its business operations through, Just Right Products Inc., which engaged in screen-print promotions, embroidery production, digital production, import wholesale sourcing, and uniforms. At all relevant times, ADMQ was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

[2] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

4. **Rapid Therapeutic Science Laboratories, Inc.** ("Rapid Therapeutic"), at all relevant times, was a Nevada company headquartered in Dallas, Texas. According to its public filings in the relevant period, Rapid Therapeutic was a biotech company specializing in the research and development of natural relief products through aerosol delivery, including non-psychoactive cannabinoids. At all relevant times, Rapid Therapeutic was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

5. **Reliant Holdings, Inc.** ("Reliant Holdings"), at all relevant times, was a Nevada company headquartered in Austin, Texas. According to its public filings in the relevant period, Reliant Holdings was engaged, through multiple subsidiaries, in various businesses. At all relevant times, Reliant Holdings was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

6. **StemGen, Inc.** ("StemGen"), at all relevant times, was a Delaware company headquartered in Angleton, Texas. According to its public filings in the relevant period, StemGen, through its subsidiary D3esports, Inc., planned to hold monthly time trial format competitions through an eSports platform. At all relevant times, StemGen was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

C. Summary

7. This matter concerns PWR's violations of PCAOB rules and standards in connection with its audit of the financial statements of Ainos for the year ended December 31, 2022 ("2022 Ainos Audit"). Specifically, the Firm failed to perform certain risk assessment procedures and failed to appropriately evaluate whether certain matters were critical audit matters ("CAMs") during the 2022 Ainos Audit.

8. This matter also concerns PWR's repeated failures to comply with PCAOB reporting requirements. PWR failed to timely file: (1) nine required PCAOB Form APs, in violation of PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*; and (2) a PCAOB Form 3, as required by PCAOB Rule 2203, *Special Reports*, to identify that it had added a partner whom the U.S. Securities and Exchange Commission (SEC or the "Commission") had denied the privilege of appearing or practicing before the Commission as an accountant.

D. Respondent Violated PCAOB Rules and Standards

i. The Firm Violated PCAOB Rules and Standards in Connection with its Audit of Ainos

a. The Firm Failed to Perform Certain Risk Assessment Audit Procedures

9. PCAOB rules require that registered public accounting firms comply with applicable auditing and related professional practice standards.[3] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has conducted an audit in accordance with PCAOB standards and the auditor has formed an opinion that the financial statements present fairly, in all material respects, an entity's financial position, results of operations, cash flows, and disclosures in conformity with the applicable financial reporting framework.[4]

10. Among other things, PCAOB standards provide that firms should perform risk assessment procedures that are sufficient to provide a reasonable basis for identifying and assessing the risks of material misstatement, whether due to error or fraud, and designing further audit procedures.[5] As part its risk assessment procedures, the auditor should conduct inquiries of the company's audit committee regarding risks of material misstatement, including fraud risks.[6]

11. In the 2022 Ainos Audit, the Firm failed to conduct inquiries of Ainos' audit committee concerning fraud risks. As a result, the Firm violated AS 2110.

b. The Firm Failed to Evaluate Whether Matters Communicated to the Audit Committee Were Critical Audit Matters

12. PCAOB standards require an auditor to determine and communicate in the audit report whether there were any CAMs in the audit of the current period's financial statements.[7]

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[3] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the conduct discussed herein.

[4] *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

[5] *See* AS 2110.04, *Identifying and Assessing Risks of Material Misstatement*.

[6] *See id. at* .54, .56b.

[7] *See* AS 3101.11, .13.

A CAM is "any matter arising from the audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved especially challenging, subjective, or complex auditor judgment."[8]

13. In the 2022 Ainos Audit, the Firm did not appropriately evaluate whether certain matters were CAMs, as required by AS 3101.[9] Specifically, while the Firm identified the impairment of intangible assets as a CAM, for seven other matters that were communicated or required to be communicated to Ainos' audit committee, and related to material accounts and disclosures, the Firm failed to determine whether they involved especially challenging, subjective, or complex auditor judgment, and thus were CAMs. As a result, the Firm violated AS 3101.

ii. Respondent Failed to Timely File Form APs in Violation of PCAOB Rule 3211

14. PCAOB Rule 3211 provides that each registered public accounting firm must provide information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP for each audit report issued by the firm for an issuer. Form APs must be filed by the 35th day after the date the audit report is first included in a document filed with the SEC,[10] subject to a shorter filing deadline that applies when the audit report is first included in a registration statement filed under the Securities Act of 1933, as amended.[11]

15. Between June 2020 and May 2023, the Firm failed to timely file nine Form APs relating to its audits of financial statements for five issuers, as follows.

a. The Firm audited the financial statements of Ainos for the years ended December 31, 2021, and 2022.

i. For Ainos' 2021 financial statements, the Firm issued an audit report dated March 18, 2022, which was included in Ainos' Form 10-K filed with the SEC on March 21, 2022. The Firm belatedly filed the Form AP on June 24, 2022, 60 days after it was due.

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8 *Id*. at .11 (footnote omitted).

9 *Id*. at .11 and .12.

10 *See* PCAOB Rule 3211(b)(1).

11 In that instance, a firm is required to file the Form AP by the tenth day after the date the audit report is first included in a document filed with the Commission. *See* PCAOB Rule 3211(b)(2).

ii. For Ainos' 2022 financial statements, the Firm issued an audit report dated March 31, 2023, which was included in Ainos' Form 10-K filed with the SEC on April 3, 2023. The Firm belatedly filed the Form AP on May 22, 2023, 14 days after it was due.

b. The Firm audited the financial statements of ADMQ for the years ended December 31, 2019, and 2021.

i. For ADMQ's 2019 financial statements, the Firm issued an audit report dated May 13, 2020, which was included in ADMQ's Form 10-K filed with the SEC on May 13, 2020. The Firm belatedly filed the Form AP on November 19, 2020, 155 days after it was due.

ii. For ADMQ's 2021 financial statements, the Firm issued an audit report dated March 11, 2022, which was included in ADMQ's Form 10-K filed with the SEC on March 15, 2022. The Firm belatedly filed the Form AP on June 24, 2022, 66 days after it was due.

c. The Firm audited the financial statements of Rapid Therapeutic for the years ended March 31, 2020, and December 31, 2021.[12]

i. For Rapid Therapeutic's March 31, 2020, financial statements, the Firm issued an audit report dated June 29, 2020, which was included in Rapid Therapeutic's Form 10-K filed with the SEC on June 29, 2020. The Firm belatedly filed the Form AP on November 19, 2020, 108 days after it was due.

ii. For Rapid Therapeutic's 2021 financial statements, the Firm issued an audit report dated March 16, 2022, which was included in Rapid Therapeutic's Form 10-K filed with the SEC on March 16, 2022. The Firm belatedly filed the Form AP on June 24, 2022, 65 days after it was due.

d. The Firm audited the financial statements of Reliant Holdings for the year ended December 31, 2021. For Reliant Holdings' 2021 financial statements the Firm issued an audit report dated March 31, 2022, which was included in Reliant

[12] For Rapid Therapeutic's nine-month transition period ended December 31, 2020, the Firm issued an audit report dated March 15, 2021, which was included in Rapid Therapeutic's Form 10-KT filed with the SEC on March 16, 2021. The Firm timely filed a Form AP for that audit report.

Holdings' Form 10-K filed with the SEC on April 13, 2022. The Firm belatedly filed the Form AP on June 24, 2022, 37 days after it was due.

e. The Firm audited the financial statements of StemGen for the years ended June 30, 2020, and 2021.

   i. For StemGen's 2020 financial statements, the Firm issued an audit report dated October 8, 2020, which was included in StemGen's Form 10-K filed with the SEC on October 9, 2020. The Firm belatedly filed the Form AP on June 15, 2021, 214 days after it was due.

   ii. For StemGen's 2021 financial statements the Firm issued an audit report dated October 15, 2021, which was included in StemGen's Form 10-K filed with the SEC on October 15, 2021. The Firm belatedly filed the Form AP on January 20, 2022, 62 days after it was due.

16. In all the above instances, the Firm failed to file the required Form APs by the 35th day after the date the audit reports were first included in the filings made with the SEC, in violation of PCAOB Rule 3211.

iii. The Firm Failed to Timely File a Form 3 in Violation of PCAOB Rule 2203

17. PCAOB Rule 2203 provides that a registered public accounting firm must file a special report on Form 3 to report any event specified in that form within thirty days of the event's occurrence.[13] One such specified reportable event occurs when, "[t]he Firm has taken on as an employee, partner, shareholder, principal, or member, or has otherwise become owned or partly owned by, a person who is currently the subject of a Commission order suspending or denying the privilege of appearing or practicing before the Commission."[14]

18. On February 6, 2020, the SEC issued an Order Making Findings and Imposing Remedial Sanctions pursuant to Section 4C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission's Rules of Practice against LBB & Associates Ltd., LLP and Carlos

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[13] *See* PCAOB Rule 2203. As the Board noted when adopting its rules on special reporting, "reportable events will sometimes occur, and the public interest, as well as the ability to consider whether prompt action is warranted by the Board's inspection staff or enforcement staff, will be served by contemporaneous reporting of the event." *Rules on Periodic Reporting by Registered Public Accounting Firms*, PCAOB Rel. No. 2008-004, at 17 (June 10, 2008).

[14] PCAOB Form 3, at Item 2.12 (italics in the original removed).

Lopez, CPA ("Lopez").[15] The SEC order found that Lopez engaged in improper professional conduct in connection with three audits of an issuer. The SEC's order denied Lopez the privilege of appearing or practicing before the Commission as an accountant, with the right to request the Commission consider reinstatement after two years.

19. On June 9, 2020, the Firm added Lopez to the Firm's partnership, which constituted a reportable event. Accordingly, the Firm was required to report that event to the Board on Form 3 within thirty days of its occurrence, i.e., not later than July 9, 2020. However, the Firm did not file a Form 3 reporting the event until January 23, 2024, more than three and a half years after the applicable deadline.

20. As a result, the Firm violated PCAOB Rule 2203.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer:

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $60,000 is imposed upon the Firm.

    1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

    2. Respondent shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is

[15] *LBB & Assocs. Ltd., LLP and Carlos Lopez, CPA*, SEC Release No. 34-88140 (Feb. 6, 2020).

made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-order interest.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

5. Respondent acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny an application for registration pursuant to PCAOB Rule 2101.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

1. Before filing with the Board any future registration application, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, to provide the Firm with reasonable assurance that Firm personnel will comply with PCAOB Rule 3211, PCAOB Rule 2203, AS 2110 and AS 3101; and

2. To provide with any future registration application a written certification, signed by an individual ultimately responsible for the Firm's system of quality control, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraph IV.C.1 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, compliance as the staff of the Division of

Enforcement and Investigations or the staff of the Division of Registration and Inspections may reasonably request.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 8, 2025

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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

In the Matter of Michael Coglianese, CPA P.C.,

Respondent.

PCAOB Release No. 105-2025-026

July 8, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board (the "Board" or "PCAOB") is:

(1) censuring Michael Coglianese, CPA P.C. ("Respondent," or the "Firm"),

(2) imposing a civil money penalty in the amount of $50,000 upon the Firm, and

(3) requiring the Firm to undertake certain remedial actions as described in Section IV of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm repeatedly violated PCAOB rules and standards across seventeen "broker" and/or "dealer" audits by failing to obtain from a qualified engagement quality reviewer an engagement quality review.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to entry of this Order.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Michael Coglianese, CPA P.C.** is a public accounting firm located in Bloomingdale, Illinois. Respondent is licensed to practice public accounting by the Illinois Department of Financial & Professional Regulation (license number 066005163).[2] The Firm has one owner and one partner (the "Partner"). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Summary

2. This matter concerns the Firm's repeated violations of AS 1220, *Engagement Quality Review*,[3] by its failure to have an engagement quality review performed by a partner or partner equivalent on multiple broker-dealer audit and attestation engagements. It also involves the Firm's violation of QC Section 20.01, S*ystem of Quality Control for a CPA Firm's Accounting and Auditing Practice*, through the Firm's failure to establish a system of quality control that provided reasonable assurance that engagement quality reviews would be performed on all audits in accordance with PCAOB standards.

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[1] The findings herein are made pursuant to the Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] Respondent is also licensed to practice public accounting in Connecticut (license number CPAP.0005552), New Jersey (license number 20CZ00007300), Georgia (license number ACF005935), and North Carolina (license number 32504).

[3] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

C. Respondent Violated PCAOB Rules and Standards

3. PCAOB rules require that registered public accounting firms and their associated persons comply with applicable auditing and related professional practice standards.[4] PCAOB rules further require registered firms and their associated persons to comply with PCAOB quality control standards.[5] As set forth below, the Firm repeatedly failed to comply with AS 1220 and failed to comply with PCAOB quality control standards.

i. The Firm Repeatedly Violated PCAOB Rules and Standards by Failing to Use a Qualified Engagement Quality Reviewer to Provide Concurring Approvals of Issuance

4. PCAOB standards require that an engagement quality review be performed on all audits, as well as on all attestation engagements performed pursuant to Attestation Standard No. 1, *Examination Engagements Regarding Compliance Reports of Brokers and Dealers*, or Attestation Standard No. 2, *Review Engagements Regarding Exemption Reports of Brokers and Dealers*.[6]

5. A firm may grant permission to a client to use an engagement report only after an engagement quality reviewer provides concurring approval of issuance of the report.[7] An engagement quality reviewer from the firm that issues the engagement report must be "a partner or another individual in an equivalent position."[8] When adopting AS 1220, the Board explained that the engagement quality review is intended to be an "objective second look at work performed by the engagement team" and, thus, the reviewer "should be able to withstand pressure from the engagement partner or other firm personnel."[9]

6. On seventeen broker-dealer engagements between August 17, 2023, and March 22, 2024 (the "Seventeen Engagements"), the Partner assigned a senior manager (the "Senior

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4 *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

5 *See* PCAOB Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

6 AS 1220.01.

7 *Id*. at .13, .18C.

8 *Id*. at .03.

9 PCAOB Release No. 2009-004, *Auditing Standard No. 7—Engagement Quality Review and Conforming Amendment to the Board's Interim Quality Control Standards*, at 6 (July 28, 2009).

Manager") as the engagement quality reviewer.[10] The Partner served as the engagement partner and authorized the issuance of the engagement reports on the Seventeen Engagements. At the time, the Senior Manager (1) reported to the Partner; (2) had his compensation set by the Partner; and (3) had his performance evaluated by the Partner. Further, the Partner was solely responsible for making all advancement decisions at the Firm and had the ability to fire the Senior Manager.

7. The Senior Manager performed the engagement quality reviews and provided concurring approval of issuance on the Seventeen Engagements. Because the Firm obtained an engagement quality review and concurring approval of issuance on the Seventeen Engagements from an individual who was not a partner or in an equivalent position, the Firm repeatedly violated AS 1220.

ii. The Firm's System of Quality Control Failed to Provide Reasonable Assurance that Engagement Quality Reviews Would Meet PCAOB Standards

8. A firm should establish policies and procedures that provide it with reasonable assurance "that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's system of quality."[11] The policies and procedures should address, among other things, engagement quality reviews.[12]

9. As illustrated by the repeated violations of AS 1220 described above, the Firm's system of quality control failed, during the period covered by this Order, to provide reasonable assurance that engagement quality reviews would be performed on all engagements in accordance with PCAOB standards. Accordingly, the Firm violated QC Section 20.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer:

Accordingly, it is hereby ORDERED that:

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10 The Seventeen Engagements are identified in Appendix A.

11 QC § 20.17.

12 *Id*. at .18.

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured;

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed upon the Firm.

    1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

    2. Respondent shall pay this civil money penalty within ten (10) days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

    3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-order interest.

    4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of its registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required:

    1. within ninety (90) days from the date of this Order, to establish, revise, or supplement, as necessary, policies and procedures, including monitoring procedures, for the purpose of providing the Firm with reasonable assurance of compliance with AS 1220; and

2. within one hundred twenty (120) days from the date of this Order, to certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm's compliance with paragraph C.1 above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of and information concerning compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

3. The Firm understands that the failure to satisfy these undertakings may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 8, 2025

Appendix A

Seventeen Engagements with a Non-Compliant Engagement Quality Review

Name of Broker-dealer	Fiscal Year End	Audit Report Date
Avant-Garde Trading Securities	June 30, 2023	August 17, 2023
Cresta Westhall LLP	June 30, 2023	September 14, 2023
A.G.P./Alliance Global Partners, LLC	June 30, 2023	September 25, 2023
Savile Capital Markets LLC (f/k/a Trade Bridge Capital, LLC)	June 30, 2023	September 28, 2023
Stuart Frankel & Co., Inc.	September 30, 2023	November 22, 2023
CapFi Partners LLC	September 30, 2023	January 10, 2024
McClurg Capital Corporation	September 30, 2023	December 19, 2023
LBMZ Securities, Inc.	November 30, 2023	February 27, 2024
Sarna Finance LLC	December 31, 2023	February 12, 2024
MM Global Securities, Inc.	December 31, 2023	February 14, 2024
Rapid Execution Services, LLC	December 31, 2023	February 18, 2024
North South Capital, LLC	December 31, 2023	February 19, 2024
Mercury Investment Services LLC	December 31, 2023	February 26, 2024
Quantitative Brokers, LLC	December 31, 2023	February 27, 2024
Cambria Capital, LLC	December 31, 2023	February 29, 2024
Bolt-X LLC	December 31, 2023	March 22, 2024
Sumo Capital, LLC	December 31, 2023	March 30, 2024

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Goldman & Company, CPA's, P.C.,

Respondent.

PCAOB Release No. 105-2025-027

July 8, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Goldman & Company, CPA's, P.C. ("Firm" or "Respondent");

(2) imposing a civil money penalty in the amount of $25,000 upon the Firm; and

(3) requiring the Firm to undertake certain remedial actions as described in Section V of this Order.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to comply with PCAOB audit documentation standards in connection with its audit of a broker-dealer.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondent pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, the Firm has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on

behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Goldman & Company, CPA's, P.C.** is a public accounting firm headquartered in Marietta, Georgia. The Firm is licensed to practice public accounting in multiple jurisdictions, including by the Georgia Board of Accountancy (license no. ACF004707). At all relevant times, the Firm was registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

B. Broker-Dealer

2. **Broker-Dealer A** was, at all relevant times, a Georgia corporation with its principal place of business in Atlanta, Georgia. At all relevant times, Broker-Dealer A was registered with the U.S. Securities and Exchange Commission as a broker-dealer in securities and was a "broker" and "dealer," as those terms are defined in Sections 110(3) and (4) of the Act and PCAOB Rules 1001(b)(iii) and (d)(iii), respectively.

C. The Firm Failed to Assemble Audit Documentation in Violation of AS 1215

3. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with all applicable auditing and related professional practice standards.[2] PCAOB standards require that the auditor prepare and retain audit documentation in connection with audit engagements.[3] "A complete and final set of audit documentation should be assembled for retention as of a

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[1] The findings herein are made pursuant to the Firm's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*. All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the relevant conduct.

[3] AS 1215.01, *Audit Documentation*.

date not more than 45 days after the report release date (*documentation completion date*)."[4]

4. The Firm audited Broker-Dealer A's financial statements for the year ended December 31, 2022, and issued its audit report on March 30, 2023. The documentation completion date for the audit was no later than May 14, 2023 (45 days after the report release date).

5. On May 31, 2023, the PCAOB's Division of Registration and Inspections notified the Firm that the Broker-Dealer A audit had been selected for review as part of a PCAOB inspection. Following that notification, Firm personnel made changes to 28 work papers and added four work papers to the audit documentation between June 6 and June 22, 2023.[5] The added and altered work papers related to, among other things, risk assessment, cash, notes payable, prepaids and other assets, income statements, income taxes, equity, investments, and system and organization controls report review.

6. As evidenced by the numerous additions and alterations that were made to the work papers weeks after the documentation completion date, the Firm failed to assemble a complete and final set of audit documentation for retention by May 14, 2023.

7. Because the Firm failed to assemble a complete and final set of audit documentation for retention within 45 days after the report release date, the Firm violated AS 1215.

IV.

The Firm has represented to the Board that, since the events described in this Order, the Firm has implemented changes to its quality control policies and procedures, including purchasing and implementing new audit software; maintaining archived audit files in a location accessible only by certain Firm personnel; and communicating audit documentation requirements, at least annually, to staff working on broker-dealer audits.

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[4] *Id.* at .15.

[5] After making additions and alterations to the audit documentation, Firm personnel provided to the PCAOB inspection team a memorandum that listed the added and altered work papers, the rationale for changes made, the name of the person who made the changes, and the date the changes were made. *See id*. at .16.

V.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), the Firm is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $25,000 is imposed upon the Firm.

1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act;

2. The Firm shall pay this civil money penalty within ten days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided by PCAOB staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street NW, Washington, D.C. 20006;

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest; and

4. Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Sections 105(c)(4)(F) and (G) of the Act and PCAOB Rules 5300(a)(6) and (9), the Firm is required:

1. Within 90 days of the entry of this Order, to establish, revise, or supplement, as necessary, policies and procedures to provide the Firm with reasonable assurance that Firm personnel will comply with the audit documentation requirements of AS 1215, including with respect to the assembly of audit documentation;

2. Within 90 days of the entry of this Order, to establish policies and procedures to ensure training concerning the audit documentation requirements of AS 1215, at least annually, of all professionals involved in any "audit," as that term is defined in Section 110(1) of the Act; and

3. Within 120 days of the entry of this Order, to provide a certification, signed by the Firm's Managing Partner, to the Director of the PCAOB's Division of Enforcement and Investigations, stating that the Firm has complied with paragraphs V.C.1 and V.C.2 above. The certification shall identify the actions undertaken to satisfy the conditions specified above (including any remedial actions taken prior to the date of this Order), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Firm shall also submit such additional evidence of, and information concerning, its compliance as the staff of the Division of Enforcement and Investigations may reasonably request.

4. The Firm understands that the failure to satisfy these conditions may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 8, 2025

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Centurion ZD CPA & Co. and CHAN Kam Fuk,

Respondents.

PCAOB Release No. 105-2025-032

July 22, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

a. censuring Centurion ZD CPA & Co. ("Firm" or "Centurion") and CHAN Kam Fuk (Dominic) ("Chan") (collectively, "Respondents");

b. revoking the Firm's PCAOB registration;

c. barring Chan from being an associated person of a public accounting firm registered with the PCAOB; and

d. imposing a civil money penalty in the amount of $75,000, jointly and severally, on the Firm and Chan.

The Board is imposing these sanctions on the basis of its findings that: (a) Respondents violated PCAOB rules and standards in connection with performing audits of the 2021 financial statements of two issuer clients and audit procedures for subsidiaries of a third issuer; (b) the Firm violated PCAOB rules and standards concerning audit reporting in connection with the two issuer audits; (c) the Firm filed inaccurate and/or untimely Form APs required by PCAOB rules; (d) the Firm violated PCAOB quality control standards; and (e) Chan directly and substantially contributed to the Firm's audit reporting violations.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted against Respondents

pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1).[1]

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement (the "Offers") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board's jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to the entry of this Order as set forth below.[2]

III.

On the basis of Respondents' Offers, the Board finds that:[3]

A. Respondents

1. **Centurion ZD CPA & Co.** was, at all relevant times, a public accounting firm located in Hong Kong, a Special Administrative Region of the People's Republic of China ("Hong Kong"). Centurion is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm, including its predecessor firms Dominic K. F. Chan & Co., DCAW (CPA) Limited, and Centurion ZD CPA Limited, has been registered with the Board since September 6, 2006. The Firm cancelled its license to practice as an accounting firm in Hong Kong in December 2024 and cancelled its business registration in March 2025.[4]

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[1] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audits discussed herein.

[2] The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that each Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] The PCAOB's 2023 inspection of the Firm resulted in an inspection report published on March

2. **CHAN Kam Fuk (Dominic)** is, and at all relevant times was, the managing partner and sole equity partner of the Firm. Chan is a certified public accountant (Hong Kong Institute of Certified Public Accountants membership no. A20032), but has not been registered to practice in Hong Kong since August 2023. Chan served as the engagement partner for two issuer audits and the partner responsible for the audit work on certain subsidiaries of an issuer. Chan was, at all relevant times, an "associated person of a registered public accounting firm" as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

B. Issuers

3. **Luckin Coffee Inc.** ("Luckin") was, at all relevant times, a Cayman Islands corporation headquartered in Xiamen City, Fujian Province, People's Republic of China ("China"). Luckin's filings disclose that it was a Chinese coffee company and coffeehouse chain. Luckin became a public issuer through a U.S. listing of securities in 2019. Luckin was, at all relevant times, an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii), including at the time the Firm audited Luckin's consolidated financial statements and internal control over financial reporting ("ICFR") for the year ended December 31, 2021 (the "Luckin Audit"). On April 14, 2022, Centurion issued an unqualified opinion on Luckin's 2021 consolidated financial statements and ICFR.

4. **Greenpro Capital Corp.** ("Greenpro") was, at all relevant times, a Nevada corporation headquartered in Kuala Lumpur, Malaysia. Greenpro's public filings disclose that it trades and leases commercial real estate properties and also provides business consulting and corporate advisory services. JP Centurion & Partners PLT ("JP Centurion"), a registered public accounting firm in Malaysia that is not an affiliate of the Firm, was the principal auditor for the audit of Greenpro's consolidated financial statements for the year ended December 31, 2021. The Firm was engaged by JP Centurion to perform financial statement audit procedures for certain of Greenpro's subsidiaries (the "Greenpro Audit Work") in accordance with the principal auditor's instructions. Greenpro was, at all relevant times, an "issuer," as that term is defined by Section 2(a)(7) of the Act and Rule 1001(i)(iii), including at the time the Firm performed the Greenpro Audit Work. On March 29, 2022, JP Centurion issued an unqualified audit opinion on Greenpro's 2021 consolidated financial statements.

5. **Moxian (BVI) Inc.** ("Moxian") was, at all relevant times, a British Virgin Islands company headquartered in Beijing, China. Moxian's public filings disclose that it primarily

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29, 2024. The Firm was informed in April 2024 of the Division of Enforcement and Investigations' inquiry that led to this Order. The Firm then filed a Form 1-WD on June 19, 2024, requesting leave to withdraw from registration with the Board. The Board delayed that withdrawal given the pendency of its investigation.

conducted its operations through its operating subsidiaries located in China and the United States. It originally operated as a digital advertising company but changed its primary business to bitcoin mining operations in the United States in 2022. Moxian was, at all relevant times, an "issuer," as that term is defined by Section 2(a)(7) of the Act and Rule 1001(i)(iii), including at the time the Firm audited Moxian's consolidated financial statements for the year ended December 31, 2021 (the "Moxian Audit," and, together with the Luckin Audit, the "Audits"). On May 13, 2022, Centurion issued an unqualified opinion on Moxian's 2021 consolidated financial statements.

C. Summary

6. This matter concerns Respondents' violations of PCAOB rules and standards in connection with the Audits and the Greenpro Audit Work. Specifically, in the Audits and the Greenpro Audit Work, Respondents failed to properly perform risk assessments and obtain sufficient appropriate audit evidence in testing multiple significant risk areas. In connection with the Audits, Respondents failed to make required audit committee communications.

7. In addition, the Firm failed to comply with (1) auditing standards concerning audit reporting in connection with the Audits and (2) PCAOB rules in filing Form APs.

8. The Firm also violated PCAOB rules and quality control standards because it failed to establish and implement a system of quality control to provide it with reasonable assurance that (1) the Firm assigned work to personnel who had the technical proficiency required by PCAOB standards; and (2) the work performed by engagement personnel met applicable professional standards and regulatory requirements, specifically with respect to performing risk assessment, obtaining sufficient appropriate audit evidence, applying professional skepticism, audit reporting, and filing accurate and timely Form APs with the PCAOB.

9. Finally, Chan violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, by knowingly or recklessly, and directly and substantially, contributing to the Firm's audit reporting violations.

D. Respondents Violated PCAOB Rules and Standards in Performing the Audits and the Greenpro Audit Work

i. Relevant Rules and Standards

10. In connection with the preparation or issuance of an audit report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the

Board's auditing and related professional practice standards.[5] An auditor may express an unqualified opinion on an issuer's financial statements only when the auditor has conducted an audit in accordance with PCAOB standards and "concludes that the financial statements, taken as a whole, are presented fairly, in all material respects, in conformity with the applicable financial reporting framework."[6]

11. PCAOB standards require an auditor to exercise due professional care in the planning and performance of the audit and the preparation of the report, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[7] AS 1105.06 provides that "[t]o be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based."

12. AS 2101.04, *Audit Planning*, requires the auditor to "properly plan the audit." AS 2101.05 explains that proper planning includes "establishing the overall audit strategy for the engagement and developing an audit plan, which includes, in particular, planned risk assessment procedures and planned responses to the risks of material misstatement."

13. AS 2110.59, *Identifying and Assessing Risks of Material Misstatement*, requires that the auditor "identify and assess the risks of material misstatement at the financial statement level and the assertion level." AS 2110.68 provides that "[t]he auditor should presume that there is a fraud risk involving improper revenue recognition and evaluate which types of revenue, revenue transactions, or assertions may give rise to such risks."

14. PCAOB standards require the auditor to design and implement overall responses to address the assessed risks of material misstatement, and specify that the auditor should design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure.[8] "For

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[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[6] AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion* (footnotes omitted).

[7] *See* AS 1015.01, .07, *Due Professional Care in the Performance of Work*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 1105.04, *Audit Evidence*.

[8] AS 2301.05, .08.

significant risks, the auditor should perform substantive procedures, including tests of details, that are specifically responsive to the assessed risks."[9]

15. AS 2201.39, *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements*, provides that the auditor should test those controls that are important to the auditor's conclusion about whether the company's controls sufficiently address the assessed risk of misstatement for each relevant assertion.

16. AS 2301.13 further provides that the auditor should perform substantive procedures, including tests of details, that are specifically responsive to the assessed fraud risks; if the auditor selects certain controls intended to address the assessed fraud risks for testing, the auditor should perform tests of those controls.

17. When evaluating audit results, "[t]he auditor must evaluate whether the financial statements are presented fairly, in all material respects, in conformity with the applicable financial reporting framework."[10]

18. As described below, Respondents failed to comply with these and other PCAOB rules and standards in the Audits and the Greenpro Audit Work.

ii. Respondents Failed to Properly Assess Risk and Obtain Sufficient Appropriate Audit Evidence in the Luckin Audit

a. Background

1. Luckin's Business

19. In its 2021 Form 20-F, Luckin disclosed that it recognized revenue from retail product sales and from partnership stores.

20. Luckin disclosed that its customers placed orders for retail products mainly through Luckin's self-developed mobile app, which interfaced with different third-party payment platforms, such as WeChat and Alipay. Revenue from retail product sales was recognized upon customers' in-store pickup or the delivery of products to customers.

21. Luckin sold coupons to customers, which were stored in those customers' Luckin mobile app accounts for future use. Sometimes, Luckin would issue additional coupons for free to customers who purchased prepaid coupons. Luckin recorded the cash it received from the

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9 *Id.* at .11.

10 AS 2810.30, *Evaluating Audit Results*.

sale of the coupons as deferred revenue and allocated the cash amounts to each coupon, including the coupons issued for free. Luckin recognized revenue on the coupons when customers redeemed them.

22. Revenue from partnership stores mainly consisted of (1) sales of materials and equipment to the partnership stores; (2) profit-sharing when partnership stores used the Luckin Coffee or Luckin Tea brands; and (3) revenue from certain services provided to partnership stores, including integrated store operation solutions and pre-opening services.

2. Luckin's Prior Settlement of Fraud Charges

23. In July 2020, a special committee of Luckin's board of directors announced that an internal investigation concluded that, beginning in April 2019, the company had fabricated transactions and that, as a result, "the Company's net revenue in 2019 was inflated by approximately RMB 2.12 billion . . . . [and] [t]he Company's costs and expenses were inflated by RMB 1.34 billion in 2019."[11] Over the course of 2020, the board of directors terminated the company's chief executive officer, chief operating officer, and several other employees.[12] The board of directors also announced that it had resolved to require the chairman of the board to resign and that several other individuals had ceased to be directors.[13]

24. In December 2020, Luckin settled accounting fraud charges brought by the U.S. Securities and Exchange Commission (the "Commission" or the "SEC"). The Commission alleged that from at least April 2019 through January 2020, Luckin intentionally fabricated more than $300 million in retail sales transactions, which materially overstated its reported revenue by approximately 28% for the period ending June 30, 2019, and by more than 45% for the period

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[11] Press Release, Luckin Coffee, *Luckin Announces the Substantial Completion of the Internal Investigation* (July 1, 2020), https://investor.luckincoffee.com/news-releases/news-release-details/luckin-announces-substantial-completion-internal-investigation.

[12] *E.g.*, Press Release, Luckin Coffee, *Luckin Coffee Announces Changes to Board of Directors and Senior Management* (May 12, 2020), https://investor.luckincoffee.com/news-releases/news-release-details/luckin-coffee-announces-changes-board-directors-and-senior.

[13] *Id.*; Press Release, Luckin Coffee, *Luckin Coffee Announces Changes to Board of Directors and the Appointment of New Chairman* (July 13, 2020), https://investor.luckincoffee.com/news-releases/news-release-details/luckin-coffee-announces-changes-board-directors-and-appointment; Press Release, Luckin Coffee, *Proposal of Resignation and Removal of the Chairman of the Board* (June 26, 2020), https://investor.luckincoffee.com/news-releases/news-release-details/proposal-resignation-and-removal-chairman-board.

ending September 30, 2019.[14]

25. The Commission alleged that "Luckin fabricated coupons sales and redemptions," using (a) WeChat and Alipay accounts "controlled by Luckin employees and their family members, as well as employees of [two related entities]," and (b) accounts of purported corporate customers controlled by the same types of employees and related individuals.[15] Luckin also "fabricated coupon sales to third-party shell companies—purported intermediary agents that would resell coupons to individual customers," with which "Luckin entered into sham coupon purchase agreements."[16] Other companies "controlled by or associated with Luckin employees or employees of the [two related entities]" transferred funds to Luckin that the company then recorded in altered bank statements "so that the funds appeared to originate from the" shell companies. Luckin then generated "fake orders by individual customers, who had purportedly bought coupons from the" shell companies. Through these schemes, "although real orders were never placed and the coupons were never actually redeemed, Luckin recognized the fabricated revenue."[17]

26. The auditor Luckin originally engaged to audit its consolidated financial statements for the year ended December 31, 2019 ("Auditor A") did not issue an audit report on those financial statements. On September 17, 2020, Luckin dismissed Auditor A and engaged another auditor ("Auditor B") to audit the 2019 consolidated financial statements. But Auditor B did not issue an audit report either, and on April 15, 2021, Luckin engaged Centurion to replace Auditor B as Luckin's auditor.

27. On June 30, 2021, and September 21, 2021, Centurion issued unqualified audit opinions on Luckin's 2019 and 2020 consolidated financial statements, respectively. On April 14, 2022, Centurion issued an unqualified opinion on Luckin's 2021 consolidated financial statements and ICFR.[18]

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[14] Press Release, SEC, *Luckin Coffee Agrees to Pay $180 Million Penalty to Settle Accounting Fraud Charges* (Dec. 16, 2020), https://www.sec.gov/newsroom/press-releases/2020-319.

[15] Compl. ¶¶ 22-24, *SEC v. Luckin Coffee, Inc.*, Civil Action No. 1:20-cv-10631 (S.D.N.Y. Dec. 16, 2020), https://www.sec.gov/files/litigation/complaints/2020/comp-pr2020-319.pdf.

[16] *Id.* ¶¶ 26, 28.

[17] *Id.* ¶ 28.

[18] In its 2021 financial statements, Luckin reported total assets of RMB 12.3 billion (US$1.9 billion) and total liabilities of RMB 7.2 billion (US$1.1 billion), including deferred revenues of RMB 96.2 million (US$15.1 million), as of December 31, 2021. Luckin reported total net revenues of RMB 8.0 billion

b. Risk Assessment

28. In performing the 2021 Luckin Audit, Respondents identified the following fraud risk for revenue: "Management may have increasing pressure to commit fraud in sales in view of the challenging financial performance in current year." Respondents were also aware of the fraudulent schemes that were carried out by Luckin in 2019 and 2020, including fictitious sales transactions with related parties. However, Respondents failed to use this information and consider the characteristics of the revenue account and the related parties disclosure in identifying and assessing risks of material misstatement.[19] Respondents also failed to evaluate the types of potential misstatements that could result from the risk of incomplete identification of related parties and relationships and transactions with related parties.[20] As a result, Respondents failed to perform sufficient procedures to identify and assess the risk of material misstatement related to certain significant accounts and disclosures, in particular, Luckin's revenue and related party transactions, and failed to design any audit procedures to address the assessed fraud risk.[21]

29. Moreover, in violation of PCAOB standards, Respondents failed to hold a discussion or "brainstorming" among the key engagement team members about the potential for material misstatement due to fraud.[22] Additionally, Respondents failed to inquire of the audit committee and others within the company about their views regarding fraud risks, as required by PCAOB standards.[23]

30. Accordingly, Respondents failed to exercise due professional care and take appropriate steps after learning of Luckin's recent history of fraud, and did not perform the procedures necessary to properly plan and perform risk assessment for the Luckin Audit, in violation of AS 1015, AS 2101, AS 2110, and AS 2301.

(US$1.2 billion) and net income of RMB 0.7 billion (US$0.1 billion) for the year ended December 31, 2021. Luckin's total net revenues increased by 97% from 2020 to 2021.

19 *See* AS 2110.59a.

20 *See id.* at .59c.

21 *See id.* at .59, .65; AS 2301.08.

22 *See* AS 2110.49, .52.

23 *See id.* at .54, .56, .57.

c. Revenue

1. Control Testing

31. As discussed above, during the Luckin Audit, Respondents identified a fraud risk for revenue. However, in violation of PCAOB standards, Respondents failed to identify and test any controls that addressed the risk of whether the relevant revenue recognition criteria were met prior to recognizing revenue, including any controls over the fraud risk.[24] Specifically, Respondents failed to identify and test any controls over management's consideration of the elements of ASC 606, *Revenue from Contracts with Customers*, including (1) evaluation of contracts with customers, (2) identification of the performance obligation(s) in the contracts, (3) determination of transaction price, (4) allocation of transaction price to the performance obligations in the contracts, and (5) recognition of revenue as Luckin satisfied a performance obligation.

2. Substantive Testing

32. Respondents documented that each sales transaction originating from the Luckin mobile app in 2021 was independently and concurrently transmitted to both Luckin's Business Operation Database ("BOD") and a database that was independently operated by a third-party service provider (the "Third-Party Database"). Respondents also documented that the Third-Party Database captured all user activities in the Luckin mobile app.

33. Although Respondents performed certain substantive procedures to test revenue, these substantive procedures were limited and flawed:

- First, Respondents reconciled cash receipts during the year between the BOD and third-party payment platforms. But this included cash related to coupons that had not yet been redeemed.

- Second, for a sample of 30 days, Respondents compared the number of orders and sales amounts after discounts between the BOD and the Third-Party Database. But they failed to analyze and document the reasons for the differences between the two databases, even though the differences were up to 10% for the number of orders and up to 5% for the sales amounts after discounts.

- Third, for a sample of 30 days, Respondents selected 30 orders from each day made through WeChat and compared the orders to confirm their existence in both the BOD and WeChat. But they failed to apply this procedure to the orders made

[24] *See* AS 2201.14, .39.

through other payment platforms, which accounted for approximately 32% of total annual cash payments to Luckin in 2021.

34. Given the limitations of these three procedures, they were insufficient to evaluate satisfactorily the criteria for revenue recognition under ASC 606 or to address the identified fraud risk associated with revenue. As a result, Respondents failed to (1) perform sufficient substantive procedures to evaluate whether the relevant revenue recognition criteria had been met prior to recognizing revenue and (2) perform any substantive procedures to address the identified fraud risk.[25]

* * * * *

35. Accordingly, Respondents violated AS 1105, AS 2201, AS 2301, and AS 2810 by failing to obtain sufficient appropriate audit evidence in evaluating Luckin's revenue, and violated AS 1015 by failing to exercise due professional care, including professional skepticism.

d. Related Party Transactions

36. AS 2410.03, *Related Parties*, requires the auditor to perform procedures to obtain an understanding of the company's relationships and transactions with related parties that might reasonably be expected to affect the risks of material misstatement of the financial statements.

37. AS 2410.14 requires the auditor to evaluate "whether the company has properly identified its related parties and relationships and transactions with related parties." In addition, the auditor must "evaluate whether related party transactions have been properly accounted for and disclosed in the financial statements. This includes evaluating whether the financial statements contain the information regarding relationships and transactions with related parties essential for a fair presentation in conformity with the applicable financial reporting framework."[26]

38. Respondents documented that in 2021, Luckin had approximately 114 affiliated entities. Luckin disclosed in its Form 20-F that there were no related party transactions for the year ended December 31, 2021.

39. Despite having identified related party transactions and balances as a significant risk, Respondents, in violation of PCAOB standards, failed to identify and test any controls that

[25] *See* AS 2810.30; AS 2301.08, .13.

[26] AS 2410.17 (footnote omitted).

were important to the Respondents' conclusion about whether Luckin's controls sufficiently addressed the significant risk of misstatement to each relevant assertion, including the controls over Luckin's process for (1) identification of related parties and relationships and (2) accounting for, and disclosure of, related party transactions.

40. In addition, Respondents failed to perform any substantive procedures to evaluate whether Luckin had properly identified its related parties and relationships and transactions with related parties. Further, they failed to perform any substantive procedures to evaluate whether related party transactions were properly accounted for and disclosed in Luckin's 2021 financial statements.

41. As a result, Respondents violated AS 1105, AS 2201, AS 2301, AS 2410, and AS 2810 by failing to obtain sufficient appropriate audit evidence to determine whether Luckin had properly identified, accounted for, and disclosed in its financial statements related parties and relationships and transactions with related parties, and violated AS 1015 by failing to exercise due professional care, including professional skepticism.

e. Property, Plant, and Equipment ("PP&E")

42. AS 2501.10, *Auditing Accounting Estimates, Including Fair Value Measurements*, requires the auditor to evaluate whether the methods used by the company to develop accounting estimates are in conformity with the requirements of the applicable financial reporting framework. PCAOB standards also require the auditor to evaluate whether the significant assumptions used by the company or its specialist are reasonable and whether the methods used by the specialist are appropriate under the circumstances.[27]

43. AS 1210.09, *Using the Work of an Auditor-Engaged Specialist*, requires that when an auditor engages a specialist, the engagement partner review that specialist's report, or equivalent documentation, and evaluate whether the specialist's work provides sufficient appropriate evidence. In addition, if the auditor-engaged specialist's findings or conclusions appear to contradict the relevant assertion or the specialist's work does not provide sufficient appropriate evidence, the engagement partner should perform additional procedures or request the specialist to perform additional procedures, as necessary to address the issue.[28]

44. As of December 31, 2021, Luckin reported PP&E, net of depreciation, of RMB 1.8 billion (approximately US$283.3 million). PP&E associated with the Luckin Coffee EXPRESS asset

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[27] AS 2501.16; AS 1105.A8b-.A8c.

[28] *Id.* at .12 and Note (providing the example of a specialist's report containing disclaimers as a circumstance where "additional procedures ordinarily are necessary").

group ("EXPRESS") was RMB 233.5 million (approximately US$36.6 million). Respondents identified a significant risk associated with the valuation of PP&E related to the assessment of long-lived assets for impairment.

45. In 2021, Luckin identified certain impairment indicators that required it to evaluate the recoverability of EXPRESS. To that end, Luckin engaged an external valuation specialist to assist with preparing the estimate of undiscounted future cash flows from EXPRESS. This forecast included assumptions related to future revenue, gross profit, and remaining weighted average useful life of PP&E. Luckin determined the remaining weighted average useful life of EXPRESS PP&E to be six years, but also estimated undiscounted future cash flows over eight years. Based on the forecast, the carrying amount of EXPRESS was determined to be recoverable.

46. Respondents did not identify any controls over the assumptions used by Luckin's specialist. As a result, Respondents failed to test any controls that would be important to Respondents' conclusion about whether the controls sufficiently addressed the significant risk associated with the valuation of PP&E.

47. Respondents used an auditor-engaged specialist to review Luckin's specialist's report. Notably, the auditor-engaged specialist's report stated that "information furnished by others or taken from the client's reports and records, standard reference manuals, publications and other sources, upon which all or portions of this review report are based, is believed to be reliable, but has not been verified in all cases."

48. Respondents did not perform additional procedures, or request the auditor-engaged specialist perform additional procedures, to address the disclaimer in the auditor-engaged specialist's report. Thus, Respondents failed to perform sufficient procedures to evaluate whether the auditor-engaged specialist's work provided sufficient appropriate audit evidence.

49. In addition, Respondents failed to perform any procedures to evaluate the reasonableness of the assumptions developed by Luckin and its specialist, including evaluating a significant difference between the eight years of undiscounted cash flows and the remaining useful life of six years for the assets.

50. Accordingly, Respondents violated AS 1105, AS 1210, AS 2201, and AS 2501 in connection with auditing Luckin's PP&E, and violated AS 1015 by failing to exercise due professional care, including professional skepticism.

f. Journal Entry Testing

51. AS 1105.10 provides that when using information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to: (1) test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information; and (2) evaluate whether the information is sufficiently precise and detailed for purposes of the audit.

52. AS 2301.41 further provides that the auditor's substantive procedures must include the audit procedure of examining material adjustments made during the course of preparing the financial statements. AS 2401.58, *Consideration of Fraud in a Financial Statement Audit*, explains that "the auditor should design procedures to test the appropriateness of journal entries recorded in the general ledger and other adjustments (for example, entries posted directly to financial statement drafts) made in the preparation of the financial statements." AS 2401.61 requires the auditor to use professional judgment in determining the nature, timing, and extent of the testing of journal entries and other adjustments, including determining the appropriate method of examining the underlying support for the items selected.

53. During the Luckin Audit, Respondents identified fraud risks in connection with management override of controls.

54. Although Respondents performed certain procedures to test a selection of journal entries in response to these identified fraud risks, they failed to identify and test any controls over journal entries and other adjustments made in the period-end financial reporting process, as required by AS 2201.14. In addition, Respondents failed to perform any substantive procedures to examine material adjustments made during the course of preparing the financial statements.

55. Respondents identified fraud criteria to identify and select journal entries and other adjustments for testing and obtained a listing of journal entries that met the criteria. However, Respondents failed to perform any procedures to test the completeness of the listing of journal entries it used to identify journal entries that met the criteria. In addition, Respondents failed to sufficiently test the journal entries that met the identified fraud risk criteria for evidence of possible material misstatement due to fraud, because they limited their procedures to certain entries without having an appropriate rationale for limiting their testing to those journal entries. Further, Respondents failed to examine the underlying support for those entries selected for testing.

56. As a result, Respondents failed to perform sufficient procedures to respond to the identified risk of management override of controls on the Luckin Audit, in violation of AS 1105, AS 2201, AS 2301, and AS 2401, and violated AS 1015 by failing to exercise due professional care, including professional skepticism.

g. Information Technology General Controls ("ITGCs")

57. AS 2201.62 requires that an auditor "evaluate the severity of each control deficiency that comes to his or her attention to determine whether the deficiencies, individually or in combination, are material weaknesses as of the date of management's assessment."

58. Respondents identified 23 control deficiencies out of 64 ITGCs for Luckin's information systems. However, Respondents failed to evaluate the severity of these control deficiencies to determine whether the control deficiencies, individually or in combination, were material weaknesses.

59. Accordingly, Respondents failed to exercise due professional care and take appropriate steps after learning of numerous control deficiencies in Luckin's systems, in violation of AS 1015 and AS 2201.

iii. Respondents Failed to Properly Assess Risk and Obtain Sufficient Appropriate Audit Evidence in the Greenpro Audit Work

a. Risk Assessment

60. Centurion was engaged to perform financial statement audit procedures for seven of Greenpro's subsidiaries in accordance with the principal auditor's instructions, including full-scope audit procedures for four subsidiaries ("Full Scope Subsidiaries") and specific-scope audit procedures for the other three subsidiaries. However, Respondents failed to inquire of management and others within Greenpro's subsidiaries who might reasonably be expected to have information that was important to the identification and assessment of risks of material misstatement, including fraud risks.

61. Accordingly, Respondents failed to exercise due professional care in properly planning and performing risk assessment for the Greenpro Audit Work, in violation of AS 1015 and AS 2110.

b. Revenue

62. For the Greenpro Audit Work, Respondents identified, and the principal auditor also advised Respondents, that revenue was a presumed fraud risk area.

63. Greenpro's subsidiaries recorded both business consulting and corporate advisory revenue during 2021. In violation of PCAOB standards, Respondents failed to perform any procedures to evaluate whether the methods Greenpro's subsidiaries used to recognize those two types of revenue were in conformity with the Generally Accepted Accounting Principles ("GAAP").[29]

64. In addition, Respondents failed to perform sufficient procedures to evaluate whether Greenpro's subsidiaries had satisfied their performance obligations prior to recognizing these two types of revenue. Specifically, Respondents limited their procedures to reviewing certain filings with the Commission related to customers' initial public offerings and/or testing that Greenpro's subsidiaries had received cash.

65. Also, with respect to business consulting revenue, corporate advisory revenue, and a third revenue stream—insurance brokerage service revenue—Respondents failed to perform procedures to evaluate whether Greenpro's subsidiaries met certain other revenue recognition criteria prior to recognizing revenue; specifically, Respondents did not review contracts between Greenpro's subsidiaries and their customers to identify performance obligations and determine the transaction price.

66. As a result, Respondents failed to obtain sufficient appropriate audit evidence to support Greenpro's subsidiaries' reported revenue, in violation of AS 1105 and AS 2810, and violated AS 1015 by failing to exercise due professional care, including professional skepticism.

c. Long-Lived Assets

67. Respondents identified a significant risk associated with the valuation of certain long-lived assets held by two of the Greenpro subsidiaries they were responsible for auditing. Specifically, Respondents identified a significant risk associated with the valuation of the subsidiaries' PP&E and real estate held for sale or investment, including the judgment involved in assessing impairment.

68. Greenpro's consulting subsidiary ("Subsidiary A") reported PP&E of $2.8 million, representing 12% of Greenpro's total assets and equaling 140 times Subsidiary A's materiality of $20,000. The PP&E consisted primarily of building space owned by Subsidiary A and used by it to conduct its business operations.

69. Greenpro's commercial real estate investment subsidiary ("Subsidiary B") reported real estate held for sale of $2.2 million, representing all of Greenpro's real estate held for sale and 10% of Greenpro's total assets. This amount was 74 times Subsidiary B's materiality

[29] *See* AS 2810.30-.31.

of $30,000. Greenpro, in the notes to its Form 20-F, disclosed that real estate held for sale (1) represents multiple units in a building located in Hong Kong for which a committed plan to sell exists and an active program to market such properties has been initiated and (2) is reported at the lower of carrying amount or fair value, less estimated costs to sell.

70. The two Greenpro subsidiaries engaged an external specialist to determine the fair value of Subsidiary A's and Subsidiary B's long-lived assets. The Greenpro subsidiaries' specialist's valuation reports stated that the properties were valued "by the direct comparison approach and by making reference to comparable sales transactions / asking evidences as available in the relevant market." However, the valuation reports did not include specific information regarding the comparable sales transactions or other evidence used by the Greenpro subsidiaries' specialist. For Subsidiary B, the valuation report also did not provide a valuation of the estimated costs to sell Subsidiary B's real estate held for sale.

71. Respondents used an auditor-engaged specialist to review the Greenpro subsidiaries' specialist's valuation reports. With respect to the assumptions used by the Greenpro subsidiaries' specialist, the auditor-engaged specialist stated in his review reports that he assumed the Centurion engagement team had obtained sufficient information on evaluating the reasonableness of the valuation assumptions. He also pointed out that the comparable sales transactions used by the Greenpro subsidiaries' specialist for Subsidiary A's PP&E were in the "upper quartile of the price range." The auditor-engaged specialist also observed that only one comparable was selected for the valuation of Subsidiary B's real estate held for sale and suggested adding "2-3 comparables to enhance the reliability." In addition, the auditor-engaged specialist's review reports included disclaimers and limitations.

72. In evaluating Subsidiary A's and Subsidiary B's long-lived assets, Respondents violated PCAOB standards by failing to:

- perform any procedures to evaluate the relevance and reliability of data that the Greenpro subsidiaries' specialist obtained from external sources and used to develop fair value, including the data associated with the comparable sales transactions and adjustment factors;[30]

- perform any procedures to identify and evaluate the reasonableness of the significant assumptions developed by the Greenpro subsidiaries and their specialist, such as the selection criteria of comparable transactions and the adjustment factors

[30] *See* AS 1105.A8a.

adopted in the valuation;[31] and

- perform any additional procedures, or request that the auditor-engaged specialist perform additional procedures, to address the disclaimers and limitations included in the auditor-engaged specialist's reports that affected the Firm's use of the reports.[32]

73. As a result, Respondents violated AS 1105, AS 1210, and AS 2501 in connection with auditing Greenpro Subsidiary A's and Subsidiary B's long-lived assets, and violated AS 1015 by failing to exercise due professional care, including professional skepticism.

d. Journal Entry Testing

74. In the Greenpro Audit Work, Respondents identified, and the principal auditor communicated, that there were fraud risks associated with management override of controls. Respondents communicated to the principal auditor that their audit procedures in response to the risks associated with management override of controls would include journal entry testing.

75. However, Respondents did not perform sufficient procedures to obtain an understanding of the Full Scope Subsidiaries' financial reporting process and the controls over journal entries and other adjustments.[33] Also, while Respondents identified characteristics of potentially fraudulent entries or adjustments for testing, they failed to determine whether any journal entries met those characteristics and instead limited their testing to haphazardly selected journal entries.[34] In addition, Respondents failed to perform sufficient procedures to test the completeness of the population from which they selected journal entries for testing because they did not identify unexplained differences between the general ledger balances used to test the completeness and the general ledger balances that were included in the financial statements.

76. As a result, Respondents failed to perform sufficient procedures to respond to the risk of management override of controls on the Greenpro Audit, in violation of AS 1105 and AS 2401, and violated AS 1015 by failing to exercise due professional care, including professional skepticism.

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31 *See id.* at .A8b; AS 2501.15, .16.

32 *See* AS 1210.09, .12.

33 *See* AS 2401.58, .60.

34 *See id.* at .61.

e. Uncorrected Misstatements

77. AS 2810.17 requires the auditor to evaluate whether uncorrected misstatements are material, individually or in combination with other misstatements. The standard explains that "[i]n making this evaluation, the auditor should evaluate the misstatements in relation to the specific accounts and disclosures involved and to the financial statements as a whole, taking into account relevant quantitative and qualitative factors." AS 2810.18 provides that the auditor's evaluation of uncorrected misstatements should include an evaluation of the effects of uncorrected misstatements detected in prior years and misstatements detected in the current year that relate to prior years.

78. During the Greenpro Audit Work, Respondents identified uncorrected misstatements but did not evaluate whether the uncorrected misstatements were material, individually or in combination with other misstatements, including the effects of the uncorrected misstatements on the specific accounts and disclosures involved and the effects of the misstatements identified related to the prior year on the current-year financial statements.

79. Accordingly, Respondents violated AS 1015 and AS 2810 in performing procedures for the Greenpro Audit Work.

iv. Respondents Failed to Assess Risk and Obtain Sufficient Appropriate Audit Evidence in the Moxian Audit

a. Risk Assessment

80. In the Moxian Audit, Respondents failed to identify and assess the risks of material misstatement at the assertion level for the significant accounts and disclosures they identified—for example, revenue and digital assets. Specifically, Respondents failed to hold a discussion among the key engagement team members about the potential for material misstatement due to fraud. Respondents also failed to inquire of the audit committee, management, and others within the company about fraud risks.

81. Accordingly, Respondents failed to exercise due professional care or to perform the procedures necessary to properly plan and perform risk assessment for the Moxian Audit, in violation of AS 2110. Respondents also violated AS 1015 by failing to exercise due professional care, including professional skepticism.

b. Digital Assets

82. As of December 31, 2021, Moxian reported $5 million in digital assets, consisting of USD Coins that Moxian disclosed it had acquired in December 2021 through the issuance of

5 million shares of preferred stock. Moxian disclosed that it held the USD Coins in a digital wallet on a digital asset platform.

83. In the Moxian Audit, Respondents identified as a fraud risk that employees or management might misappropriate digital assets. In performing substantive procedures regarding the existence assertion for Moxian's digital assets, Respondents observed a deposit history for the audit period and an account balance as of December 31, 2021, through management's account on the digital asset platform, but Respondents failed to evaluate the relevance and reliability of that information, beyond obtaining evidence about the asset platform's reputation and its regulatory compliance. Respondents also failed to perform any procedures to test the rights and obligations assertion that Moxian had control over the digital assets it reported.

84. As a result, Respondents failed to obtain sufficient appropriate audit evidence to support Moxian's reported digital assets, in violation of AS 1105 and AS 2301, and violated AS 1015 by failing to exercise due professional care, including professional skepticism.

c. Journal Entry Testing

85. Respondents identified management override of controls as a fraud risk in the Moxian Audit, but they failed to identify and select journal entries and other adjustments for testing to address the potential for material misstatement due to fraud.

86. As a result, Respondents failed to perform sufficient procedures to respond to the risk of management override of controls on the Moxian Audit, in violation of AS 2401, and violated AS 1015 by failing to exercise due professional care, including professional skepticism.

E. Respondents Failed to Make Required Audit Committee Communications in Connection with the Audits

87. Pursuant to AS 1301.01, *Communications with Audit Committees*, an auditor should communicate to a company's audit committee certain matters related to the conduct of an audit. These matters include: the overall audit strategy; the significant risks identified during the auditor's risk assessment procedures; significant accounting policies and practices and critical accounting policies and practices; critical accounting estimates; and the results of the auditor's evaluation of whether the presentation of the financial statements and the related disclosures are in conformity with the applicable financial reporting framework.[35] AS 1301.08 also requires the auditor to inquire of the audit committee about whether the audit committee

[35] AS 1301.09, .12-.13.

is aware of matters relevant to the audit, including, but not limited to, violations or possible violations of laws or regulations.

88. Moreover, AS 1301.10d specifies that each auditor, as part of communicating the overall audit strategy, should communicate with the audit committee the names, locations, and planned responsibilities of other independent public accounting firms or other persons, who were not employed by the auditor, that performed audit procedures in the current period audit.

89. AS 1301.21 states that "the auditor should provide to and discuss with the audit committee a draft of the auditor's report." In addition, pursuant to AS 2201.78, "[t]he auditor must communicate, in writing, to management and the audit committee all material weaknesses identified during the audit. The written communication should be made prior to the issuance of the auditor's report on [ICFR]."

90. In connection with both the Luckin Audit and Moxian Audit, Respondents failed to inform the respective audit committees of the names, locations, and planned responsibilities of other accounting firms that performed audit procedures in those audits. Respondents also failed to communicate to both audit committees any critical accounting policies and practices and critical accounting estimates. In addition, Respondents failed to inquire of both audit committees about whether they were aware of matters relevant to the audits, including, but not limited to, violations or possible violations of laws or regulations.

91. In the Moxian Audit, Respondents failed to communicate to the audit committee the significant accounting policies and practices, as well as the significant risks identified through Respondents' risk assessment procedures. Moreover, Respondents did not provide or discuss with the Moxian audit committee a draft of the Firm's audit report. Respondents also failed to communicate, in writing, to the audit committee all material weaknesses identified during the Moxian Audit.

92. Accordingly, Respondents violated AS 1301 in connection with the Luckin Audit, and violated both AS 1301 and AS 2201 in connection with the Moxian Audit.

F. The Firm Violated Auditing Standards Related to Audit Reporting in the Audits

93. AS 2201.85C provides that the auditor's report on the audit of ICFR must include "[t]he auditor's opinion on whether the company maintained, in all material respects, effective [ICFR] as of the specified date, based on the control criteria."

94. AS 2201.88 states that "[i]f the auditor chooses to issue a separate report on [ICFR], he or she should add the following paragraph (immediately following the opinion paragraph) to the auditor's report on the financial statements –

> We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ('PCAOB'), the Company's [ICFR] as of December 31, 20X8, based on [*identify control criteria*] and our report dated [*date of report, which should be the same as the date of the report on the financial statements*] expressed [*include nature of opinion*]."

95. PCAOB standards further provide that if there are control deficiencies that, individually or in combination, result in one or more material weaknesses, the auditor must express an adverse opinion on the company's ICFR and the auditor's report must include a statement that a material weakness has been identified and an identification of the material weakness described in management's assessment.[36]

96. Also, for each critical audit matter ("CAM") communicated in the auditor's report, the auditor must describe the principal considerations that led the auditor to determine that the matter is a CAM and how the CAM was addressed in the audit.[37]

97. In its audit report for the Luckin Audit, the Firm failed to appropriately describe the principal considerations that led the Firm to determine that a matter was a CAM, in violation of AS 3101.14b. The Firm also failed to meet the requirements of AS 3101.14c by stating in the Luckin Audit report that it conducted certain procedures to address two identified CAMs, when, in fact, Respondents failed to perform those procedures.

98. Similarly, the Firm disclosed in the Moxian Audit report that it conducted certain procedures to address a CAM that Respondents, in fact, never performed, violating AS 3101.14c.

99. Moreover, in its report for the Moxian Audit, the Firm failed to accurately describe the audit and the type of audit opinion it issued. Moxian was required to have an audit of ICFR, Moxian engaged the Firm to perform an integrated audit, and the Firm expressed an opinion on Moxian's ICFR. And yet, in violation of AS 2201.88, the Firm in its original financial statement audit report did not include the required explanatory paragraph when it chose to issue a separate ICFR audit report. Instead, the Firm inappropriately described what its

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[36] AS 2201.90, .91.

[37] AS 3101.14b-c.

responsibilities would have been with respect to ICFR in a financial statements-only audit.[38] Also, in violation of AS 2201.90, in its revised audit report on the financial statements, the Firm inaccurately stated that it expressed a "qualified opinion" on Moxian's ICFR, when it actually issued an adverse opinion—a "qualified opinion" on ICFR is not permitted by PCAOB auditing standards. Finally, in the ICFR report for Moxian, the Firm did not include the statement that a material weakness had been identified, as required by AS 2201.91.

100. Accordingly, Respondents violated AS 3101 in connection with the Luckin Audit, and violated AS 2201, AS 3101, and AS 3105 in connection with the Moxian Audit.

G. The Firm Failed to Comply with PCAOB Rules in Filing Multiple Form APs

101. PCAOB Rule 3211, *Auditor Reporting of Certain Audit Participants*, provides that each registered public accounting firm must disclose information about engagement partners and other accounting firms that participate in audits of issuers by filing a Form AP, *Auditor Reporting of Certain Audit Participants*, for each audit report issued by the firm for an issuer.

102. A Form AP must be filed by the 35th day after the date a firm's audit report is first included in a document filed with the Commission or, in the case of a registration statement under the Securities Act of 1933, by the tenth day after the date the audit report is first included in a document filed with the Commission.[39]

103. Personnel from non-registered accounting firms performed audit procedures in the Luckin Audit, the Moxian Audit, and a third audit of another issuer in 2021. Each of these accounting firms met the definition of an "other accounting firm" as described in General Instruction 2 of Form AP. However, the related Form APs filed by the Firm stated incorrectly that no other accounting firms participated in these audits.

104. With respect to the audit reports included in six filings with the Commission by two issuers, the Firm filed five of the relevant Form APs approximately 37 days to 450 days late—and never filed a Form AP for one of the audit reports it issued.

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[38] *See* AS 3105.59, .60, *Departures from Unqualified Opinions and Other Reporting Circumstances* (requiring a firm to include certain statements in its audit report when management is required to report on the company's ICFR but such report is not required to be audited, and the auditor has not been engaged to perform an audit of management's assessment of the effectiveness of ICFR).

[39] Rule 3211(b).

105. Accordingly, the Firm violated Rule 3211 with respect to nine instances in which a Form AP was inaccurate, untimely, or never filed.

H. The Firm Violated PCAOB Quality Control Standards

106. PCAOB rules require a registered public accounting firm and its associated persons to comply with PCAOB quality control standards.[40] These standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice.[41] "A firm has a responsibility to ensure that its personnel comply with the professional standards applicable to its accounting and auditing practice."[42]

107. QC § 20.13b requires policies and procedures to be established to provide the firm with reasonable assurance that work is assigned to personnel having the degree of technical proficiency required in the circumstances.

108. Pursuant to QC § 20.17, a firm's system of quality control should include policies and procedures "to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality."

109. From 2021 through 2023, the Firm violated these quality control standards because its system of quality control did not provide reasonable assurance that (i) the Firm assigned work to personnel who have the technical proficiency required by PCAOB standards; and (ii) the work performed by engagement personnel met applicable professional standards and regulatory requirements, especially with regard to exercising the professional skepticism required by PCAOB standards in the performance of issuer audits.

110. As described in the preceding sections, each of the Audits and the Greenpro Audit Work suffered from numerous deficiencies. These were attributable, in part, to the Firm's system of quality control failing to provide reasonable assurance that engagement personnel had sufficient technical knowledge or experience necessary to enable them to fulfill the responsibilities of the work assigned. Thus, engagement personnel did not have an appropriate understanding of the relevant accounting and PCAOB standards.

111. These deficiencies were also attributable to the Firm's system of quality control failing to provide reasonable assurance that Firm personnel appropriately applied professional

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40 Rule 3100; PCAOB Rule 3400T, *Interim Quality Control Standards*.

41 QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

42 *Id.* § .03 (footnotes omitted).

skepticism, as demonstrated across the Audits and the Greenpro Audit Work in areas in which they had identified significant risks, including in some cases fraud risks.[43] The application of professional skepticism is essential to the performance of effective audits under PCAOB standards, and the lack of professional skepticism by Firm personnel had a pervasive, negative effect on the Audits and the Greenpro Audit Work.

112. As a result, for example, in the 2021 Luckin Audit, engagement personnel failed to consider the fraud risk factors related to the fraudulent schemes that were carried out by Luckin management in 2019 and 2020, including the risk of incomplete identification of related parties and relationships and transactions with related parties. Engagement personnel also failed to identify and test any controls over, and perform substantive procedures to evaluate, ASC 606 revenue recognition criteria and to address the relevant fraud risks. Moreover, in connection with three 2021 audits, Firm personnel filed Form APs that omitted information related to the participation in the audits by other accounting firms.[44]

113. Accordingly, the Firm failed to comply with QC § 20.

I. Chan Directly and Substantially Contributed to the Firm's Audit Reporting Violations

114. "A person associated with a registered public accounting firm shall not take or omit to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to a violation by that registered public accounting firm of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards."[45]

115. Chan was the Firm's sole owner and managing partner, and served as the engagement partner for the Audits. Moreover, Chan was one of the three individuals in the Firm who were responsible for ensuring that the Firm complied with the PCAOB standards relevant to the reporting violations described in Section III.F. But Chan failed to carry out those engagement-specific and firm-wide responsibilities. Chan knew, or was reckless in not knowing, that his acts and omissions would directly and substantially contribute to the Firm's audit

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[43] *See supra* Section III.D.

[44] *See supra* Section III.G.

[45] PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations* (the Board has since amended this rule, but the amendment is not applicable to the conduct here).

reporting violations under AS 2201, AS 3101, and AS 3105. As a result, Chan violated Rule 3502.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Centurion and Chan are hereby censured.

B. Pursuant to Section 105(c)(4)(A) of the Act and the PCAOB Rule 5300(a)(1), the PCAOB registration of Centurion is hereby revoked.

C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Chan is barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty of $75,000 is imposed on Respondents, jointly and severally.

    1. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

    2. Respondents shall pay this civil money penalty within thirty (30) days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service postal money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board; (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006; and (c) submitted under a cover letter which identifies the payors as Respondents in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. By consenting to this Order, the Firm acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny a request for leave pursuant to PCAOB Rule 5302(c) to file an application for registration or to deny an application for registration pursuant to PCAOB Rule 2101.

5. By consenting to this Order, Chan acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any request for leave pursuant to PCAOB Rule 5302(c) to petition to terminate a bar or to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

July 22, 2025

PCAOB
PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

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Order Making Findings and Imposing Sanctions

In the Matter of Marcum Asia CPAs LLP,

Respondent.

PCAOB Release No. 105-2025-033

September 23, 2025

By this Order Making Findings and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Marcum Asia CPAs LLP ("Marcum Asia," "MarcumBP," "Firm," or "Respondent");

(2) imposing a civil money penalty in the amount of $100,000 on Respondent; and

(3) requiring Respondent to conduct training relating to communications between predecessor and successor auditors.

The Board is imposing these sanctions based on its findings that MarcumBP violated PCAOB rules and standards concerning communications between predecessor and successor auditors.

I.

On October 23, 2024, the Board instituted disciplinary proceedings pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002 ("Act") and PCAOB Rule 5200(a)(1) against Respondent. The Board determined, under Section 105(c)(2) of the Act and PCAOB Rule 5203, that good cause was shown to make the hearing in this proceeding public, and the Division of Enforcement and Investigations consented to making the hearing public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, Respondent did not consent to make the hearing in this proceeding public.

II.

In response to these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings contained herein, except as to the Board's jurisdiction over Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.[1]

III.

On the basis of Respondent's Offer, the Board finds that:

A. Respondent

1. **Marcum Asia CPAs LLP**, formerly known as Marcum Bernstein & Pinchuk LLP,[2] is a public accounting firm headquartered in New York, New York. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and is licensed by the New York State Education Department (license no. 093038), the Texas State Board of Accountancy (license no. P05632), and the California Board of Accountancy (out-of-state license no. OFR1004). MarcumBP served as the external auditor of Gridsum Holding Inc. ("Gridsum") from June 28, 2018 until it was dismissed by Gridsum on January 6, 2019. MarcumBP did not issue any audit reports on Gridsum's financial statements.

B. Other Relevant Entity

2. **Shandong Haoxin Certified Public Accountants Co., Ltd.** ("Haoxin") is a public accounting firm headquartered in Weifang City, Shandong Province, the People's Republic of China ("China"). Haoxin is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and is licensed by the China Ministry of Finance (license no. 37060025). Haoxin, which succeeded MarcumBP as Gridsum's auditor, served as the external auditor of Gridsum from January 6, 2019, until Gridsum terminated its registration with the U.S. Securities and Exchange Commission in April 2021. On November 30, 2023, the

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[1] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[2] On September 16, 2022, MarcumBP filed a Special Report (Form 3) with the Board indicating that, effective September 7, 2022, its legal name had been changed to Marcum Asia CPAs LLP. Given that all of the conduct subject to this Order occurred under the Firm's prior name, this Order generally refers to MarcumBP when describing the conduct.

Board issued a settled order sanctioning Haoxin for its conduct in connection with its audits of Gridsum's 2015-2017 financial statements.[3]

C. Issuer

3. **Gridsum Holding Inc.** was, at all relevant times, an exempted company with limited liability, incorporated in the Cayman Islands, with its headquarters in Beijing, China. Its public filings disclose that Gridsum provided data analysis software for multinational and domestic enterprises and government agencies in China. During all relevant times, Gridsum's American Depository Shares were listed on Nasdaq Stock Market LLC, and Gridsum was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

D. Summary

4. This matter involves MarcumBP's violations of PCAOB rules and auditing standards in connection with its transfer of draft work papers to Haoxin, the successor to MarcumBP as Gridsum's auditor.

5. Gridsum engaged MarcumBP in June 2018 to audit Gridsum's fiscal year 2015-2017 financial statements. Before MarcumBP completed those audits, Gridsum dismissed MarcumBP and retained Haoxin as its auditor.

6. Shortly before Gridsum dismissed MarcumBP, as part of an anticipated transition of the audit to Haoxin, MarcumBP transferred its draft work papers to Haoxin. However, MarcumBP failed to reach an understanding with Haoxin as to the use of the draft work papers, in violation of PCAOB standards.

7. MarcumBP never communicated directly with anyone employed at Haoxin about the extent, if any, to which Haoxin could use the work reflected in MarcumBP's draft work papers. Instead, MarcumBP only orally discussed the use of the draft work papers with a third-party intermediary,[4] who came to understand and communicated to Haoxin that there were no restrictions on Haoxin's use of MarcumBP's work papers.

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[3] *See Shandong Haoxin Certified Public Accountants Co., Ltd., LIU Kun, MA Yao, SUN Penghuan, and ZHU Dawei*, PCAOB Rel. No. 105-2023-045 (Nov. 30, 2023).

[4] The third-party intermediary was a former Haoxin partner who had left Haoxin in 2013 and was not engaged to perform any audit services concerning Gridsum. At the time of the discussion, MarcumBP assumed that the individual still was associated with Haoxin, but did not take steps to ascertain whether a current association existed.

8. Haoxin thereafter relied on MarcumBP's draft audit work papers and issued an unqualified audit report on Gridsum's 2015-2017 financial statements one day after Gridsum retained Haoxin as its auditor. Then, nine days after Haoxin issued that audit report, MarcumBP sent a draft letter agreement for Haoxin to sign, asserting that the draft work papers had been provided to Haoxin solely to assist Haoxin in planning the audit. The letter sought a signature from Haoxin to indicate its agreement with the letter, but Haoxin did not agree with MarcumBP's views expressed in the letter and did not sign it.

E. MarcumBP Failed to Reach an Understanding with Haoxin Regarding Haoxin's Use of MarcumBP's Draft Work Papers

i. Background

a. Gridsum's Change in Auditors

9. In late April 2018, Gridsum's then auditor, after previously informing Gridsum of concerns it had identified in its 2017 audit, notified Gridsum's audit committee that its audit opinion on Gridsum's financial statements for the year ended December 31, 2016, should no longer be relied upon. Shortly thereafter, Gridsum dismissed that auditor and engaged MarcumBP as its new external auditor.

10. Upon being retained by Gridsum, MarcumBP began performing audit procedures on Gridsum's fiscal year 2015, 2016, and 2017 financial statements. However, in December 2018, after performing numerous audit procedures, MarcumBP recognized that it would not be able to complete its audit, in part because a China-based audit firm with a technology specialty that had been retained to help verify certain of Gridsum's revenue-generating activities could not agree to share the underlying data for its audit work with MarcumBP, due to cybersecurity and data privacy regulations in China. Thereafter, MarcumBP communicated to Gridsum that it would not be able to complete its audit.

11. On December 10, 2018, Haoxin, who would later succeed MarcumBP as Gridsum's auditor, entered into an agreement with Gridsum to review MarcumBP's draft work papers and to "pre-audit" Gridsum's financial statements and related information.

b. MarcumBP's Communications with Haoxin Regarding the Use of MarcumBP's Draft Work Papers

12. In late December 2018, the MarcumBP engagement partner on the Gridsum audits asked a China-based senior staff member of MarcumBP to meet with Haoxin and Gridsum, because of the possibility that Gridsum would hire Haoxin to replace MarcumBP. At that meeting, Haoxin orally requested access to MarcumBP's draft work papers.

13. Shortly after Haoxin requested MarcumBP's draft work papers, the MarcumBP China-based senior staff member directed another staff member to provide MarcumBP's draft work papers to Haoxin. On or around December 24, 2018, the draft work papers were sent to Haoxin through a mainland China file sharing application. The Firm's China-based staff members did not discuss with Haoxin how Haoxin could use MarcumBP's draft work papers at the time the work papers were transferred to Haoxin.

14. At or around the time of the transfer of MarcumBP's draft work papers, two U.S.-based MarcumBP partners and the aforementioned third-party intermediary (a former Haoxin partner) had discussions about Haoxin's use of MarcumBP's draft work papers. After those discussions, the third-party intermediary communicated to the individual who ultimately served as Haoxin's engagement partner on the Gridsum audits her understanding that there were no restrictions on Haoxin's use of MarcumBP's draft work papers. MarcumBP never had any direct communications with anyone employed at Haoxin about Haoxin's ability to use MarcumBP's draft work papers.

c. Haoxin's Improper Reliance on MarcumBP's Draft Work Papers

15. On January 6, 2019, Gridsum dismissed MarcumBP and engaged Haoxin as its external auditor. The following day Haoxin released its same-dated audit report containing an unqualified audit opinion on Gridsum's fiscal year 2015, 2016, and 2017 financial statements. Haoxin performed limited procedures to support its audit opinion and, instead, improperly relied primarily on MarcumBP's draft work papers.

ii. MarcumBP Failed to Obtain an Understanding with Haoxin Regarding the Use of MarcumBP's Draft Work Papers

16. PCAOB rules require that a registered public accounting firm and its associated persons comply with PCAOB auditing standards.[5] PCAOB standards provide guidance on communications between predecessor and successor auditors when a change of auditors is in process, or has taken place.[6] The predecessor auditor should determine which work papers are to be made available for review by the successor auditor and which may be copied.[7] "The

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[5] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards.*

[6] *See* AS 2610.01, *Initial Audits – Communications Between Predecessor and Successor Auditors*. "[T]he term *predecessor auditor* refers to an auditor who (a) has reported on the most recent audited financial statements or was engaged to perform but did not complete an audit of the financial statements and (b) has resigned, declined to stand for reappointment, or been notified that his or her services have been, or may be, terminated." *Id*. at .02 (footnotes omitted).

[7] AS 2610.11.

predecessor auditor should ordinarily permit the successor auditor to review working papers"; however, "[t]he extent, if any, to which a predecessor auditor permits access to the working papers is a matter of judgment."[8] The predecessor auditor is required to reach an understanding with the successor auditor as to the use of the work papers it provides.[9]

17. Although MarcumBP, as the predecessor auditor, electronically provided Haoxin substantially all of its draft work papers for the Gridsum audits in late December 2018, MarcumBP failed to reach an understanding with Haoxin, the successor auditor, as to the use of the draft work papers, as required by PCAOB standards.

18. Prior to the completion of Haoxin's audit, MarcumBP only communicated about Haoxin's use of MarcumBP's draft work papers orally, through a third-party intermediary. That intermediary, as discussed above, communicated to Haoxin her understanding that there were no restrictions on Haoxin's use of those work papers. MarcumBP did not communicate with anyone employed at Haoxin concerning Haoxin's use of MarcumBP's draft work papers.

19. Nine days after Haoxin had issued its audit report, MarcumBP sought to document, in writing, an understanding of Haoxin's use of the draft work papers. On January 16, 2019, MarcumBP sent to the third-party intermediary a draft letter agreement for Haoxin to sign, which addressed the use of MarcumBP's draft work papers. Among other things, the draft letter agreement asserted that MarcumBP's sole purpose in providing the draft work papers had been to assist Haoxin in the planning of Haoxin's audit. The letter asked for Haoxin to countersign to confirm its agreement, but Haoxin did not agree with MarcumBP's views expressed in the letter and did not sign it.

20. Because MarcumBP failed to reach an understanding with Haoxin as to the use of MarcumBP's draft work papers for the Gridsum audits, MarcumBP violated AS 2610.11.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer.

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8 *Id.*

9 *Id*.

Accordingly, it is hereby ORDERED, effective immediately, that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Marcum Asia CPAs LLP is hereby censured.

B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes a civil money penalty in the amount of $100,000 on Marcum Asia.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. The Firm shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, or bank cashier's check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies the Firm as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. Respondent understands that failure to pay the civil money penalty described above may result in summary suspension of Respondent's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.

C. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Marcum Asia is required to conduct two hours of training for all of its audit professionals (including all audit partners, audit staff, and other personnel who may engage in the provision of audit services) on the requirements under PCAOB standards relating to communications with successor auditors and Marcum Asia's quality

control policies and procedures relating to communications with successor auditors. Such training must include: (1) an auditor's obligations under AS 2610, *Initial Audits—Communications Between Predecessor and Successor Auditors*, with respect to communications between predecessor and successor auditors when a change of auditors is in process or has taken place; (2) a discussion of Marcum Asia policies and procedures concerning obtaining written agreements from a company's successor auditor prior to Marcum Asia providing access to its predecessor auditor work papers; and (3) information about the location and use of the Firm's templates for written communications and agreements with successor auditors. Within 90 days of the date of this Order, Marcum Asia shall provide the DEI Director a certification, signed by its Chief Executive Officer (or equivalent), confirming the completion of such training. Such certification shall include copies of any written materials or recordings used in the trainings conducted to comply with this undertaking.

D. Marcum Asia understands that the failure to satisfy any provision of Section IV.C may constitute a violation of PCAOB Rule 5000 that could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 23, 2025

PCAOB
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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Daniel Carpio Diaz,

Respondent.

PCAOB Release No. 105-2025-035

October 7, 2025

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order"), the Public Company Accounting Oversight Board ("Board" or "PCAOB") is:

(1) censuring Daniel Carpio Diaz ("Carpio" or "Respondent");

(2) barring Carpio from being an associated person of a registered public accounting firm;[1]

(3) imposing a civil money penalty in the amount of $50,000 on Carpio; and

(4) requiring Carpio to complete 40 hours of continuing professional education (CPE), in addition to any CPE required in connection with any professional license he holds, before filing any petition for Board consent to associate with a registered public accounting firm.

The Board is imposing these sanctions on the basis of its findings that Carpio violated PCAOB rules and standards in connection with performing the audit of the financial statements of an issuer client.

[1] Carpio may file a petition for Board consent to associate with a registered public accounting firm after three years from the date of this Order.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the "Offer") that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceeding brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings contained herein, except as to the Board's jurisdiction over Respondent and the subject matter of this proceeding, which is admitted, Respondent consents to the entry of this Order as set forth below.[2]

III.

On the basis of Respondent's Offer, the Board finds that:[3]

A. Respondent

1. **Daniel Carpio Diaz** was, at all relevant times, a partner of Paredes, Burga & Asociados Sociedad Civil de Responsabilidad Limitada (now known as Tanaka, Valdivia, Arribas & Asociados Sociedad Civil de Responsabilidad Limitada) ("EY Peru") in its Lima, Peru, office and was the engagement partner for the relevant audit, discussed below. Carpio was, at all relevant times, an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[4]

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[2] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

[3] The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

[4] EY Peru removed Carpio from all audit work required to be performed in accordance with PCAOB rules and standards in March 2021. Carpio has since been transferred to a non-PCAOB registered EY Peru affiliate.

B. Issuer

2. **Gilat Satellite Networks Ltd.** ("Gilat") is a company organized under the laws of Israel. Gilat is headquartered in Petah Tikva, Israel, and, according to its public filings, is a global provider of satellite-based broadband communications. At all relevant times, Gilat was an "issuer," as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Gilat Networks Peru S.A. ("GNP") is a Latin American subsidiary of Gilat. Gilat engaged Kost Forer Gabbay & Kasierer ("EY Israel") to audit its consolidated financial statements as of, and for the year ended, December 31, 2020, and its internal control over financial reporting ("ICFR") as of December 31, 2020.

C. Other Relevant Entities

3. **Paredes, Burga & Asociados Sociedad Civil de Responsabilidad Limitada (now known as Tanaka, Valdivia, Arribas & Asociados Sociedad Civil de Responsabilidad Limitada)** is a public accounting firm headquartered in Lima, Peru. EY Peru is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules, and is licensed by the Colegio de Contadores Públicos de Lima. EY Peru is a member firm of Ernst & Young Global Limited ("EY Global"). EY Israel engaged EY Peru to conduct a full scope component audit on GNP (the "GNP Audit Work"), and EY Peru issued an interoffice conclusion report to EY Israel dated March 5, 2021.

4. **Kost Forer Gabbay & Kasierer** is a public accounting firm headquartered in Tel Aviv, Israel. EY Israel registered with the PCAOB on July 19, 2004, pursuant to Section 102 of the Act and PCAOB rules. EY Israel is a member firm of EY Global. On March 8, 2021, EY Israel issued auditor's reports expressing unqualified opinions on Gilat's 2020 financial statements and ICFR.

D. Summary

5. This case involves multiple violations of PCAOB rules and standards[5] by Carpio, the partner responsible for EY Peru's full scope component audit of GNP for the year ended December 31, 2020.

6. Specifically, during the GNP Audit Work, Carpio: (1) violated PCAOB audit documentation requirements; (2) violated PCAOB rules and standards in evaluating GNP's revenue recognition, an identified fraud risk; and (3) failed to appropriately supervise the GNP engagement team.

[5] All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to the organization and numbering, in effect at the time of the conduct discussed herein.

E. Carpio Violated PCAOB Rules and Standards

7. PCAOB rules require that associated persons of registered public accounting firms comply with the Board's auditing and related professional practice standards.[6] PCAOB standards require an auditor to exercise due professional care in the planning and performance of the audit and the preparation of the report, exercise professional skepticism, and plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the auditor's opinion.[7]

i. Background

8. According to its public filings, Gilat designs and manufactures ground-based satellite communications equipment for customers in Latin America. Gilat's Latin American operations accounted for approximately 35% of its total revenue in 2020. Approximately 20% of Gilat's total revenue in 2020 was attributable to contracts with a Peruvian governmental authority.

9. EY Israel engaged EY Peru to perform the GNP Audit Work and provided EY Peru with detailed instructions for performing integrated audit procedures (e.g., testing GNP's ICFR as well as financial information) in accordance with EY's Global Audit Methodology ("EY GAM") and PCAOB auditing standards.

10. In the audit instructions, EY Israel notified EY Peru that it had identified a significant risk, including a risk of material misstatement due to fraud, or "fraud risk," related to revenue recognition at GNP. The audit instructions directed EY Peru to perform certain specific procedures, including substantive audit procedures, to address the identified fraud risk related to revenue recognition. The instructions also directed EY Peru to obtain representations from various members of local GNP management regarding their awareness of anything that could affect current-year revenue.

11. In late January 2021, the EY Peru engagement team sent to EY Israel drafts of certain of its GNP Audit Work deliverables, including a draft unsigned Summary Review Memorandum ("SRM").[8] In early to mid-February, EY Israel informed the EY Peru engagement team that it needed to review the EY Peru engagement team's final deliverables by February

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[6] *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

[7] *See* AS 1015.01, .07, *Due Professional Care in the Performance of Work*; AS 1105.04, *Audit Evidence*; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*.

[8] An SRM is consistent with an engagement completion document pursuant to AS 1215.13, *Audit Documentation*.

22, 2021, in order to meet Gilat's anticipated Form 20-F filing timeline, which had been moved up to the beginning of March.

12. On March 5, 2021, the EY Peru engagement team sent to EY Israel its final deliverables, which included a final SRM and final interoffice conclusion report, both dated March 5, 2021, and signed by Carpio as the partner responsible for the GNP Audit Work.

13. EY Israel issued its 2020 audit reports, without making reference to the audit work performed by EY Peru, on both Gilat's financial statements and effectiveness of ICFR on March 8, 2021.

ii. Carpio Violated PCAOB Audit Documentation Standards

14. PCAOB audit documentation standards require that an auditor document "the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions."[9] "Audit documentation must clearly demonstrate that the work was in fact performed."[10] Further, audit documentation "must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement," to "understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached," and "determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review."[11]

15. At the time of the GNP Audit Work, EY Peru's policies required personnel to document audit work in an electronic audit documentation system. Once an audit engagement team member at EY Peru prepared and/or reviewed a work paper, that preparer/reviewer would "sign-off" on the work paper in the audit documentation system. The system would then automatically record the date and time of the sign-off. That functionality existed, among other reasons, to prevent engagement team members from improperly backdating their sign-offs on work papers. At the time of the GNP Audit Work, the audit documentation system also permitted simultaneous sign off on multiple documents (i.e., a "batch") as a preparer or a reviewer without accessing each work paper separately to apply individual sign-offs. When that occurred, the system would assign the same sign-off date and time to all work papers that were part of the batch.

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9 AS 1215.06.

10 *Id.*

11 *Id.*

16. At the time EY Israel issued its audit reports, multiple work papers in the audit file for the GNP Audit Work were incomplete.[12] More specifically, certain work papers still contained audit documentation from the prior year audit or consisted of blank forms and templates ("incomplete documents"). Accordingly, the EY Peru engagement team's audit documentation did not clearly demonstrate that Carpio and his engagement team performed their audit work prior to EY Israel issuing its audit reports.[13] Carpio, as the partner responsible for the GNP Audit Work, needed to ensure that the audit documentation complied with PCAOB audit documentation standards.[14] By failing to do so, he violated AS 1215.

17. Moreover, Carpio signed off in the GNP audit file as having reviewed certain work papers, but multiple work papers at the time of his sign-offs were incomplete. For example, Carpio signed off as having reviewed a work paper titled "A-29 Internal Memorandum Archive – Gilat Peru 2020." However, at the time of his sign-off, that document contained only data from the 2019 GNP audit. Carpio also signed off as having reviewed a work paper purportedly documenting quality review procedures performed on the GNP Audit Work. However, at the time of Carpio's sign-off on March 1, 2021, only the section of the work paper related to the scope and strategy of the audit had been completed. Meanwhile, the sections related to the audit procedures performed were blank. Because he signed off on incomplete documents, it is impossible to tell from the audit documentation whether Carpio reviewed certain work papers prior to EY Israel issuing its audit reports, and, if he did, when his review occurred. For this reason too, Carpio violated AS 1215.

18. During the GNP Audit Work, Carpio received emails from members of his engagement team identifying lists of work papers on which he needed to sign off. Carpio then

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[12] After EY Israel issued its audit reports on Gilat's 2020 financial statements and ICFR but prior to the deadline for assembling for retention a complete and final set of audit documentation, *see* AS 1215.15, Ernst & Young Americas LLC ("EY Americas") performed a post-issuance Audit Quality Review ("AQR") on the GNP Audit Work. A "snapshot" was taken of the GNP Audit documentation retained in the electronic audit documentation system as of March 11, 2021, and the AQR was performed on that snapshot. As a result of the AQR, EY Americas determined that the EY Peru engagement team did not have sufficient audit evidence to support the conclusions that the EY Peru engagement team reported to EY Israel, and therefore, EY Peru needed to perform remediation work. Shortly after EY Americas concluded the AQR, EY Americas self-reported its findings to the PCAOB's Division of Registration and Inspections staff.

[13] At the completion of the procedures to remediate the AQR findings, the EY Peru engagement team prepared a summary work paper that identified 388 work papers that were created or modified after Carpio sent EY Peru's final interoffice conclusion report to EY Israel.

[14] *See* AS 1201.03, *Supervision of the Audit Engagement* ("The engagement partner is responsible for the engagement and its performance. . . . [T]he engagement partner is responsible for . . . compliance with PCAOB standards") (footnotes omitted).

signed off simultaneously on the batch of listed work papers without first accessing and reviewing them. In doing so, he did not know if he had actually reviewed the work papers at some point during the GNP Audit Work. And to the extent he had reviewed particular work papers on the lists, due to his sign-off practices, there was no way to know from the audit documentation when his review occurred. Accordingly, Carpio violated AS 1215 for this reason as well.

iii. Carpio Failed to Perform Procedures Related to Revenue

19. PCAOB standards state that the "auditor should design and implement overall responses to address the risks of material misstatement,"[15] and specify that the "auditor should design and perform audit procedures in a manner that addresses the assessed risks of material misstatement for each relevant assertion of each significant account and disclosure."[16] In addition, the "auditor should perform substantive procedures, including tests of details, that are specifically responsive to the assessed fraud risks."[17]

20. In an audit of ICFR that is integrated with an audit of financial statements, the "auditor should test those controls that are important to the auditor's conclusion about whether the company's controls sufficiently address the assessed risk of misstatement to each relevant assertion."[18] Further, PCAOB standards state that when selecting controls to test the "auditor should evaluate whether the company's controls sufficiently address identified risks of material misstatement due to fraud. . . ."[19]

21. Additionally, the "auditor should perform a retrospective review of accounting estimates in significant accounts and disclosures by comparing the prior year's estimates to actual results, if any, to determine whether management's judgments and assumptions relating to the estimates indicate a possible bias on the part of management."[20]

22. In 2020, Gilat disclosed that a significant portion of its revenue was attributable to contracts between GNP and the Peruvian government to provide fiber and wireless network infrastructure construction for the Programa Nacional de Telecomunicaciones ("PRONATEL") in

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15 AS 2301.05.

16 *Id.* at 08.

17 *Id. at* 13.

18 AS 2201.39, *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements*.

19 *Id.* at 14.

20 AS 2401.64, *Consideration of Fraud in a Financial Statement Audit* (footnote omitted).

Peru.[21] Specifically, in 2015 and 2018, the Peruvian government awarded GNP large-scale contracts to build and operate and, in certain cases, transfer fiber and wireless networks of PRONATEL in six regions in Peru (the "Regional Projects"). The Regional Projects had expected contract durations ranging from approximately 13 to 15 years. Generally, the Regional Projects contracts called for GNP to construct fiber-optic transport networks and access networks based on wireless technologies ("Construction Performance Obligations" or "CPOs"). Under the Regional Projects contracts, GNP would, among other things, operate the constructed networks for defined periods of time, and certain networks would be transferred to the Peruvian government upon completion of the operation phase.

23. Gilat disclosed that it prepared its consolidated financial statements in accordance with U.S. generally accepted accounting principles ("U.S. GAAP"); therefore, GNP was required to recognize revenue from the Regional Contracts in accordance with FASB Accounting Standards Codification ("ASC") 606, *Revenue from Contracts with Customers*.

24. GNP recognized revenue for the Regional Projects' CPOs using ASC 606's "percentage-of-completion cost-to-cost" method of revenue recognition ("POC method of accounting"). Pursuant to that method, for the purpose of determining the percentage of completion for each CPO, the measure of progress was based on the ratio of costs incurred to the total estimated costs, which included costs incurred plus estimated costs remaining to complete the construction of the network. GNP recognized revenue each period by applying the percentage of completion to the total estimated revenue allocated to each CPO.[22] In 2020, GNP was still in the process of constructing transport networks and access networks under two of six Regional Projects.

25. U.S. GAAP required GNP to update its measure of progress to reflect any changes in circumstances over time.[23] Because estimated profit is calculated as the difference between total estimated revenues allocated to the CPOs and total estimated costs to complete the construction of the networks, changes to the total estimated costs had the potential to cause material fluctuations in the timing of GNP's, and ultimately Gilat's, reported gross profit.

26. Given the nature of the estimates underlying revenue recognized using the POC method of accounting, EY Israel identified a fraud risk of "improper revenue recognition due to improper timing of revenue." EY Israel further described the associated fraud risk as being related to the "timing of revenue recognition as a result of inappropriate estimation of the

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[21] In its 2020 Form 20-F, Gilat disclosed that PRONATEL, a Peruvian governmental authority, provides public rural telecom services (voice, data, and internet) in Peru.

[22] *See* ASC 606-10-25-31; *see also* ASC 606-10-25-33; ASC 606-10-55-20.

[23] *See* ASC 606-10-25-35.

costs for completion due to manipulation aimed to either accelerate revenue or defer recognition of losses specifically with respect to [PRONATEL Regional Projects] in Peru."

27. EY Israel instructed EY Peru to design its audit procedures to be responsive to the identified fraud risk and comply with EY GAM and PCAOB standards. More specifically, EY Israel instructed EY Peru to perform, among other procedures: (1) steps to evaluate and test the estimates, assumptions, and judgments made by management in the estimate of percentage of completion, including evaluating any contrary evidence; and (2) a look back analysis to compare actual results to estimated budget and document management's capability to develop accurate estimates.

28. In connection with the GNP Audit Work, Carpio violated PCAOB standards in his response to the risks of material misstatement of GNP's revenue recognized under the POC method of accounting, and he did so in multiple ways.

29. *First,* Carpio failed to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion in his interoffice conclusion report.[24] More specifically, Carpio failed to perform, or ensure the performance of sufficient substantive procedures to address the identified fraud risk related to the timing of revenue recognition.[25] Although Carpio and his team performed tests of details on the *actual* costs incurred during the fiscal year under audit, they did not perform substantive procedures on the *estimated* costs remaining to complete the construction of the networks for the Regional Projects.[26] Therefore, the relevant estimated profit margins as of December 31, 2020, on the CPOs of the Regional Projects still under construction were not subjected to sufficient substantive procedures "specifically responsive to the assessed fraud risk."

30. *Second,* as part of Carpio's evaluation of whether GNP's controls sufficiently addressed the assessed risks of misstatement due to fraud, Carpio failed to perform, or ensure the performance of, sufficient tests of GNP's controls that addressed the assessed significant risks, including the fraud risk, related to costs estimated by management used to recognize POC revenue.[27] Specifically, Carpio failed to perform, or ensure the performance of, sufficient tests

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24 *See* 1105.04.

25 *See* AS 2301.11, .13; *see also* AS 2301.03.

26 The engagement team rolled forward a prior-year work paper and named that document *U-1 Ingresos de proyectos GNP al 31.12.2020*. The U-1 work paper was expected to be the primary work paper documenting most of the substantive test work on the POC revenue recognition. However, as the AQR team noted, the work paper in Canvas contained mostly prior-year data and testing.

27 *See* AS 2201.14, .39.

of the design effectiveness of GNP's internal controls over POC revenue recognition.[28] As a result, Carpio and his engagement team failed to sufficiently test controls that addressed the risk that management might be inappropriately estimating costs to manipulate revenue recognition.

31. *Third,* Carpio failed to perform, or ensure the performance of, a retrospective review, or a "look back analysis," sufficient to determine whether GNP management's accounting estimates relating to POC revenue recognition, including the underlying judgments and assumptions, indicated a possible bias on the part of management.[29] Although the engagement team compared management's total estimated costs from one period to the next to identify and understand any instances where management had made a change to the estimate, Carpio and his engagement team did not compare the prior year's estimate to actual results. Thus, Carpio and his engagement team failed to perform procedures to evaluate whether a change to the estimate should have been reflected, but was not.

32. Accordingly, Carpio failed to sufficiently test GNP's POC revenue in violation of PCAOB standards, including AS 1105, AS 2201, AS 2301, and AS 2401.

iv. Carpio Failed to Adequately Supervise His Engagement Team

33. The engagement partner is "responsible for proper supervision of the work of engagement team members and for compliance with PCAOB standards."[30] Under PCAOB standards, "the engagement partner may seek assistance from appropriate engagement team members in fulfilling his or her responsibilities."[31] "Engagement team members who assist the engagement partner with supervision of the work of other engagement team members also should comply with the requirements in [AS 1201] with respect to the supervisory responsibilities assigned to them."[32] Those performing supervisory activities should, among other things, "[r]eview the work of engagement team members to evaluate whether: (1) [t]he work was performed and documented; (2) [t]he objectives of the procedures were achieved; and (3) [t]he results of the work support the conclusions reached."[33]

34. As the partner assigned responsibility for the GNP Audit Work, Carpio needed to properly review and evaluate the work of his engagement team. Carpio, however, failed to

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28 *See id.* at .42.

29 *See* AS 2401.63-.64.

30 AS 1201.03.

31 *Id.* at .04.

32 *Id.*

33 *Id.* at .05 (footnote omitted).

sufficiently supervise the work of his engagement team on the GNP Audit Work, in violation of PCAOB standards.[34]

35. Carpio failed to sufficiently supervise his engagement team's planned or performed testing procedures related to POC revenue recognition, including the team's procedures related to evaluating cost estimates for the PRONATEL Regional Projects. The audit documentation does not reflect that Carpio reviewed work papers documenting the results of any substantive procedures to test revenue recognized under the POC method of accounting. [35] Nor is there any other evidence that Carpio reviewed the primary work paper that was meant to document tests of POC revenue recognition.[36]

36. Moreover, the EY Peru engagement team prepared and sent to EY Israel a final SRM that included inaccurate statements. For example, the SRM stated that the EY Peru engagement team had performed a look back analysis and received a local management representation letter, when it had not. Despite inaccurate information in the final SRM, Carpio signed the final SRM, along with the final interoffice conclusion report and other deliverables, and authorized his team to send the final deliverables to EY Israel.

37. Accordingly, Carpio violated AS 1201 and AS 2301 because he failed to sufficiently: (1) supervise and review his team's work to ensure that the work the team planned to perform was actually performed; (2) supervise and review his team's work to ensure that the results of the work supported the conclusions reached; and (3) supervise and review his team's work to ensure that it was appropriately documented.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it is appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Carpio is hereby censured.

B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Carpio is

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[34] *See id.* at .03-.05; *see also* AS 2301.05b.

[35] The AQR findings reflected the work papers were not subject to an appropriate level of supervision and review, including an appropriate level of review by Carpio.

[36] *See* note 26, *supra*.

barred from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).[37]

C. Pursuant to PCAOB Rule 5302(b), Carpio may file a petition for Board consent to associate with a registered public accounting firm after three years from the date of this Order.

D. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB 5300(a)(6), Carpio is required to complete, before petitioning to reassociate with the Board, 40 hours of CPE in subjects that are directly related to the audits of issuer financial statements under PCAOB standards (such hours shall be in addition to, and shall not be counted in, any CPE Carpio is required to obtain in connection with any professional license).

E. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of $50,000 is imposed on Carpio.

1. All funds collected by the PCAOB as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act.

2. Respondent shall pay the civil money penalty within ten days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by PCAOB staff; or (b) United States Postal Service money order, bank money order, certified check, bank cashier's check, or attorney escrow account check (i) made payable to the Public Company Accounting Oversight Board, (ii) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (iii) submitted under a cover letter, which identifies Carpio as the respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe

[37] As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Carpio. Section 105(c)(7)(B) provides: "It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."

W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

3. If timely payment is not made, interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest.

4. By consenting to this Order, Carpio acknowledges that a failure to pay the civil money penalty described above may alone be grounds to deny any petition to terminate a bar pursuant to PCAOB Rule 5302(b).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

October 7, 2025