1666 K Street NW
Washington, DC 20006

Office: 202-207-9100
Fax: 202-862-8430

www.pcaobus.org

Notice of Finality of Initial Decision

In the Matter of AJ Robbins CPA, LLC and Allan Jeffrie Robbins, CPA,

Respondents.

PCAOB No. 105-2021-001

June 21, 2023

On April 28, 2023, the Chief Hearing Officer of the Public Company Accounting Oversight Board rendered the attached Initial Decision pursuant to PCAOB Rule 5204(b). The Initial Decision ordered, as sanctions, that the PCAOB registration of AJ Robbins CPA, LLC (the "Firm") be revoked; that Allan Jeffrie Robbins, CPA ("Robbins," together with the Firm, the "Respondents") be permanently barred from association with any registered public accounting firm; and that Respondents be ordered to pay a civil money penalty in the amount of $150,000, jointly and severally.

There having been no petition for Board review of the Initial Decision filed by any party pursuant to PCAOB Rule 5460(a) and no action by the Board to call the matter for review pursuant to PCAOB Rule 5460(b), the Initial Decision has today become final as to the Respondents pursuant to PCAOB Rule 5204(d).

Respondents shall pay the civil money penalty by (a) wire transfer pursuant to instructions provided 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 AJ Robbins CPA, LLC, and Allan Jeffrie Robbins, CPA, as Respondents in these proceedings, sets forth the title and PCAOB File Number of these proceedings, and states that payment is made pursuant to this Notice, 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.

Effective Date of Sanctions: As to each of the Respondents, if that Respondent does not file an application for review by the Securities and Exchange Commission ("Commission") and the Commission does not order review of sanctions ordered against that

Respondent on its own motion, the effective date of the sanctions shall be the later of the expiration of the time period for filing an application for Commission review or the expiration of the time period for the Commission to order review. If a Respondent files an application for review by the Commission or the Commission orders review of sanctions ordered against that Respondent, the effective date of the sanctions ordered against that Respondent shall be the date the Commission lifts the stay imposed by Section 105(e) of the Sarbanes-Oxley Act of 2002.

Phoebe W. Brown
Secretary

June 21, 2023

1666 K Street NW
Washington, DC 20006

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HearingOffice@pcaobus.org

www.pcaobus.org

In the Matter of AJ Robbins CPA, LLC, and Allan Jeffrie Robbins, CPA, Respondents.	PCAOB No. 105-2021-001 Hearing Officer – MBD April 28, 2023

Summary

This Initial Decision finds that Respondents AJ Robbins, CPA, LLC (the "Firm"), and Allan Jeffrie Robbins, CPA ("Robbins"), violated multiple PCAOB rules and auditing standards. Among other things, the Firm issued multiple audit reports and interim review engagements between 2016 and 2018 without first obtaining concurring approval for issuance from an engagement quality reviewer, the Firm failed to conduct two issuer audits with due professional care and professional skepticism during 2018, and the Firm and Robbins failed to cooperate with a PCAOB inspection during 2018 by improperly altering audit documentation and making misrepresentations to the PCAOB's inspections staff. Additionally, the Firm failed to maintain its independence from an issuer client in violation of SEC and PCAOB rules due to a business relationship with an officer and director of that issuer client. This Initial Decision also finds that Robbins directly and substantially contributed to the Firm's violations.

For these violations, this Initial Decision permanently revokes the Firm's registration, permanently bars Robbins from association with any registered public accounting firm, and imposes a civil monetary penalty of $150,000 upon the Firm and Robbins, jointly and severally.

Appearances

Joshua M. Cutler, Esq., and Kevin J. Matta, Esq., Washington, DC, for the PCAOB Division of Enforcement and Investigations.

Russell D. Duncan, Esq., Clark Hill PLC, Washington, DC, for Respondents AJ Robbins, CPA, LLC, and Allan Jeffrie Robbins, CPA.

INITIAL DECISION

I. PROCEDURAL BACKGROUND

On April 21, 2021, the Public Company Accounting Oversight Board ("PCAOB" or the "Board") issued an Order Instituting Disciplinary Proceedings ("OIP") pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB Rule 5200(a)(1), setting forth allegations by the Division of Enforcement and Investigations ("Division") against Respondents AJ Robbins CPA, LLC (the "Firm"), Allen Jeffrie Robbins, CPA ("Robbins"), and Kevin F. Pickard, CPA ("Pickard") (collectively, "Respondents"). The OIP alleged that the Firm and Robbins committed numerous violations of PCAOB rules and auditing standards[1] in connection with multiple audits and interim review engagements that the Firm performed with Robbins as the engagement partner. Additionally, according to the OIP, after receiving advance notice of a 2018 PCAOB inspection of the Firm, the Firm and Robbins tried to conceal several violations of PCAOB auditing standards by improperly altering the Firm's audit documentation. According to the OIP:

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[1] On March 31, 2015, the PCAOB adopted amendments that 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* (January 2017). The amendments were approved by the SEC on September 17, 2015, and became effective as of December 31, 2016. The OIP alleges conduct by the Respondents both before and after the reorganization. For purposes of clarity, this Initial Decision cites the reorganized auditing standard. The reorganization did not make substantive changes to the standards that the OIP alleged Respondents violated.

A. The Firm violated Auditing Standard ("AS") 1220, *Engagement Quality Review,* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Standards*, PCAOB Rule 3200, *Auditing Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*, by failing to obtain required engagement quality reviews for four issuer audits and eight issuer interim review engagements between 2016 and 2018. *See* OIP ¶¶ 2, 17-31, 143.

B. The Firm and Robbins violated PCAOB Rule 3100, PCAOB Rule 3200, PCAOB Rule 3500T, *Interim Ethics and Independence Standards*, and PCAOB Rule 4006, *Duty to Cooperate With Inspectors*, during the 2018 inspection of the Firm by providing misleading audit documentation and making misrepresentations to PCAOB inspectors. *See* OIP ¶¶ 4, 46-65, 144.

C. The Firm violated auditor independence requirements, including PCAOB Rule 3520, *Auditor Independence,* and Securities and Exchange Commission ("SEC") Regulation S-X, Rule 2-01(b), codified at 17 CFR § 210.2-01(b), when the Firm and Robbins hired Pickard, who was the CFO of one issuer audit client, to perform engagement quality reviews for four other issuer audits by the Firm. *See* OIP ¶¶ 2, 66-77, 145.

D. The Firm and Robbins violated multiple PCAOB rules and standards in two 2017 issuer audits by, among other things, failing to conduct the audits with due professional care and professional skepticism, failing to perform appropriate risk

assessment procedures, including fraud risk, and failing to gather sufficient appropriate audit evidence. *See* OIP ¶¶ 2-3, 78-132, 146-147.

E. The Firm and Robbins violated AS 1215, *Audit Documentation,* by failing to timely assemble and retain a complete and final set of audit documentation, and by improperly altering the Firm's audit documentation in an attempt to conceal violations of PCAOB standards. *See* OIP ¶¶ 1, 133-135, 148.

F. Robbins failed to supervise audits and reviews with due professional care in violation of AS 1201, *Supervision of the Audit Engagement*. *See* OIP ¶¶ 136-137, 149.

G. The Firm violated PCAOB Rule 3400T, *Interim Quality Control Standards*, in multiple areas by failing to obtain engagement quality reviews, perform appropriate risk assessment procedures, and timely assemble audit documentation. *See* OIP ¶¶ 138-140, 150.

H. Robbins violated PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, by directly and substantially contributing to the Firm's violations, including the engagement quality review violations, the violations in connection with the 2018 inspection, the independence standards violations, and the documentation and quality control standards violations. *See* OIP ¶¶ 143-145, 148, 150.

The OIP also set forth allegations against Pickard for violations of PCAOB rules and standards related to engagement quality reviews he conducted for issuer audits performed by

the Firm and the alteration of documents ahead of the 2018 PCAOB inspection of the Firm. *See* OIP ¶¶ 6, 32-45, 151-152.

On June 21, 2021, the Firm, Robbins, and Pickard jointly filed an answer to the OIP ("Answer"). The Answer admitted certain background allegations but otherwise denied the substantive allegations of the OIP. Respondents did not raise any affirmative defenses in their Answer.

On July 27, 2021, an initial prehearing conference was held to schedule prehearing deadlines and a date for a hearing. During the initial prehearing conference, counsel for the Division indicated that the Division believed that many of the violations alleged in the OIP were uncontroverted; counsel for Respondents agreed that many of the facts at issue in this proceeding were undisputed. *See* July 27, 2021, Prehearing Tr. at 4, 13. Following the initial prehearing conference, the Hearing Officer issued an order setting various deadlines in the case and scheduling a hearing to commence on January 24, 2022. *See Order Adopting Proposed Agreed Upon Scheduling Order with Modification as Discussed During Initial Prehearing Conference*.

On August 10, 2021, the Division filed its *Statement of Sanctions Sought by the Division* ("Division's 2021 Statement"), in which the Division stated that it intended to recommend that the Firm's registration with the Board be permanently revoked, that Robbins be permanently barred from association with any registered public accounting firm, and that a civil monetary penalty of $100,000 be imposed upon the Firm and Robbins, jointly and severally. *See* Division's 2021 Statement. The Division's 2021 Statement recommended that Pickard be barred from

association with any registered public accounting firm, with a right to petition the Board for consent for Pickard to associate with a registered public accounting firm after five years, and the imposition of a civil monetary penalty of $50,000 upon Pickard. *Id*. The Division's 2021 Statement also included a caveat that the Division "reserve[d] the right to change its sanctions request if additional facts or circumstances arise over the course of this proceeding that may warrant either higher or lower sanctions." *Id*. at n.1.

On September 29, 2021, the Hearing Officer issued an order granting a joint motion by the parties to stay and adjourn certain prehearing deadlines until November 5, 2021, pending finalization of a proposed settlement of this matter with respect to the Firm and Robbins, and revising certain prehearing deadlines with respect to Pickard. On October 22, 2021, the Hearing Officer issued an order granting a joint motion by the parties to extend the stay of prehearing deadlines as to the Firm and Robbins until December 1, 2021, pending settlement, and setting a briefing schedule for the Division to file a motion for summary disposition pursuant to PCAOB Rule 5427 with respect to the OIP's allegations against Pickard and for Pickard to file a response.

On October 29, 2021, the Division filed *The Division of Enforcement and Investigations' Motion for Partial Summary Disposition Against Kevin Pickard, CPA* with respect to the OIP's allegations against Pickard.

On November 8, 2021, the SEC announced the appointment of a new PCAOB Chairperson and three new members of the Board. The new Chairperson and other new members of the Board were sworn in between November 9, 2021, and January 10, 2022.

On November 18, 2021, the Hearing Officer granted a joint motion by the parties to extend the stay of this proceeding as to the Firm and Robbins until January 13, 2022, and to stay the proceeding as to Pickard until January 13, 2022, so that the parties could present an offer of settlement by Pickard to the Board at the same time as the Board considered the offer of settlement by the Firm and Robbins. The stay of the proceeding against the Firm, Robbins, and Pickard, was subsequently extended until April 14, 2022, pending Board consideration of the settlements.

On March 23, 2022, the Division notified the Hearing Officer that the Board had rejected the settlement offers of the Firm, Robbins, and Pickard. On April 1, 2022, following a March 30, 2022, prehearing conference with the parties, the Hearing Officer issued an order adopting a schedule for the completion of this proceeding which, among other things, scheduled the hearing to commence on August 8, 2022.

On April 29, 2022, the Division filed *The Division of Enforcement and Investigations' Motion for Partial Summary Disposition Against AJ Robbins CPA, LLC and Allan Jeffrie Robbins, CPA* concerning the Firm's and Robbins' (1) engagement quality review violations, (2) independence violations, (3) non-cooperation in the 2018 inspection and related violations, (4) violations of PCAOB rules and standards in connection with one 2017 issuer audit, and (5) documentation violations. The Division's motion for partial summary disposition also sought a determination that the criteria set forth in Section 105(c)(5) of the Act for heightened sanctions under Section 105(c)(4)(B), (C), and (D)(ii) of the Act had been satisfied as to the Firm and Robbins.

On May 13, 2022, the Hearing Officer issued an order granting a joint motion by the parties to stay the proceeding as to Pickard until June 17, 2022, so that the Division and Pickard could present a new offer of settlement by Pickard to the Board for the Board's consideration. On June 22, 2022, the Board accepted Pickard's offer of settlement, resolving this proceeding as to Pickard. *See Order Making Findings and Imposing Sanctions In the Matter of Kevin F. Pickard, CPA*, PCAOB Release No. 105-2022-011 (June 22, 2022). Pursuant to the terms of Pickard's settlement with the PCAOB, the findings made by the Board were made pursuant to Pickard's offer of settlement and are not binding on any other persons or entities. Pursuant to the settlement, without admitting or denying the substantive allegations of the OIP, Pickard consented to a bar from being associated with a registered public accounting firm, with the right to file a petition for Board consent to associate with a registered firm after two years, a limit on Pickard's activities in connection with audits of public companies or SEC-registered broker-dealers for one year after termination of the bar, the imposition of a $30,000 civil monetary penalty on Pickard, and a requirement that Pickard obtain an additional 25 hours of continuing professional education relating to PCAOB auditing standards before filing any petition for Board consent to associate with a registered public accounting firm.

On June 24, 2022, the Firm and Robbins submitted a Notice of Filing attaching a Stipulation dated June 14, 2022, executed by the Firm and Robbins (the "Stipulation"). The Stipulation began with a recital that the Firm and Robbins "concede the facts and violations alleged in the [OIP] and wish to avoid incurring unnecessary expense in litigating those matters." *See* Stipulation at 1. The Stipulation provided that the Firm and Robbins "admit each

of the allegations and violations set forth in paragraphs 1 to 155 of the OIP, except for the portions of paragraphs 7, 32, 38(e), 42(f), 43, 53, 55, 56, 59, 151, 152, and 155 that are struck though in Exhibit A" attached to the Stipulation. *Id*. at ¶ 2. The Stipulation also stated that the Firm and Robbins "contest the appropriate sanctions for the violations in the OIP, and wish to submit to the Hearing Officer for a determination of the appropriate sanctions . . . ." *Id*. at 1. The Stipulation additionally provided that the Firm and Robbins consented to the admission into evidence of "each of the exhibits identified" on the parties' joint exhibit list attached to the Stipulation as Exhibit B and waived all further proceedings in this matter except as to the determination of sanctions. *Id*. at ¶¶ 3-5. Additionally, the Firm and Robbins are precluded from disputing the facts and conclusions admitted through the Stipulation. *Id*. at ¶ 6 and Stipulation Ex. A.

On July 6, 2022, the Hearing Officer conducted a status conference with the parties to discuss a schedule for the completion of this proceeding in light of the Stipulation. At the July 6, 2022, status conference, counsel for the Division and counsel for the Firm and Robbins confirmed that the parties agreed that the Stipulation should be treated as an amendment to the Answer to the OIP previously filed by the Firm and Robbins, and that the Stipulation resolved all issues in this proceeding other than the appropriate sanctions, if any, to be imposed upon the Firm and Robbins. Additionally, the Division agreed that it was no longer pursuing the allegations in the OIP in paragraphs 7, 32, 38(e), 42(f), 43, 53, 55, 56, 59, 151, 152, and 155 of the OIP that are struck through in the copy of the OIP attached to the Stipulation as Exhibit A.

On July 13, 2022, following the status conference, the Hearing Officer issued an order pursuant to PCAOB Rules 5200(c)(4) and 5201(d)(4) ("July 13, 2022 Order") amending the OIP by deleting the language in paragraphs 7, 32, 38(e), 42(f), 43, 53, 55, 56, 59, 151, 152, and 155 that are struck through in the copy of the OIP attached to the Stipulation as Exhibit A to conform to the evidence in this matter as stipulated by the parties. The July 13, 2022 Order also ordered that the Stipulation would be deemed to be the Firm's and Robbins' amended answer to the OIP (as amended pursuant to the Stipulation). The July 13, 2022 Order further adopted a schedule as proposed by the parties for the completion of this proceeding, which included provisions for a one-day hearing on sanctions, if such a hearing was requested by the parties, as well as a schedule for the parties to submit briefs on sanctions. Pursuant to the July 13, 2022 Order, on August 24, 2022, the parties submitted their Final Joint Exhibit List, which identified 254 joint exhibits, including the transcripts of the investigative testimony of Robbins and Pickard, and moved for the admission into evidence of the joint exhibits listed on the Final Joint Exhibit List. Also on August 24, 2022, the Firm and Robbins submitted the *AJ Robbins Revised and Amended Affidavit in Support of Proposed Sanctions for Respondents* ("Robbins Aff.").

On September 6, 2022, the Hearing Officer issued an order canceling the evidentiary hearing on sanctions that had been scheduled for September 21, 2022, because neither the Division nor the Firm and Robbins had requested an evidentiary hearing on sanctions. The September 6, 2022, order also confirmed the schedule for the parties to submit briefs on sanctions. On October 6, 2022, the Division filed *Division of Enforcement and Investigation's Brief on Sanctions* ("Division's Brief on Sanctions"). On October 26, 2022, the Firm and Robbins filed

Respondents' Opposition to Division of Enforcement and Investigation's Brief on Sanctions ("Opposition Brief on Sanctions"). On October 27, 2022, the Division filed the *Division's Reply Brief on Sanctions*.

The findings and conclusions in this Initial Decision are based on the record, including the Stipulation and the parties' joint exhibits,[2] which are admitted into evidence.[3] All of the relevant facts alleged in the OIP (as amended pursuant to the Stipulation) have been admitted, although the parties argue different inferences from some of those facts. The Firm and Robbins have also admitted to the violations alleged in the OIP (as amended pursuant to the Stipulation), so that the parties' sole dispute is the appropriate sanctions, if any, to be imposed on the Firm and Robbins. To the extent any facts are in dispute, this Initial Decision applies "a preponderance of the evidence" as the standard of proof. *See* PCAOB Rule 5204(a); *Steadman v. SEC*, 450 U.S. 91, 97-104 (1981).

II. RELEVANT PARTIES

A. Respondents

The Firm is a professional corporation organized under the laws of the state of Colorado

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[2] During the July 6, 2022, status conference, counsel for the Division and for the Firm and Robbins suggested that the Stipulation would be a sufficient basis for this Initial Decision to make factual findings without a need to refer to the underlying record. *See* Tr. at 10-11. This Initial Decision relies on both the Stipulation and, additionally, the underlying record, including the parties' joint exhibits, in order to confirm that there is a sufficient basis in the record to support the Initial Decision's findings of fact. *See* PCAOB Rule 5204(b).

[3] The parties' joint exhibits are referred to in this Initial Decision as "J-__" followed by the corresponding exhibit number.

and headquartered in Denver, Colorado. The Firm is, and at all relevant times was, a registered public accounting firm under Section 102 of the Act and the PCAOB's rules. *See* Stipulation Ex. A ¶ 8.

Robbins, the managing partner of the Firm and its sole owner, is a certified public accountant licensed by the state of Colorado (license no. 2830). *See* Stipulation Ex. A ¶ 9. Robbins was the audit engagement partner for each of the Firm's audit and review engagements which are identified in the Appendix attached to the OIP. *Id.* At all relevant times, Robbins was an associated person of a registered accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). *Id.*

B. Relevant Issuers

Accelera Innovations, Inc. ("Accelera") was a Delaware corporation headquartered in Frankfort, Illinois. Accelera's public filings disclosed that it was a healthcare service company focused on integrating licensed technology assets into its newly acquired companies. Accelera's common stock became registered under Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") in October 2008 and was quoted on the OTCQB under the symbol "ACNV." At all relevant times, Accelera was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). *See* Stipulation Ex. A ¶ 11.

Doyen Elements, Inc. ("Doyen"), was a Nevada corporation headquartered in Colorado Springs, Colorado. Doyen's public filings disclosed that it planned to provide a wide range of ancillary services to industrial hemp businesses and had acquired a hemp genetics research and development company. Doyen registered its common stock under Section 12(g) of the Exchange

Act in September 2017. At all relevant times, Doyen was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). *See* Stipulation Ex. A ¶ 12.

Novo Integrated Sciences, Inc. ("Novo"), was a Nevada corporation headquartered in Bellevue, Washington. Novo's public filings disclosed that it provided multi-disciplinary primary healthcare services. At all relevant times, Novo was required to file reports with the SEC under Section 15(d) of the Exchange Act. Novo's common stock was quoted on the OTCQB under the symbol "NVOS." Novo 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). *See* Stipulation Ex. A ¶ 13.

Soldino Group Corp. ("Soldino"), was a Nevada corporation headquartered in Treviso, Italy. Soldino's public filings disclosed that it intended to commence operations in the business of work wear distribution, sewing and embroidery services. On June 14, 2017, Soldino filed a registration statement on Form S-1 (J-215) with the SEC that included the Firm's audit report for its audit of Soldino's financial statements for the year ending April 30, 2017 (the "2017 Soldino Audit"), and the Firm's consent for that audit report to be included in Soldino's Form S-1 registration statement. *See* Stipulation Ex. A ¶ 14; J-215 at 71 of 71. The Firm's audit report for the 2017 Soldino Audit stated that the audit had been performed in accordance with PCAOB standards. *Id*. at ¶ 14; J-215 at 29 of 71. At the time of the 2017 Soldino Audit, the Firm and Robbins understood that Soldino intended to include the Firm's audit report in the Form S-1 registration statement and any subsequent amendments to the registration statement for which the report was required. From the time that Soldino filed its Form S-1 registration statement with the SEC, 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). *See* Stipulation Ex. A ¶ 14.

Vado Corp. ("Vado"), was a Nevada corporation headquartered in Nitra, Slovakia, that according to its public filings was developing an embroidery business. On January 17, 2018, Vado filed a registration statement on Form S-1 (J-243) with the SEC that contained the Firm's audit report for its audit of Vado's financial statements for the fiscal year ending November 30, 2017 (the "2017 Vado Audit") and a consent by the Firm for that audit report to be included in the Form S-1 registration statement. *See* Stipulation Ex. A ¶ 15; J-243 at 47 of 47. The Firm's audit report for the 2017 Vado Audit stated that the Firm performed the audit in accordance with PCAOB standards. *Id*. at ¶ 15; J-243 at 29 of 47. At the time of the 2017 Vado Audit, the Firm and Robbins understood that Vado intended to include the audit report in the Form S-1 registration statement and any subsequent amendments to the registration statement for which the report was required. From the time that Vado filed its Form S-1 registration statement with the SEC, 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). *See* Stipulation Ex. A ¶ 15.

YayYo, Inc. ("YayYo"), was a Delaware corporation headquartered in Beverly Hills, California that according to its public filings was developing a peer-to-peer booking platform and fleet management service for ridesharing. On April 30, 2018, YayYo filed a registration statement on Form S-1 (J-223) with the SEC that contained the Firm's audit report for its audit of YayYo's financial statements for the year ending December 31, 2017 (the "2017 YayYo Audit") and the Firm's consent for that audit report to be included in the Form S-1 registration

statement. *See* Stipulation Ex. A ¶ 16; J-223 at 152 of 152. The Firm's audit report for the 2017 YayYo Audit stated that the Firm performed the audit in accordance with PCAOB standards. *Id*. at ¶ 16; J-223 at 97 of 152. At the time of the 2017 YayYo Audit, the Firm and Robbins understood that YayYo intended to include the audit report in the Form S-1 registration statement and any subsequent amendments to the registration statement for which the report was required. Concurrent with the effective date of its amended Form S-1 registration statement, YayYo registered its common stock under Section 12(b) of the Exchange Act, and its common stock was thereafter quoted on the NASDAQ Stock Market LLC exchange under the symbol "YAYO" until February 2020. From the time that YayYo filed its registration statement on Form S-1 with the SEC, and at all relevant times thereafter, YayYo was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). *See* Stipulation Ex. A ¶ 16.

C. Other Relevant Individual

At all relevant times, Pickard was a certified public accountant licensed by the states of California (license no. CPA 70205) and North Carolina (license no. 17677) who operated a non-registered accounting firm through which Pickard provided a variety of services, including financial statement preparation services for issuers. Pickard served as the engagement quality review partner for the Firm's 2017 Soldino Audit and the 2017 Vado Audit. At all relevant times, Pickard 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). Pickard was also the Chief Financial Officer and a

Director of YayYo during the period that the Firm performed audits of YayYo's 2017 and 2018 financial statements. *See* Answer ¶ 10; Stipulation Ex. A ¶ 10.

III. FINDINGS OF FACT

A. The Firm's Failure to Obtain Timely Engagement Quality Reviews for Issuer Audits and Interim Reviews

1. The Firm Failed to Obtain Timely Engagement Quality Reviews for Issuer Audits

The Firm issued audit reports in connection with each of the following issuer audits between 2016 and 2018, and granted permission to the audit clients to use those audit reports in filings with the SEC without first obtaining an engagement quality review or receiving concurring approval of issuance:

Issuer	Period Ending	Filing Date (Filing Type)
Accelera	December 31, 2015 (restated) and 2016	4/17/17 (Form 10-K)
Novo	August 31, 2017	12/8/17 (Form 10-K)
Soldino	April 30, 2017	6/14/17 (Form S-1) 7/12/17 (Form S-1/A) 7/25/17 (Form S-1/A)
YayYo	December 31, 2017 (restated)	7/18/18 (Form S-1/A) 8/16/18 (Form S-1/A) 9/5/18 (Form S-1/A) 10/11/18 (Form S-1/A) 11/2/18 (Form S-1/A)

See Stipulation Ex. A ¶ 27. The Firm later obtained engagement quality reviews for some of those audits, but not until many weeks or months after the clients had used the audit reports in filings with the SEC. No engagement quality review was ever completed for the audit of YayYo's

restated 2017 financial statements (the "2017 YayYo Restatement Audit"). Robbins knew that no engagement quality review had been performed and that no concurring approval of issuance had been received when he authorized the Firm's issuance of these audit reports and the clients' use of them in SEC filings. *See* Stipulation Ex. A ¶¶ 27, 28.

2. The Firm's Failure to Obtain Timely Engagement Quality Reviews for Interim Reviews

For each of the following interim reviews, the Firm communicated its conclusion to the clients despite Robbins' knowledge that no engagement quality review had been completed and that no concurring approval of issuance had been received at the time the clients filed their Quarterly Reports on Form 10-Q with the SEC:

Issuer	Period Ending	SEC Filing Date
Accelera	September 30, 2016	11/21/16
Accelera	March 31, 2017	5/18/17
Accelera	June 30, 2017	8/11/17
Accelera	September 30, 2017	11/1/17
Doyen	September 30, 2017	11/17/17
Novo	May 31, 2017	7/24/17
Novo	November 30, 2017	1/12/18
Novo	February 28, 2018	4/12/18

See Stipulation Ex. A ¶ 30. These eight interim reviews for Accelera, Doyen, and Novo are referred to collectively in this Initial Decision as the "Interim Reviews."

3. Robbins Knew That an Engagement Quality Review and Concurring Approval of Issuance was Required for Each Issuer Audit and the Interim Reviews

When the Firm performed the issuer audits listed in the Appendix to the OIP and the Interim Reviews, Robbins knew that the Firm could not grant permission to an issuer audit client to use the Firm's audit report and could not communicate an interim review engagement conclusion to an issuer client until an engagement quality review was performed and the Firm had received concurring approval of issuance. *See* Stipulation Ex. A ¶¶ 22-23. Before the Firm performed any of the audits identified in the Appendix to the OIP or the Interim Reviews, Robbins had read AS 1220, *Engagement Quality Review*. *Id.* at Ex. A ¶ 24. AS 1220 explicitly states in the first paragraph that PCAOB auditing standards require engagement quality reviews and concurring approvals of issuance for both audits and interim reviews. *Id*. at Ex. A ¶ 24; *see also* AS 1220.01. AS 1220 also separately sets forth the requirements for engagement quality reviews of both audits and interim reviews. *See* AS 1220.09-.13; AS 1220.14-.18.

At the time the Firm performed the Interim Reviews, Robbins knew, or was reckless in not knowing, that Accelera, Doyen, and Novo were issuers and that AS 1220, *Engagement Quality Review*, required an engagement quality review and concurring approval of issuance before communicating the engagement conclusion for an interim review of an issuer to that issuer. *See* Stipulation Ex. A ¶ 29. Among other things, Robbins' knowledge (or recklessness in not knowing) of the requirements for engagement quality reviews for the Interim Reviews is evidenced by the fact that for issuer audits and interim reviews, the Firm utilized commercially purchased issuer audit programs (the "CCH Guide"). The CCH Guide included guidance on

complying with PCAOB auditing standards, including AS 1220. The CCH Guide's "Supervision, Review and Approval Form" for both audits and interim reviews stated, "AS 1220, *Engagement Quality Review* . . . , requires an engagement quality review for audits and reviews of interim financial information." *See* Stipulation Ex. A ¶ 25; J-011 (2017 Novo Audit file "PCA-CX-14_1 Supervision, Review, and Approval Form") at 9, 10 of 10; J-045 (Q2 2018 Novo Review file "PCA-IR-4: Supervision, Review, and Approval Form - Interim Review") at 7 of 8; J-155 (2016 Accelera Audit file "PCA-CX-14_1 Supervision, Review, and Approval Form") at 9, 10 of 10; J-172 (2017 Doyen Audit File "PCA-CX-14.1: Supervision, Review and Approval Form") at 9, 11 of 11.

The "Supervision, Review and Approval Form" in the CCH Guide for both audits and interim reviews also contained a section for the engagement quality reviewer to complete. *See* Stipulation Ex. A ¶ 25; J-011 at 5-6 of 10; J-045 at 4-6 of 8; J-155 at 5-6 of 10; J-172 at 4-6 of 11.

The "Engagement Completion Document" in the CCH Guide for both audits and interim reviews also contained a place for the engagement quality reviewer to sign, just below the place for the engagement partner to sign. *See* Stipulation Ex. A ¶ 25; J-051 (2017 Novo Audit file "PCA CX 14.3: Engagement Completion Document") at 3 of 4; J-002 (Q2 2018 Novo Review file "PCA-IR-7: Engagement Completion Document - Interim Review") at 3 of 4; J-157 (Q3 2016 Accelera Review file "PCA IR 7: Engagement Completion Document - Interim Review") at 3 of 4.

Robbins' knowledge (or recklessness in not knowing) of the requirements for engagement quality reviews for issuer audits and interim reviews is also evidenced by the fact that Robbins served as an engagement quality reviewer for at least two other PCAOB-registered firms between 2003 and 2018. *See* Stipulation Ex. A ¶ 26. In 2016, for example, Robbins served

as the engagement quality reviewer for another registered public accounting firm for at least four audits and thirteen interim reviews for issuers under PCAOB standards. *Id*.

B. Pickard's Engagement Quality Reviews for Two Firm Audits

The Firm and Robbins hired Pickard to perform engagement quality reviews for the 2017 Soldino Audit and the 2017 Vado Audit. At the time Pickard agreed to perform those engagement quality reviews, Pickard was a Director and the Chief Financial Officer ("CFO") of YayYo, another Firm issuer audit client. *See* Stipulation Ex. A ¶ 32; J-223 (YayYo Registration Statement on Form S-1, filed April 30, 2018) at 69, 70 of 152.

1. Pickard's Engagement Quality Review for the 2017 Soldino Audit

Pickard was retained to perform the engagement quality review for the 2017 Soldino Audit on or about August 1, 2017, after the Firm had issued its audit report and after Soldino had filed its Registration Statement on Form S-1 with the SEC containing the Firm's audit report. *See* Stipulation Ex. A ¶¶ 27, 37. Pickard performed the engagement quality review for the 2017 Soldino Audit on or about August 1, 2017. *Id*. at ¶ 36; *see* J-212 (4/5/20 ABD response from Kevin Pickard) at 1.

At the time Pickard performed the engagement quality review for the 2017 Soldino Audit, Pickard received and reviewed only a draft copy of Soldino's financial statements and a signed copy of the Firm's audit report dated May 31, 2017. *See* Stipulation Ex. A ¶ 37; J-184 (8/1/17 email with the subject "RE: FS Soldino April 30 2017 draft 2.docx"); J-183 (7/26/17 email with the subject "FS Soldino April 30 2017 draft 2.docx").

When performing his engagement quality review for the 2017 Soldino Audit, Pickard failed to perform procedures required by PCAOB standards. Among other things, Pickard:

a. Did not request, receive, or review any planning documentation, and he failed to evaluate the significant judgments that related to engagement planning, *see* AS 1220.10(a);

b. Did not request, receive, or review any risk assessment documentation relating to the audit, and he failed to evaluate the engagement team's assessment of, and responses to, significant risks identified by the engagement team, *see* AS 1220.10(b);

c. Did not request, receive, or review any documentation concerning the engagement team's evaluation of the Firm's independence, and he failed to review the engagement team's evaluation of the Firm's independence, *see* AS 1220.10(d);

d. Did not request, receive, or review the engagement completion document, and he failed to confirm with the engagement partner that there were no significant unresolved matters, *see* AS 1220(e); and

e. Did not request, receive, or review documentation of any audit communications, and he failed to evaluate whether appropriate matters were communicated, or identified for communication, to the audit committee, management, and other parties, *see* AS 1220(i).

See Stipulation Ex. A. ¶ 38.

Despite his failure to perform the procedures required by PCAOB standards, Pickard provided concurring approval of issuance for the Firm's report on the 2017 Soldino Audit. *See* Stipulation Ex. A ¶ 39.

2. Pickard's Engagement Quality Review for the 2017 Vado Audit

Pickard performed the engagement quality review for the 2017 Vado Audit on or about January 16, 2018. *See* Stipulation Ex. A ¶ 40; J-067 (8/14/19 ABD response from Kevin Pickard)

at 1.

When performing his engagement quality review for the 2017 Vado Audit, Pickard received a draft copy of Vado's financial statements on January 12, 2018, from a manager at the Firm. 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 2017 Vado Audit. *See* Stipulation Ex. A ¶ 41; J-070 (1/12/18 email with the subject "Vado Corp review") at 2 of 12 ("Procedure: traced the account Checking Bank Account back to bank statements by verifying each entry against the transactions on the bank statements").

When performing his engagement quality review for the 2017 Vado Audit, Pickard failed to perform procedures required by PCAOB standards. Among other things, Pickard:

a. Did not request, receive, or review any planning documentation, and he failed to evaluate the significant judgments that related to engagement planning, *see* AS 1220.10(a);

b. Did not request, receive, or review any risk assessment documentation relating to the audit, and he failed to evaluate the engagement team's assessment of, and responses to, significant risks identified by the engagement team, *see* AS 1220.10(b);

c. Did not request, receive, or review any documentation concerning the engagement team's evaluation of the Firm's independence, and he failed to review the engagement team's evaluation of the Firm's independence, *see* AS 1220.10(d);

d. Did not request, receive, or review the engagement completion document, and he failed to understand the significant findings and issues from the audit or

confirm with the engagement partner that there were no significant unresolved matters, *see* AS 1220.10(e);

e. Did not request, receive, or review the audit report, *see* AS 1220.10(f); and

f. Did not request, receive, or review documentation of any audit communications, and he failed to evaluate whether appropriate matters were communicated, or identified for communication, to the audit committee, management, and other parties, *see* AS 1220.10(i).

See Stipulation Ex. A ¶ 42.

Despite his failure to perform procedures required by PCAOB standards, Pickard provided concurring approval of issuance for the 2017 Vado Audit. On January 17, 2018, Vado filed a registration statement on Form S-1 (J-243) containing the Firm's audit report for the 2017 Vado Audit. *See* Stipulation Ex. A ¶ 44; J-243 at 29 of 47.

3. Pickard Did Not Adequately Document his Engagement Quality Reviews for the 2017 Soldino Audit and the 2017 Vado Audit

Pickard did not adequately document his engagement quality reviews for the 2017 Soldino Audit or the 2017 Vado Audit. *See* Stipulation Ex. A ¶ 45. Although Pickard sent comments on the issuers' financial statements to the Firm via email at the time he performed the engagement quality reviews, Pickard failed to document the engagement quality reviews with sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures he performed to comply with AS 1220, including the documents he reviewed and the date he provided concurring approval of issuance. *Id.*

C. The PCAOB's 2018 Inspection of the Firm

1. Robbins Signed and Permitted Others to Sign Documents Containing Materially False and Misleading Information for the 2018 Inspection

On April 3, 2018, the Firm and Robbins confirmed that staff members from the PCAOB's Division of Registration and Inspections (the "PCAOB Inspectors") would conduct an inspection of the Firm beginning on August 6, 2018, as indicated in an April 18, 2018, email from the PCAOB Inspectors to Robbins. *See* Stipulation Ex. A ¶ 50; J-126. On April 8, 2018, Robbins sent an email to a Firm employee, stating "I got the PCAOB [coming] in [A]ugust and I need the files spectacular." *Id*. at ¶ 51; *see* J-086.

On July 13, 2018, Robbins sent an email to two employees of the Firm, instructing them to "look into the files and fix anything you can before [the PCAOB Inspectors] find it." *See* Stipulation Ex. A ¶ 51; J-038.

On July 14, 2018, Robbins and an employee of the Firm discovered there was no documentation of the engagement quality review that Pickard had performed for the 2017 Vado Audit, and that the documentation of Pickard's engagement quality review for the 2017 Soldino Audit was incomplete. Based on this discovery, on July 14, 2018, Robbins sent an email to Pickard, indicating that Robbins needed Pickard to complete documentation for the Soldino and Vado engagement quality reviews because of a PCAOB inspection that would occur in early August 2018. *See* Stipulation Ex. A ¶ 52; J-036. Robbins attached an excerpt from a PCAOB disciplinary order to his July 14, 2008, email to Pickard which indicated that the PCAOB had

disciplined an engagement quality reviewer for failing to comply with PCAOB standards when performing an engagement quality review. *Id*.

On July 16, 2018, Robbins provided Pickard with forms to complete to document Pickard's engagement quality reviews for the 2017 Soldino Audit and the 2017 Vado Audit. *See* Stipulation Ex. A ¶ 53; J-182 (Soldino); J-078 (Vado).

On July 26, 2018, Pickard completed and returned to the Firm the forms that Robbins had provided to him for both the 2017 Soldino Audit and the 2017 Vado Audit. *See* Stipulation Ex. A ¶ 54; J-160 (Soldino); J-44 (Vado). When completing the forms, Pickard backdated his signatures to the dates when the reviews should have been performed for the audits (August 1, 2017, for the 2017 Soldino Audit, and January 21, 2018, for the 2017 Vado Audit). *Id*. at ¶ 54; *see* J-160 at 7 and 13 of 14 (Soldino); J-44 at 4 and 11 of 14 (Vado). The forms Pickard completed in July 2018 failed to include any indication of the date Pickard added information to the forms or why the information was added. *Id.* Pickard also falsely indicated in the forms that, at the time of the engagement quality reviews, he had performed various procedures that he, in fact, had not performed, including:

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 document; and

d. Evaluating whether appropriate matters had been communicated on a timely basis (or identified for communication) prior to the issuance of the audit report

> to the audit committee, management, and other parties such as regulatory bodies.

Pickard also falsely documented that, for the 2017 Vado Audit, he had reviewed the audit engagement report. *See* Stipulation Ex. A ¶ 54; J-44 at 10 of 14 item 11 (Vado).

At the time Pickard completed the forms purportedly documenting his engagement quality reviews for the 2017 Soldino Audit and the 2017 Vado Audit, Robbins knew that Pickard had not performed most of the procedures that Pickard indicated had been performed. Indeed, on August 2, 2018, in response to an inquiry from Robbins requesting a list of the work papers Pickard had reviewed during his engagement quality reviews for the 2017 Soldino Audit and the 2017 Vado Audit, Pickard sent an email to Robbins (*see* J-073) stating, "I think I just reviewed the [Soldino and Vado] financial statements." *See* Stipulation Ex. A ¶ 55.

Robbins instructed an employee of the Firm to add Pickard's backdated and misleading engagement quality review documentation to the Firm's work paper files ahead of the PCAOB inspection. *See* Stipulation Ex. A ¶ 57; J-152 (Soldino); J-37 (Vado).

Robbins knew that it was a requirement under AS 1215 to accurately document the audit work performed and the date that the audit work was performed. Robbins also knew that AS 1215 required that, when information is added to audit documentation after the documentation completion date, the documentation must indicate the date the information was prepared, and the reason the information was added. Robbins knew that Pickard's documentation did not meet those requirements, and that Pickard's addition of audit documentation after the documentation completion date (the "Added Documentation") gave

the misleading impression that Pickard had completed and documented all the procedures required by AS 1220 in a timely manner. By no later than August 2, 2018, when Pickard emailed Robbins that he had only reviewed financial statements during the engagement quality reviews, Robbins also knew that Pickard had not performed all the procedures Pickard claimed to have performed in the Added Documentation. But the Firm and Robbins failed to correct those deficiencies in the audit documentation or otherwise clarify the truth of the matter in the audit work paper files. *See* Stipulation Ex. A ¶ 57.

As part of his pre-inspection review of his audits, Robbins also discovered that he and the Firm had failed to obtain an engagement quality review for the audit of Novo's financial statements for the fiscal year ending December 31, 2017 (the "2017 Novo Audit"). Robbins then engaged Firm employee A to perform that review in May 2018, approximately four months after the documentation completion date for that audit. In a May 18, 2018, email (J-23), Robbins assured Firm employee A that "[a]lthough it is a late date, if you could do it now it would not be too late to effect any changes and correct any workpapers." *See* Stipulation Ex. A ¶ 60; J-23 at 2 of 2.

Firm employee A's engagement quality review for the 2017 Novo Audit resulted in several comments that required changes to the audit documentation. Robbins discussed those comments with Firm employee A and made changes to several audit work papers. Although Robbins made those changes long after the documentation completion date, Robbins failed to document that he had made the changes, when he made them, or the reason for making them. *See* Stipulation Ex. A ¶ 61.

2. The Firm and Robbins Provided Misleading Audit Documentation and Made Misrepresentations to the PCAOB Inspectors

The 2017 Novo Audit was selected for review during the PCAOB's 2018 inspection of the Firm. During the inspection, at Robbins' instruction, the Firm provided the PCAOB Inspectors with all of the audit documentation that Robbins and the Firm had modified after the documentation completion date, as well as the documentation of Firm employee A's engagement quality review that he had performed four months after the documentation completion date for the audit. *See* Stipulation Ex. A ¶¶ 60, 62.

Neither Robbins nor anyone else at the Firm informed the PCAOB Inspectors that the engagement quality review had been performed late, or that Robbins had modified several 2017 Novo Audit work papers after the documentation completion date. To the contrary, on August 8, 2018, Robbins, on behalf of the Firm, made affirmative, written misrepresentations to the PCAOB Inspectors that there had been no changes to the 2017 Novo Audit documentation since the documentation completion date. *See* Stipulation Ex. A ¶ 63; J-133 at 7 of 8 item 28.

In his August 8 communication to the PCAOB Inspectors, Robbins also misrepresented that none of his audit clients had completed a restatement in the past 36 months, even though, as he knew, YayYo had completed a restatement as part of the 2017 YayYo Restatement Audit less than a month earlier. *See* Stipulation Ex. A ¶ 64; J-133 at 7 of 8 item 22.

D. The Firm Performed Audits of YayYo While Pickard Was an Officer and Director

YayYo became the Firm's audit client in 2016. The Firm performed audits and issued audit reports on YayYo's financial statements for the fiscal years ending December 31, 2017,

and December 31, 2018, and also the 2017 YayYo Restatement Audit. Robbins was the engagement partner for all three of those audits. *See* Stipulation Ex. A ¶ 70.

Pickard became YayYo's CFO in June 2017 and a member of YayYo's board of directors in October 2017. He remained the CFO and a director of YayYo until April 3, 2020. *See* Stipulation Ex. A ¶ 71; J-223 at 69, 70 of 152.

From August 1, 2017 to January 16, 2018, the Firm and Robbins directly employed Pickard to perform engagement quality reviews for four audits of issuer clients other than YayYo that the Firm performed while Pickard served as CFO and a director of YayYo. *See* Stipulation Ex. A ¶ 72.

In addition, both before and during the time that Pickard served as CFO and Director of YayYo, Pickard referred significant business opportunities to the Firm and Robbins, and the Firm and Robbins referred business opportunities to Pickard. Those referrals created a long-term mutuality of interest among the Firm, Robbins and Pickard. *See* Stipulation Ex. A ¶ 74.

E. The 2017 Doyen Audit

In the Firm's audit of Doyen's financial statements for the fiscal year ending December 31, 2017 (the "2017 Doyen Audit"), for which Robbins served as the engagement partner, the Firm and Robbins "failed to obtain sufficient appropriate audit evidence despite encountering significant evidence contradicting management assertions and numerous fraud risk indicators that cast serious doubt on the existence, value, rights and presentation of the issuer's reported assets." *See* Stipulation Ex. A ¶ 3; *see also* Stipulation Ex. A ¶¶ 84-88, 92-115, 146. Instead, after initially questioning the valuation of Doyen's most significant assets, the Firm issued an

unqualified audit report without, as the Firm and Robbins have now admitted, adequately addressing the significant risks. *See* Robbins Aff. at § II.4; Stipulation Ex. A ¶ 146. Indeed, as the Firm and Robbins have also now admitted, the Firm and Robbins failed to exercise due professional care and professional skepticism in carrying out the 2017 Doyen Audit. *See* Stipulation Ex. A ¶ 146(a).

By the end of the third quarter of 2017, Doyen reported it had "conducted limited business operations since [its] inception, and have had no revenues to date." *See* J-241 (Doyen Elements, Inc. Quarterly Report on Form 10-Q for the quarter ending September 30, 2017) at 12 of 55; Stipulation Ex. A ¶ 84.

On December 18, 2017, Doyen filed a Current Report on Form 8-K (J-242) to report the acquisition of 7GENx LLC ("7GENx"), a company focused on creating proprietary hemp cultivars, in exchange for a $4.2 million promissory note issued to 7GENx's sole owner. *See* Stipulation Ex. A ¶ 84; J-242 at 2 of 40. The assets acquired in the 7GENx transaction increased Doyen's reported assets from $23,649 as of September 30, 2017, to $3.4 million as of December 31, 2017; the assets acquired from 7GENx comprised over 99% of Doyen's reported assets at year-end 2017. *Id*. at ¶ 84; *see* J-241 at 4, 13 of 55; J-239 (Doyen Annual Report on Form 10-K for the fiscal year ending December 31, 2017 ("Doyen 2017 10-K")) at 32 of 89.

In Doyen's year-end 2017 financial statements, Doyen reported the value of the seeds and mother plants, on a cost basis, as $2.55 million and $850,000, respectively. These valuations were based on the estimated $3.4 million fair value of the $4.2 million promissory note Doyen issued to the seller of 7GENx, as calculated by a Doyen-hired consultant (the

"Consultant"). Doyen allocated that amount between the seeds and mother plants with the assistance of the Consultant. The Consultant documented his work in a report dated December 13, 2017 (*see* J-107 (2017 Doyen Audit file "Allocation Report")), and the values calculated by the Consultant were included in Doyen's 2017 10-K.[4] *See* Stipulation Ex. A ¶ 86; *compare* J-107 at 8-9 of 31 *with* J-239 at 18 of 89.

Doyen management represented that approximately 17% of its seeds were "unique strains," for which management claimed there were "available market data points." The market data points appear to have been prices on European retail websites selling marijuana and hemp. But only 0.27% of Doyen's seeds were identified with a name similar to a variety that could theoretically be purchased from those sites. *See* Stipulation Ex. A ¶ 88; J-107 at 5 of 31. Doyen identified the rest of its "unique strain" seeds as either "Fiber" or "Yield," and the remainder of its seeds only as "blended strains." Based on Doyen management's representations that the unique strains were equivalent to specific market products, the Consultant calculated the retail value of the unique strain seeds, using prices of $8.80 to $16.51

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[4] Doyen allocated the estimated value of the note between the seeds and mother plants, based on estimates that they had relative fair values of $6.93 million and $2.32 million, respectively. *See* Stipulation Ex. A ¶ 87; *see* J-107 at 9 of 31. The fair value of the plants was based on management representations alone. The fair value of the seeds was based on a calculation the Consultant performed using, as Robbins knew, management-supplied data about the seeds and their values. *Id.* at ¶ 87; J-107 at 4 of 31 ("For the valuation of the Note, estimates for future payments based on inventory sales were provided by Management").

per seed. The Consultant then valued the blended strain seeds using an "average" price of $10.76 per seed. *See* Stipulation Ex. A ¶ 88; J-107 at 15 of 31.

During the planning for the 2017 Doyen Audit, the Firm and Robbins failed to assess the risks of material misstatement at the assertion level for any audit area, as required by AS 2110.59, *Identifying and Assessing the Risks of Material Misstatement*. *See* Stipulation Ex. A ¶ 89; J-105 (2017 Doyen Audit file "PCA-CX-7.1: Risk Assessment Summary Form") at 6-8 of 10. The Firm and Robbins also failed to plan an audit response to a significant risk of material misstatement identified in the Firm's "Risk Assessment Summary Form" for Doyen's property (the mother plants), which comprised approximately 25% of Doyen's assets. In fact, the Firm and Robbins did not perform any procedures to address the significant risk for that balance. *See* Stipulation Ex. A ¶ 90; J-105 at 6-7 of 10.

During the 2017 Doyen Audit, Robbins reviewed the completed "Risk Assessment Summary Form" (J-105), in which the engagement team documented its control risk assessments as moderate, left all assertion-level risk assessments blank, and failed to document the inherent and control risk components comprising the assessed risk of material misstatement and an audit response for the significant risk concerning property. Robbins knew that the Firm had not performed any tests that would allow reliance on controls for the 2017 Doyen Audit. Nevertheless, Robbins failed to change the assessments for control risk to high (the maximum), perform any assessment of risks of material misstatement at the assertion level, or plan an audit response to the identified significant risk for property. *See* Stipulation Ex. A ¶ 91; J-105 at 5-8 of 10.

During the 2017 Doyen Audit, the Firm and Robbins identified and assessed a risk of material misstatement due to fraud that "[i]nventory could be fabricated or overstated in value." *See* Stipulation Ex. A ¶ 92; J-105 at 5 of 10. This risk related to Doyen's inventory (seeds), which comprised 74% of Doyen's assets. In the "Risk Assessment Summary Form" for the audit, the Firm and Robbins documented a planned response that the Firm would "engage a valuation expert for hemp seed, evaluate their qualifications and observe inventory." *Id.* However, the Firm and Robbins did not engage a valuation expert. Instead, the Firm and Robbins reviewed the Allocation Report prepared by the Consultant, but, as the Firm and Robbins have now admitted, the Allocation Report did not provide sufficient appropriate evidence as to the existence or value of the inventory. *See* Stipulation Ex. A ¶ 93. Additionally, the Firm and Robbins did not perform an observation of inventories within the meaning of AS 2510, *Auditing Inventories*. *See* Stipulation Ex. A ¶ 94.

On April 10, 2018, Robbins visited the location where the seeds and plants were stored. Robbins drafted a memo about that visit that he titled "Notes on Inventory Observation and Discussion" (J-115), but the procedures Robbins documented in his memo were not inventory observation procedures within the meaning of AS 2510. *See* Stipulation Ex. A ¶ 104. The Firm and Robbins performed no procedures to count either the seeds or the plants. Although Robbins "viewed" three seed containers and a description of the quantity of seeds in those containers, Robbins and the Firm failed to perform sufficient procedures to test the accuracy of the quantities. Robbins' memo stated that for the seed containers he viewed, he "opened the

tin or jar, saw that they were marked as such and looked at the total number of seeds and saw that as an estimate it could be correct." *See* Stipulation Ex. A ¶ 105; J-115 at 1.

The Firm and Robbins also failed to perform any procedure to test whether the appropriate seed quantities were used for financial reporting purposes. As a result, the Firm and Robbins failed to identify that two of the seed varieties Robbins viewed were not included or identifiable in Doyen's year-end inventory listing. The Firm and Robbins also failed to identify that, for the third variety Robbins viewed, the number of seeds indicated for the container was approximately 300 times higher than the number indicated on Doyen's year-end inventory listing. *See* Stipulation Ex. A ¶ 106.

Importantly, the Firm and Robbins also failed to perform any procedures to test whether the observed seeds were, in fact, hemp seeds. Robbins could not tell whether the seeds he observed were hemp seeds, and Robbins and the Firm failed to perform any test to verify that the seeds Robbins observed were hemp seeds. Additionally, although the Allocation Report included Doyen's list of seed quantities by strain, the Consultant had not performed tests to verify the type, quality, or quantity of the seeds. *See* Stipulation Ex. A ¶ 107; J-107 at 30 of 31.

Although Robbins' April 2018 site visit took place more than three months after the 7GENx acquisition and Doyen's balance sheet date, the Firm and Robbins failed to apply appropriate tests of intervening transactions, as required by PCAOB standards. *See* AS 2510.13. The Firm and Robbins relied solely on management representations that no sales or movement

of inventory had occurred and performed no related procedures over Doyen's records. *See* Stipulation Ex. A ¶ 108.

The Firm and Robbins also failed to appropriately resolve conflicting audit evidence about the 7GENx transaction during the audit, which indicated that the substance of the transaction, including the acquired assets, was materially different from what Doyen represented had occurred. *See* Stipulation Ex. A ¶ 96. In Doyen's year-end 2017 financial statements, Doyen reported the assets acquired from 7GENx as "inventory" and "property and equipment," which Doyen told the Firm and Robbins were "seeds" and "mother plants," respectively. *See* Stipulation Ex. A ¶ 85; J-239 at 37, 62 of 89 ("property and equipment" . . . "consists of mother plants"); *see also* J-197 (Robbins' Investigative Testimony, Feb. 19, 2020) at 26 of 193 ("[t]he seeds that they purchased really could be considered an asset or a final product"), and 101 of 193 (Robbins "understood that the inventory and property acquired in the [7GENx] transaction were seeds and mother plants"). This description of the assets Doyen acquired from 7GENx did not match the description of the assets in the Equity Purchase Agreement for the 7GENx transaction, which Doyen publicly filed as an attachment to the Current Report on Form 8-K (J-242) to report the acquisition, and which stated that Doyen had acquired 7GENx, "including all personal property (approximately 3000 lbs of dry [weight] hemp) and intellectual property of sole member. In addition, Seller agrees to complete the creation of the 'Trinity Plant'; one genetic seed producing one plant that can produce food, fuel and fiber." *Id*. at ¶ 85; *see* J-110 (2017 Doyen Audit file "Equity Purchase Agreement") at 1 of 18.

Doyen management represented to the Firm and Robbins that the seeds and mother plants were the assets acquired in the 7GENx transaction. The Firm and Robbins knew that the Equity Purchase Agreement was the legal contract governing the 7GENx transaction. During the 2017 Doyen Audit, the Firm and Robbins reviewed the Equity Purchase Agreement and noted that it described Doyen's acquisition of different assets, with no mention of seeds or mother plants. *See* Stipulation Ex. A ¶ 97. The Firm's staff sent an email to Doyen's management, pointing out the discrepancy and asking whether there was an addendum to the Equity Purchase Agreement. Doyen's management replied to the Firm and Robbins that there was no addendum. *See* Stipulation Ex. A ¶ 98; J-173 (4/26/18 email with the subject "Re: 10k") at 2-3.

The Firm and Robbins relied solely on management representations that Doyen had any rights over the assets recorded in its financial statements. The Firm and Robbins failed to perform the audit procedures necessary to resolve the matter. *See* Stipulation Ex. A ¶ 99.

The Firm sent a confirmation request to the seller of 7GENx, seeking to clarify whether the 3,000 pounds of dry hemp described in the Equity Purchase Agreement was the hemp seeds reported in Doyen's financial statements. At the time of the 2017 Doyen Audit, however, the seller was an employee of Doyen, and was still the President of 7GENx, a subsidiary holding 99% of Doyen's assets. The seller also had a material financial interest in Doyen stemming from the $4.2 million promissory note payable to him. In addition, the Firm and Robbins also knew that Doyen was paying the seller compensation in excess of what was agreed to in his compensation agreement. *See* Stipulation Ex. A ¶ 100; J-111 (2017 Doyen Audit file "Inventory Confirmation to 7GENx, LLC"). This information cast doubt on the seller's motivation,

objectivity, and freedom from bias with respect to Doyen. In these circumstances, PCAOB standards provide that the auditor should consider the effects of such information on designing the confirmation request and evaluating the results, including determining whether other procedures are necessary. *See* AS 2310.27, *The Confirmation Process*. Moreover, the auditor should exercise heightened professional skepticism relative to, among other things, the confirmation respondent's motivation, objectivity, and lack of bias. *See id.* "In 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." *Id.* But the Firm and Robbins failed to exercise heightened professional skepticism and failed to consider whether the seller's confirmation response provided appropriate evidence of Doyen's rights to the reported assets. *See* Stipulation Ex. A ¶ 101.

The seller's confirmation response also failed to resolve the contradictory audit evidence that the Firm had. The confirmation request asked the seller to confirm that no modifications had been made to the contract governing the 7GENx transaction, and the seller signed and returned the confirmation request without indicating any exceptions. Additionally, although the confirmation request also asked the seller to confirm whether the 3,000 pounds of dry hemp in the contract referred to the seed inventory, the Firm and Robbins did not request any information about the mother plants. As a result, the Firm and Robbins did not obtain any evidence through the confirmation to support Doyen's rights to the mother plants, which comprised 25% of Doyen's assets. *See* Stipulation Ex. A ¶ 102; J-111.

Additionally, the Firm and Robbins failed to perform any procedures to test whether the mother plants' actual value could be materially different from the reported $850,000 property balance. As a result, the Firm and Robbins failed to obtain sufficient appropriate audit evidence to support that balance. *See* Stipulation Ex. A ¶ 110.

While the Firm and Robbins performed some procedures over the value of the seeds inventory, they failed to perform those procedures with due professional care, and failed to obtain appropriate evidence to support the seeds' value. Although the Firm and Robbins reviewed the Allocation Report, they failed to appropriately test the management-provided data underlying the estimate of the seeds' value, or to adequately consider whether the Consultant's valuation method for the seeds was appropriate for purposes of the audit. *See* Stipulation Ex. A ¶ 111; J-107 at 5 of 31.

Although the Firm's engagement team also performed a calculation of the seeds' value, which mimicked the calculation by the Consultant in the Allocation Report and used prices from retail seed websites in Europe, that procedure did not provide sufficient appropriate audit evidence of the seeds' value. The Firm and Robbins failed to consider whether European retail prices for seeds were relevant, given that Doyen was not in Europe, was not engaged in retail sales, and was purportedly processing its seeds into CBD oil. The Firm and Robbins also failed to perform any procedures to determine whether Doyen's seeds were of an age and quality that would make them equivalent to seeds that could be sold at retail prices. The Firm and Robbins also failed to perform any procedures to determine whether inventory reserves were necessary. Finally, the Firm and Robbins had no basis for applying prices from commercialized

strains to Doyen's seeds, more than 99% of which were generically described by Doyen as undifferentiated "blended strains," "yield," or "fiber" seeds. *See* Stipulation Ex. A ¶ 112; J-107 at 5, 15 of 31.

The Firm and Robbins failed to determine whether the financial statements contained adequate disclosures concerning the 7GENx transaction and resulting assets. *See* Stipulation Ex. A ¶ 113. Among other things, the Firm and Robbins did not take any steps to determine whether the substance of the 7GENx transaction and resulting assets were appropriately disclosed in Doyen's financial statements. Despite the evidence that the recorded inventory was different from the inventory described in the Equity Purchase Agreement, the Firm and Robbins failed to evaluate whether the inventory was adequately and accurately described in the financial statements. *See* Stipulation Ex. A ¶ 114; see also AS 2810.31, *Evaluating Audit Results.*

The Firm and Robbins also failed to perform sufficient procedures to evaluate whether Doyen's financial statements were presented fairly, in all material respects, in conformity with the applicable financial reporting framework, as required by AS 2810.30, *Evaluating the Presentation of the Financial Statements, Including the Disclosures*. The auditor's opinion that financial statements are presented fairly should be based on judgment as to whether the accounting principles selected and applied by the client are appropriate in the circumstances. *See* AS 2815.04, *The Meaning of "Present Fairly in Conformity with Generally Accepted Accounting Principles."* Despite the significance of the 7GENx transaction, the Firm and Robbins failed to perform procedures to evaluate whether accounting for the transaction as an asset

acquisition was appropriate in the circumstances. *Id.*; *see also* ASC 805, *Business Combinations*. The Firm and Robbins also did not take steps to evaluate whether Doyen was subject to any industry-specific GAAP (*e.g.*, ASC 905, *Agriculture*). *See* Stipulation Ex. A ¶ 115.

F. The 2017 Novo Audit

Robbins was the engagement partner for the Firm's 2017 Novo Audit, and he reviewed each of the audit work papers for the audit. *See* Stipulation Ex. A ¶ 116.

The Firm and Robbins failed to assess the risks of material misstatement at the assertion level for any of the audit areas in the 2017 Novo Audit. *See* Stipulation Ex. A ¶ 117.

For each audit area in the 2017 Novo Audit, the Firm assessed control risk as "moderate." However, the Firm failed to perform procedures to support its reliance on Novo's internal controls, as required by AS 2301, to assess control risk at below the maximum: indeed, the Firm did not perform any tests of controls. *See* Stipulation Ex. A ¶ 118; J-027 (2017 Novo Audit file "PCA-CX-7.1: Risk Assessment Summary Form").

The Firm's moderate control risk assessments for the 2017 Novo Audit impacted its assessments of the risk of material misstatement for the audit. The Firm used CCH Guide's "Risk Assessment Summary Form" to perform its assessment of the risks of material misstatement for the audit. That form includes a formula for determining the risk of material misstatement in each audit area based on "high", "moderate", or "low" ratings that the Firm assigned to the inherent and control risks for that area. Had the Firm assessed control risk at the maximum, as required by PCAOB standards in the circumstances, the engagement team would have assessed

a higher risk of material misstatement for several of those audit areas under that formula. *See* Stipulation Ex. A ¶ 119; J-027.

Robbins knew that the Firm had not performed any tests that would allow the Firm to place reliance on controls for the 2017 Novo Audit. Robbins also reviewed the completed "Risk Assessment Summary Form" (J-027), which documented the engagement team's control risk assessment as moderate for each area of the audit. Nevertheless, Robbins did not change, or instruct the engagement team to change, the assessments for control risk to "high." Robbins also did not change, or instruct the engagement team to change, any of the assessed risks of material misstatement that had been set too low based on the unsupported "moderate" control risk assessments. Robbins also failed to perform, or ensure the engagement team performed, any assessment of risks of material misstatement at the assertion level. *See* Stipulation Ex. A ¶ 120.

The Firm and Robbins failed to perform sufficient audit procedures over significant Accounts and transactions during the 2017 Novo Audit. For the 2017 Novo Audit, the Firm and Robbins established planning materiality and tolerable misstatement at $76,000 and $38,000, respectively. Specifically, the Firm and Robbins failed to:

- Perform sufficient procedures to test the existence, valuation and presentation of Novo's $1.1 million net account receivables balance (20% of assets); and
- Perform sufficient procedures to test the occurrence, completeness, valuation, and presentation and disclosure of Novo's $8.0 million in revenue.

See Stipulation Ex. A ¶ 121; J-008 (2017 Novo Audit file "PCA-CX-2.1: Planning Materiality Worksheet") at 4-5 of 12.

Confirmation of accounts receivable is a generally accepted auditing procedure. *See* AS 2310.34. 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. *See* AS 2310.31. After performing any alternative procedures, the auditor should evaluate the combined evidence provided by the confirmations and the alternative procedures to determine whether sufficient evidence has been obtained about all the applicable financial statement assertions. *See* AS 2310.33. If the combined evidence provided by the confirmations, alternative procedures, and other procedures is not sufficient, the auditor should request additional confirmations or extend other tests, such as tests of details or analytical procedures. *See id.*; Stipulation Ex. A ¶ 122.

Novo's year-end 2017 financial statements reported net accounts receivable and an allowance for doubtful accounts of approximately $1.1 million and $508,000, respectively. *See* Stipulation Ex. A ¶ 123; J-053 (Novo Annual Report on Form 10-K for the fiscal year ended August 31, 2017) at 23, 28 of 113. To test accounts receivable, the Firm obtained an issuer-prepared accounts receivable aging summary (the "aging summary") that represented approximately 30% of Novo's net accounts receivable at year end; and selected 43 customers from the aging summary and sent positive confirmation requests. The Firm did not receive confirmation responses for 26 customers that in the aggregate represented approximately 36% of the net accounts receivable balance per the aging summary. *Id*. at ¶ 123; *see* J-141 (8/22/18 PCAOB Inspection Comment Form "NIS-07") at 1 of 3.

When testing accounts receivable, the Firm and Robbins failed to perform sufficient procedures to test the existence, valuation, and presentation and disclosure of accounts receivable in accordance with PCAOB standards. Specifically, the Firm and Robbins failed to:

- Perform any procedures to test the existence of Novo's accounts receivable balance that was not subjected to the Firm's confirmation procedures, which represented approximately 70% of the issuer's net accounts receivable at year end;
- Perform any alternative procedures to test the existence of the customer receivables for which customers did not return confirmations; and
- Perform any procedures to evaluate the reasonableness of Novo's estimated allowance for doubtful accounts.

See Stipulation Ex. A ¶ 124.

During the 2017 Novo Audit, the Firm and Robbins identified a fraud risk and other significant risk related to revenue recognition. Novo reported revenues of approximately $8.0 million. Novo disclosed that it recognized revenue as follows:

> Revenue related to healthcare services provided is recognized at the time services have been performed. Gross service revenue is recorded in the accounting records on an accrual basis at the provider's established rates, regardless of whether the health care entity expects to collect that amount. The Company will reserve a provision for contractual adjustment and discounts and deduct from gross service revenue.

See Stipulation Ex. A ¶ 125; J-053 at 18, 24 of 113.

To test revenues, the Firm selected 28 revenue journal entries ("key items") that aggregated to approximately $470,000 and equaled approximately six percent of total revenue recorded by Novo. For certain of the key items selected by the Firm for testing, or a portion of those key items, the audit file contained supporting documentation, including issuer-prepared

invoices, patient sign-off sheets regarding services performed, issuer-generated revenue reports, and support for certain patient payments. *See* Stipulation Ex. A ¶ 126; J-142 (8/22/18 PCAOB Inspection Comment Form "NIS-08") at 1.

The Firm and Robbins failed to perform sufficient procedures to test the occurrence, completeness, valuation, and presentation and disclosure of revenues in accordance with PCAOB standards. Specifically, the Firm and Robbins failed to:

- Perform sufficient procedures to test the key items that represented approximately six percent of Novo's total revenue because the Firm and Robbins failed to evaluate whether all of the revenue recognition criteria had been met for all of its selections;

- Perform any procedures to test the remaining revenue balance that represented approximately 94% of Novo's total revenue; and

- Perform any procedures to evaluate Novo's accounting for its estimated provision for contractual adjustments and discounts that it disclosed in the notes to its financial statements.

See Stipulation Ex. A ¶ 127.

PCAOB standards provide that the auditor's identification of fraud risks should include the risk of management override of controls. *See* AS 2110.69. As part of the auditor's response to that risk, the auditor should perform a retrospective review of accounting estimates in significant accounts and disclosures reflected in the financial statements of the prior year to determine whether management's judgments and assumptions relating to the estimates indicate a possible bias on the part of management. *See* AS 2401.64, *Consideration of Fraud in Financial Statement Audit*; Stipulation Ex. A ¶ 128.

The Firm and Robbins failed to perform sufficient procedures during the 2017 Novo Audit to respond to the risk of material misstatement due to fraud. During the 2017 Novo Audit, the Firm and Robbins failed to identify the risk of management override of controls as a risk of material misstatement due to fraud. The Firm and Robbins also failed to review accounting estimates, including the allowance for doubtful accounts, the provision for contractual adjustments and discounts, and goodwill impairment, for biases, and perform a retrospective review of significant accounting estimates reflected in the financial statements of the prior year. *See* Stipulation Ex. A ¶ 129; J-139 (8/22/18 PCAOB Inspection Comment Form "NIS-05") at 1-2.

The Firm and Robbins also failed to perform sufficient procedures with regards to identifying Novo's related parties and its relationships and transactions with related parties in accordance with AS 2410, *Related Parties*. Specifically, the Firm and Robbins failed to:

- Obtain an understanding of the issuer'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 the financial statements, *see* AS 2410.04;

- Inquire of management regarding related parties, including any changes to the issuer's related parties compared to the prior period, the business purposes for entering into transactions with related parties, and any related party transactions which were not authorized or approved, *see* AS 2410.05;

- Inquire of the audit committee, or equivalent, regarding their understanding of the company's relationships and transactions with related parties that are significant to the company and whether there were any concerns regarding relationships or transactions with related parties, and if so, the substance of those concerns, *see* AS 2410.07;

- Sufficiently evaluate whether Novo properly identified its related parties and relationships and transactions with related parties as the Firm and Robbins did not obtain and read the minutes of the issuer's Board of Director meetings and limited its procedures to obtaining a management representation, *see* AS 2410.14; and

- Communicate to the audit committee, or equivalent, the auditor's evaluation of the company's identification of, accounting for, and disclosure of its relationships and transactions with related parties, and any other significant matters arising from the audit regarding the company's relationships and transactions with related parties, *see* AS 2410.19.

See Stipulation Ex. A ¶ 130.

At the time of the 2017 Novo Audit, Novo had a Board of Directors comprised of three members, with no separate audit committee. As a result, PCAOB standards required the Firm and Robbins to communicate with Novo's Board of Directors for all communications that were otherwise required to occur with an audit committee. *See* AS 1301.01, . A2, *Communications with Audit Committees*; Stipulation Ex. A ¶ 131.

During the 2017 Novo Audit, the Firm and Robbins failed to make required communications to the Board of Directors about the audit as required by AS 1301.09-.13, .15-.20, and .22-.24. *See* Stipulation Ex. A ¶ 132.

IV. ANALYSIS

A. The Firm Violated PCAOB Standards by Failing to Obtain Engagement Quality Reviews for Four Audits and Eight Interim Reviews, and Robbins Substantially and Directly Contributed to the Firm's Violations

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 practice standards. *See* PCAOB Rule 3100, *Compliance with*

Auditing and Related Professional Practice Standards. PCAOB standards require, among other things, an engagement quality review and concurring approval of issuance for each audit engagement and review of interim financial information. *See* AS 1220.01, *Engagement Quality Review*. A firm may grant permission to the client to use the engagement report from an audit or interim review only after the engagement quality reviewer provides concurring approval of issuance. *See id*. at .13, .18. For an interim review where no engagement report is issued, that standard provides that a firm can communicate an engagement conclusion to a client only after the engagement quality reviewer provides concurring approval of issuance. *See id*. at .18; Stipulation Ex. A ¶¶ 18-19.

From 2016 to 2018, the Firm violated PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, PCAOB Rule 3200, *Auditing Standards*, and PCAOB Rule 3200T, *Interim Auditing Standards*, by improperly permitting issuers to use audit reports four separate times (the 2016 Accelera Audit, the 2017 Novo Audit, 2017 Soldino Audit, and the 2017 YayYo Restatement Audit) and communicating interim review engagement conclusions eight separate times (the Q3 2016 Accelera Review, Q1 2017 Accelera Review, Q2 2017 Accelera Review, Q3 2017 Accelera Review, Q3 2017 Novo Review, Q1 2018 Novo Review, Q2 2018 Novo Review, and Q3 2017 Doyen Review) without first obtaining an engagement quality review and concurring approval of issuance, in violation of AS 1220. *See* Stipulation Ex. A ¶ 143. Robbins served as the engagement partner for those four audits and the eight Interim Reviews. *Id*. at Ex. A ¶ 20.

PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*, prohibits anyone associated with 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 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." When the Firm performed the audits and interim reviews, Robbins knew, or was reckless in not knowing, that the Firm could not grant permission to an issuer audit client to use the Firm's audit report or communicate an interim review engagement conclusion to an issuer client until and unless an engagement quality review was performed and the Firm had received concurring approval of issuance. *See* Stipulation Ex. A ¶¶ 22-23.

Robbins directly and substantially contributed to the Firm's violations of AS 1220 by authorizing the issuance of the audit reports and permitting the audit client to use those reports, or by communicating the interim review engagement conclusion, without first obtaining the required engagement quality review and concurring approval of issuance. Robbins knew, or was reckless in not knowing, that his actions would directly and substantially contribute to the Firm's violations. As a result, Robbins violated PCAOB Rule 3502. *See* Stipulation Ex. A ¶ 21.

B. The Firm and Robbins Violated PCAOB Rules and Standards in Connection with the 2018 Inspection by Improperly Altering Audit Documentation

PCAOB rules require associated persons to comply with PCAOB ethics standards. *See* PCAOB Rule 3500T(a), *Interim Ethics and Independence Standards.* Those ethics standards include ET § 102, *Integrity and Objectivity*, which provides, in part, that an associated person "shall not knowingly misrepresent facts" in the performance of professional services. *See* ET § 102.01. 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. *See* ET §§ 102.02(a), (c); Stipulation Ex. A ¶ 46.

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." *See* PCAOB Rule 4006, *Duty to Cooperate With Inspectors*. Cooperation includes, but is not limited to, cooperating and complying with any request, made in furtherance of the Board's authority and responsibilities under the Act, to (a) provide access to, and the ability to copy, any record in the possession, custody, or control of such firm or person, and (b) provide information by oral interviews, written responses, or otherwise. *See id.*; Stipulation Ex. A ¶ 47.

Cooperation under this rule includes an obligation not to provide improperly altered documents or misleading information in connection with the Board's inspection processes. *See,*

e.g., Kabani & Co., Inc., Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017) ("Implicit in [Rule 4006's] cooperation requirement is that auditors provide accurate and truthful information"), *petition for review denied, Kabani & Co., Inc. v. SEC,* 733 F. App'x 918 (9th Cir. 2018); *see also Michael Freddy*, PCAOB File No. 105-2017-001, Order Summarily Affirming Initial Decision (Nov. 2, 2017) (sanctioning an associated person of a registered public accounting firm for, among other things, his participation in creating and altering audit work papers that were provided to Board inspectors); *Hui Yi Chew*, PCAOB File No. 105-2022-002, Initial Decision (Aug. 10, 2022); Notice of Finality (Oct. 4, 2022) (sanctioning respondent for, among other things, violating PCAOB audit document requirements by improperly altering audit work papers that would be provided to PCAOB inspectors).

PCAOB standards provide that, "[a]udit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement: (a) to understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) to 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, *Audit Documentation*. 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 ("documentation completion date"). *See* AS 1215.15. "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." *See* AS 1215.16. AS 1220 provides that "[t]he requirements related to retention of and subsequent changes to audit documentation in AS 1215 apply with respect to the documentation of the engagement quality review." *See* AS 1220.21; Stipulation Ex. A ¶ 48.

In connection with the PCAOB's 2018 inspection of the Firm, the Firm and Robbins violated PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, PCAOB Rule 3200, *Auditing Standards*, PCAOB Rule 3500T, *Interim Ethics and Independence Standards*, and PCAOB Rule 4006, *Duty to Cooperate With Inspectors*, and Robbins directly and substantially contributed to the Firm's violations, in violation of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*. *See* Stipulation Ex. A ¶ 144.

First, the Firm and Robbins knowingly misrepresented facts, in violation of ET § 102, *Integrity and Objectivity*, by permitting Pickard to make and sign documents containing materially false and misleading information for the 2017 Soldino Audit and the 2017 Vado Audit, and by adding those documents to the final set of audit documentation without correcting them and without indicating the date they were added, and the reason they were added, in violation of AS 1215, *Audit Documentation*, and AS 1220, *Engagement Quality Review*. *See* Stipulation Ex. A ¶ 144.

Next, the Firm and Robbins failed to comply with PCAOB Rule 4006 by modifying audit documentation for the 2017 Novo Audit after the documentation completion date, without indicating the date the information was added and the reason it was added, in violation of AS

1215, providing those modified documents to the PCAOB Inspectors, and misrepresenting that there had been no changes to the documentation subsequent to the documentation completion date. *See* Stipulation Ex. A ¶ 144.

Finally, the Firm and Robbins failed to comply with PCAOB Rule 4006 by misrepresenting to the PCAOB Inspectors that no audit clients had completed a restatement in the past 36 months despite knowing that YayYo had completed one less than a month earlier. *See* Stipulation Ex. A ¶ 64; ¶ 144.

In this proceeding, Robbins offered the following comments about his failure to cooperate with the PCAOB's 2018 inspection: "I have no justifiable excuse for my failure to cooperate with the PCAOB's 2018 inspection. . . . My inadequate explanation is that I panicked . . . . I was wrong to mislead the inspectors and am ashamed by my conduct at the end of my career." *See* Robbins Aff. at § II(2).

C. The Firm and Robbins Violated PCAOB Independence Rules and Standards in Three Audits and Robbins Directly and Substantially Contributed to the Violations

In three successive audits of YayYo, the Firm violated PCAOB and SEC independence rules and standards because of the Firm's and Robbins' extensive relationship with Pickard, at that time a YayYo officer and director, including a direct business relationship. Robbins directly and substantially contributed to the Firm's violations of those independence rules and standards through knowing or reckless actions in violation of PCAOB Rule 3502. *See* Stipulation Ex. A ¶ 66.

PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client. *See* PCAOB Rule 3520, *Auditor Independence*; AS 1005, *Independence*. 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 rules and regulations of the SEC. *See* PCAOB Rule 3520 n.1; *see also* AS 1005.05-.06. Under both PCAOB and SEC requirements, "[i]ndependent auditors should not only be independent in fact; they should avoid situations that may lead outsiders to doubt their independence." *See* AS 1005.03, *Independence*; *see also* SEC Regulation S-X, Rule 2-01(b), *Qualification of Accountants*, codified at 17 C.F.R. § 210.2-01(b), available at https://www.govinfo.gov/content/pkg/CFR-2013-title17-vol2/pdf/CFR-2013-title17-vol2-sec210-2-01.pdf (Apr. 1, 2013); Stipulation Ex. A ¶ 67.

Rule 2-01(b) of Regulation S-X sets forth the SEC's general standard of auditor independence. *See* SEC Regulation S-X, Preliminary Note to Rule 2-01 (codified at 17 C.F.R. § 210.2-.01 (Apr. 1, 2013)) ("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"). When considering independence, the SEC, among other things, considers whether a relationship or the provision of a service creates a mutual or conflicting interest between the accountant and the audit client. *Id.*; *see* Stipulation Ex. A ¶ 68.

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). Rule 2-01(c)(3) provides that an accountant is not independent of an audit client if the accountant has a direct business relationship with persons associated with the audit client in a decision-making capacity, such as an officer or director of the audit client during the audit and professional engagement period. The audit and professional engagement period includes the entire period covered by any financial statements being audited or reviewed. *See* SEC Regulation S-X, Rule 2-01(f)(5), codified at 17 C.F.R § 210.2-01(f)(5). It also includes the period that begins with the earlier of the agreement to perform audit or review services or the start of those procedures, and concludes with the accountant's termination or resignation as the client's accountant. *See* Stipulation Ex. A ¶ 69.

From August 1, 2017, to January 16, 2018, the Firm and Robbins directly employed Pickard to perform engagement quality reviews for four audits that were performed while Pickard was a director and/or officer of YayYo. *See* Stipulation Ex. A ¶ 72. The Firm's and Robbins' arrangement with Pickard to perform engagement quality reviews constituted a direct business relationship with a director and officer of YayYo. That relationship, which existed during the audit and professional engagement periods covering the 2017 YayYo Audit, the 2017 YayYo Restatement Audit, and the 2018 YayYo Audit, failed to satisfy the independence criteria set forth in Rule 2-01(c)(3) of Regulation S-X in violation of PCAOB Rule 3520 and AS 1005. As a result, the Firm and Robbins were not independent of YayYo during the 2017 YayYo Audit, the 2017 YayYo Restatement Audit, and the 2018 YayYo Audit. *See* Stipulation Ex. A ¶ 73; ¶ 145.

The parties have stipulated, and this Initial Decision finds, that a reasonable investor with knowledge of all relevant facts and circumstances would conclude that the Firm was not capable of exercising objective and impartial judgment on all issues encompassed within the 2017 YayYo Audit, the 2017 YayYo Restatement Audit, and the 2018 YayYo Audit. As a result, the Firm was not independent of YayYo during those audits, as required by Rule 2-01(b) of Regulation S-X in violation of PCAOB Rule 3520, and AS 1005. *See* Stipulation Ex. A ¶ 76; ¶ 145.

Robbins directly and substantially contributed to the Firm's violations of the PCAOB's and SEC's independence rules and standards through knowing or reckless actions in violation of PCAOB Rule 3502. Robbins knew or was reckless in not knowing that a reasonable investor would not consider the Firm to be independent of YayYo, in light of the Firm's ongoing business relationship with Pickard. Robbins also knew, or was reckless in not knowing, that hiring Pickard to perform engagement quality reviews for the Firm's audits while Pickard was a director and officer of YayYo would, by itself, impair the Firm's independence with respect to YayYo. Nevertheless, Robbins hired Pickard to perform four engagement quality reviews during the audit and professional engagement periods for the 2017 YayYo Audit, the 2017 YayYo Restatement Audit, and the 2018 YayYo Audit, and then authorized the issuance of the Firm's audit reports for YayYo while the Firm was not independent of YayYo. *See* Stipulation Ex. A ¶ 77.

Accordingly, this Initial Decision finds that in connection with the 2017 YayYo Audit, the 2017 YayYo Restatement Audit, and the 2018 YayYo Audit, the Firm violated PCAOB Rule 3100, PCAOB Rule 3200, and PCAOB Rule 3520, and the SEC's independence rules, and that Robbins

directly and substantially contributed to the Firm's violations, in violation of PCAOB Rule 3502. *See* Stipulation Ex. A ¶ 145.

D. The Firm and Robbins Violated PCAOB Rules and Standards in the 2017 Doyen Audit and the 2017 Novo Audit

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. *See* AS 3101.02, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

PCAOB standards require that an auditor exercise due professional care in planning and performing an audit. *See* AS 1015.02, *Due Professional Care in the Performance of Work*. 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. *See* AS 1015.07; AS 2301.07, *The Auditor's Responses to the Risks of Material Misstatement*; AS 2401.13, *Consideration of Fraud in a Financial Statement Audit*. "The auditor should conduct the engagement with a mindset that recognizes the possibility that a material misstatement due to fraud could be present" and "should not be satisfied with less-than-persuasive evidence because of a belief that management is honest." *See* AS 2401.13.

Moreover, the obligations to exercise due professional care and professional skepticism, and to obtain sufficient competent evidential matter (beyond management representations)

are not static. Rather, as the SEC and the courts have recognized, they expand and contract based on the risk with which an auditor is faced. *See, e.g., McCurdy v. SEC*, 396 F.3d 1258, 1261 (D.C. Cir. 2005) ("[P]rofessional auditing standards have come to recognize, through decades of experience, particular factors that arouse suspicion and call for focused investigation"); *Gregory M. Dearlove, CPA*, Rel. No. 34-57244, 2008 WL 281105, at *29 (SEC Jan. 31, 2008) ("As audit risk increases, so does the need for care and skepticism"), *aff'd, Dearlove v. SEC*, 573 F.3d 801 (D.C. Cir. 2009).

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. *See* AS 1105.04, *Audit Evidence*; AS 2401.01, .12. Auditors must design and implement audit responses that address the identified and assessed risks of material misstatement. *See* AS 2301.03. For significant risks, including fraud risks, the auditor should perform substantive procedures that are specifically responsive to the assessed risks. *See id*. at .11, .13. The auditor should also perform substantive procedures for each relevant assertion of each significant account and disclosure, regardless of the assessed level of control risk. *See id.* at .36.

Auditors are required to evaluate the results of the audit to determine whether sufficient appropriate audit evidence has been obtained to support the opinion to be expressed on the issuer's financial statements. *See* AS 2810.33. As the risk of material misstatement increases, the amount of evidence that the auditor should obtain also increases. *See* AS

1105.05. To be appropriate, audit evidence must be both relevant and reliable. *See* AS 1105.06-.08. 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: (a) test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information; and (b) evaluate whether the information is sufficiently precise and detailed for purposes of the audit. *See* AS 1105.10. 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. *See* AS 1105.29.

To find that an auditor has violated PCAOB standards, it is not necessary to determine that the issuer's financial statements were prepared in violation of GAAP. As the courts, the SEC, and the PCAOB have stated, "An auditor who fails to audit properly under [the auditing standards] should not be shielded because the audited financial statements fortuitously are not materially misleading." *See Michael J. Marrie, CPA*, Rel. No. 34-48246, 2003 WL 21741785, at *8 (SEC July 29, 2003), *rev'd on other grounds, Marrie v. SEC*, 374 F.3d 1196 (D.C. Cir. 2004); *see also Dearlove, CPA,* 2008 WL 281105, at *14 & n.51 ("[E]ven assuming that [the issuer's] accounting treatment . . . was GAAP-compliant, we may still find, as we do here, that an auditor's review of that accounting treatment violated" auditing standards); *S.W. Hatfield, CPA*, Rel. No. 34-69930, 2013 WL 3339647, at *24 & n.148 (SEC July 3, 2013) (rejecting argument that lack of material misstatement excused misconduct: "[t]he issue . . . is not whether [the

issuer's] GAAP violation was ultimately material to its financial statements or whether [the issuer] had increased its reserves for bad debt. The issue is whether [the auditors] exercised due care with respect to their obligation to obtain reasonable assurance that [the issuer's] financial statements were free of material misstatement . . . .").

1. The 2017 Doyen Audit

The assets Doyen recorded from the 7GENx acquisition, and reported in its year-end 2017 financial statements, did not match the description of the assets in the Equity Purchase Agreement for the 7GENx transaction. Additionally, the fair value of the plants (property) was based on management representations alone while the fair value of the seeds (inventory) was based on a calculation the Consultant performed using management-supplied data about the seeds and their values. The Firm and Robbins did not perform any procedures to address the significant risk identified for the valuation of Doyen's property (the mother plants), which comprised approximately 25% of Doyen's assets. In addition, the Firm and Robbins did not engage a valuation expert or observe inventory within the meaning of AS 2510 despite documenting those steps as the planned response to the identification of a risk of material misstatement due to fraud related to Doyen's inventory (seeds), which comprised 74% of Doyen's assets. Finally, although the seeds and mother plants comprised 99% of the assets Doyen reported in its year-end financial statements, the Firm and Robbins failed to obtain sufficient appropriate audit evidence to support the existence, valuation, rights/obligations and presentation/disclosure of the acquired assets.

This Initial Decision finds that in carrying out the 2017 Doyen Audit, the Firm and Robbins violated PCAOB Rules 3100 and 3200. Specifically:

a. The Firm and Robbins failed to exercise due professional care and professional skepticism, in violation of AS 1015, AS 2301, and AS 2401;

b. The Firm and Robbins failed to assess the risks of material misstatement at the financial statement level and the assertion level in accordance with AS 2110, *Identifying and Assessing Risks of Material Misstatement*;

c. The Firm and Robbins failed to perform procedures to support its reliance on Doyen's internal controls, in order to assess control risk at below the maximum, and in violation of AS 2301;

d. The Firm and Robbins failed to plan procedures to address an identified significant risk for property, in violation of AS 2301;

e. In violation of AS 1105, *Audit Evidence*, AS 2401, and AS 2810, *Evaluating Audit Results,* the Firm and Robbins failed to (1) obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report, and (2) resolve inconsistencies in the audit evidence. In particular, the Firm and Robbins failed to:

    i. Perform planned procedures to respond to identified fraud risks for inventory, in violation of AS 2301;

    ii. Obtain reliable evidence that the company had any rights over the assets recorded in its financial statements or to consider the reliability of management's representations in light of the representations being contradicted by other audit evidence, as required by AS 2805, *Management Representations*, and AS 1105;

    iii. Appropriately consider the motivation, objectivity and bias of a respondent to a confirmation request when evaluating the response, in violation of AS 2310, *The Confirmation Process*;

    iv. Sufficiently test the existence and valuation of inventory and property, in violation of AS 2510, *Auditing Inventories* and AS 2501, *Auditing Accounting Estimates, Including Fair Value Measurements*; and

v. Evaluate whether the financial statements were presented fairly, in all material respects, in conformity with GAAP, in violation of AS 2810 and AS 2815, *The Meaning of "Present Fairly in Conformity with Generally Accepted Accounting Principles"*;

f. To the extent that the Firm and Robbins relied on the Allocation Report as evidence of the existence and value of Doyen's assets, the Firm and Robbins failed to (a) obtain an understanding of the methods and assumptions used by the specialist, (b) make appropriate tests of data provided to the specialist, taking into account the auditor's assessment of control risk, and (c) evaluate whether the specialist's findings support the related assertions in the financial statements, in violation of AS 1210, *Using the Work of an Auditor-Engaged Specialist*; and

g. The Firm and Robbins improperly authorized the issuance of a standard audit report expressing an unqualified opinion that Doyen's 2017 financial statements presented fairly, in all material respects, Doyen's financial position in conformity with GAAP when such an opinion had not been formed on the basis of an audit performed in accordance with PCAOB auditing standards, in violation of AS 3101, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

See Stipulation Ex. A ¶ 146.

2. The 2017 Novo Audit

In connection with the 2017 Novo Audit, the Firm and Robbins violated many of the same rules and standards they violated during the 2017 Doyen Audit. The Firm and Robbins failed to assess the risks of material misstatement at the assertion level for any of the audit areas and failed to perform procedures to support its reliance on Novo's internal controls to assess control risk at below the maximum. The Firm and Robbins also failed to perform sufficient procedures to test the existence, valuation and presentation of Novo's $1.1 million net accounts receivables balance and the occurrence, completeness, valuation, and

presentation and disclosure of Novo's $8.0 million in revenue. In addition, the Firm and Robbins failed to identify the risk of management override of controls as a risk of material misstatement due to fraud. The Firm and Robbins also failed to perform sufficient audit procedures with regards to identifying Novo's related parties and its relationships and transactions with related parties. Finally, during the 2017 Novo Audit, the Firm and Robbins failed to make required communications to the Board of Directors that were required.

This Initial Decision finds that in carrying out the 2017 Novo Audit, the Firm and Robbins violated PCAOB Rules 3100 and 3200. Specifically:

a. The Firm and Robbins failed to exercise due professional care and professional skepticism, in violation of AS 1015, *Due Professional Care in the Performance of Work*, AS 2301, *The Auditor's Responses to the Risks of Material Misstatement*, and AS 2401, *Consideration of Fraud in a Financial Statement Audit*;

b. The Firm and Robbins failed to assess the risks of material misstatement at the financial statement level and the assertion level in accordance with AS 2110, *Identifying and Assessing Risks of Material Misstatement*;

c. The Firm and Robbins failed to perform procedures to support its reliance on the company's internal controls as required by AS 2301, in order to assess control risk at below the maximum;

d. In violation of AS 1105, *Audit Evidence*, and AS 2810, *Evaluating Audit Results*, the Firm and Robbins failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for the opinion expressed in the auditor's report. Specifically, the Firm and Robbins failed to:

    i. Perform sufficient procedures to test the existence, valuation, and presentation and disclosure of accounts receivable in accordance with AS 2301, AS 2310, *The Confirmation Process*, AS 2501*, Auditing Accounting Estimates, Including Fair Value Measurements*, and AS 2810; and

ii. Perform sufficient procedures to test the occurrence, completeness, valuation, and presentation and disclosure of revenues in accordance with AS 2301 and AS 2810;

e. The Firm and Robbins failed to perform appropriate fraud risk procedures in accordance with AS 2110 and AS 2401;

f. The Firm and Robbins failed to perform appropriate related party procedures in accordance with AS 2410, *Related Parties*;

g. The Firm and Robbins failed to make required audit committee communications in accordance with AS 1301, *Communications with Audit Committees*; and

h. The Firm and Robbins improperly authorized the issuance of a standard audit report expressing an unqualified opinion that Novo's 2017 financial statements presented fairly, in all material respects, Novo's financial position in conformity with GAAP when such an opinion had not been formed on the basis of an audit performed in accordance with PCAOB auditing standards, in violation of AS 3101, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion*.

See Stipulation Ex. A ¶ 147.

E. The Firm and Robbins Failed to Timely Assemble and Retain a Complete and Final Set of Audit Documentation

An auditor must prepare and retain audit documentation in connection with each engagement conducted pursuant to the standards of the PCAOB, including both audits and interim reviews. *See* AS 1215.01, .04. 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"). *See* AS 1215.15. If a report is not issued in connection with an engagement, then the documentation completion date should not be more than 45 days from the date from the date the engagement ceased. *See id*. Documentation of an engagement quality review should be included in the engagement documentation. *See* AS 1220.20.

PCAOB standards also provide that, in an audit, the auditor "must retain audit documentation for seven years from the date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements (*report release date*), unless a longer period of time is required by law." *See* AS 1215.14. Rule 2-06 of the SEC's Regulation S-X likewise requires that accounting firms retain records relevant to issuer audits and reviews for seven years. *See* SEC Regulation S-X, Rule 2-06, codified at 17 C.F.R. § 210.2-06.

This Initial Decision finds that the Firm violated PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200, *Auditing Standards*, and by failing to appropriately document and retain documentation for the 2017 Novo Audit, 2017 Soldino Audit, 2017 Vado Audit, Q1 2017 Accelera Review, Q2 2017 Accelera Review, Q3 2017 Accelera Review, Q3 2017 Novo Review, and Q1 2018 Novo Review. *See* Stipulation Ex. A ¶ 148. Additionally, this Initial Decision finds that Robbins directly and substantially contributed to the Firm's violations, in violation of PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*. *Id*.

In particular, the Firm and Robbins added documents and information to the audit documentation after the documentation completion date, without indicating the date it was added, the person who added it, and the reason it was added, in violation of AS 1215, in the 2017 Novo Audit, 2017 Soldino Audit, and 2017 Vado Audit. In addition, the Firm and Robbins did not assemble a complete and final set of audit documentation for the 2017 Soldino Audit, 2017 Vado Audit, Q1 2017 Accelera Review, Q2 2017 Accelera Review, Q3 2017 Accelera

Review, Q3 2017 Novo Review, or Q1 2018 Novo Review, by the documentation completion date, in violation of AS 1215. *See* Stipulation Ex. A ¶ 148(a) and (b).

Alternatively, if the Firm and Robbins did assemble a complete and final set of audit documentation for the Q1 2017 Accelera Review, Q2 2017 Accelera Review, Q3 2017 Accelera Review, Q3 2017 Novo Review, or Q1 2018 Novo Review, the Firm and Robbins did not retain such audit documentation for seven years, in violation of AS 1215 and Rule 2-06 of Regulation S-X. *See* Stipulation Ex. A ¶ 148(c).

F. Robbins Failed to Supervise the Audits and Interim Reviews with Due Professional Care

Robbins violated PCAOB standards because he failed to supervise audits and interim reviews with due professional care. As the engagement partner on each of the audits and the Interim Reviews discussed above, Robbins was responsible for the proper supervision of the work of engagement team members and for compliance with PCAOB standards. *See* AS 1201.03, *Supervision of the Audit Engagement*.

Robbins had a personal obligation to supervise the Firm's audit engagements, including a responsibility for evaluating whether work was performed and documented, whether the objectives of the procedures were achieved, and whether the results of the work supported the conclusions reached. *See* AS 1201.05(c); Stipulation Ex. A ¶ 136. Robbins' failures to supervise audit engagements are illustrated by, among other things, his repeated failures to ensure that the Firm obtained required engagement quality reviews and performed appropriate risk assessments. Indeed, although Robbins generally reviewed risk assessment documents, he

repeatedly failed to observe or remedy that the Firm's risk assessments were incomplete, did not assess risk at the assertion level, and improperly assessed control risk at less than maximum in audits where no testing of controls was performed. *See* Stipulation Ex. A ¶ 137.

This Initial Decision finds that Robbins violated PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*, and PCAOB Rule 3200, *Auditing Standards*, by failing to adequately supervise the audits and reviews as alleged in the OIP, in violation of AS 1201. *See* Stipulation Ex. A ¶ 149.

G. The Firm Violated Quality Control Standards and Robbins Directly and Substantially Contributed to the Firm's Violations

PCAOB standards require that a registered public accounting firm have a system of quality control for its accounting and auditing practice. *See* QC § 20.01 and n.3, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice.* 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 standards of quality." *Id.* at 20.17. PCAOB standards also require a firm to establish policies and procedures to provide it with reasonable assurance that the policies and procedures relating to other elements of quality control are suitably designed and are being effectively applied. *See* QC § 20.20; *see also* QC § 30.02, *Monitoring a CPA Firm's Accounting and Auditing Practice*.

As reflected above, the Firm repeatedly failed to comply with numerous PCAOB rules and auditing standards. Among other things, the Firm repeatedly failed to obtain required

engagement quality reviews, perform appropriate risk assessment procedures, timely assemble audit documentation, record required information when adding or modifying audit documentation after the documentation completion date, and retain audit documentation for the prescribed seven-year period. These repeated violations of basic rules and standards across multiple clients and engagements demonstrates that the Firm's system of quality control does not provide reasonable assurance of compliance with applicable professional standards, in violation of QC § 20. *See* Stipulation Ex. A ¶ 139.

The Firm violated PCAOB Rule 3400T, *Interim Quality Control Standards*, and Robbins directly and substantially contributed to the Firm's violations, in violation of PCAOB Rule 3502, by: (i) failing to maintain a system of quality control that provided reasonable assurance that the work performed by engagement personnel meets applicable professional standards, including standards for audit planning, supervision and documentation and engagement quality reviews, in violation of QC § 20; and (ii) failing to effectively monitor compliance with the Firm's quality control policies and procedures, in violation of QC § 20 and QC § 30. *See* Stipulation Ex. A ¶ 150.

Robbins is the Firm's sole owner and control person, and he is responsible for the design, implementation, communication, and monitoring of the Firm's quality control policies and procedures. Robbins knew, or was reckless in not knowing, that his acts and omissions in that role would directly and substantially contribute to the Firm's quality control violations. As a result, Robbins violated PCAOB Rule 3502. *See* Stipulation Ex. A ¶ 140.

H. The Firm's and Robbins' Conduct Was Intentional or Knowing

Based upon the Stipulation and the evidence in the record, this Initial Decision finds that the Division has established by more than a preponderance of the evidence that the Firm's violations resulted from intentional or knowing conduct, including reckless conduct. *See* Stipulation Ex. A ¶ 153.

Based upon the Stipulation and the evidence in the record, this Initial Decision finds, in the alternative, that the Division has established by more than a preponderance of the evidence that each of the Firm's violations constituted an unreasonable departure from PCAOB standards and that each of the Firm's violations was a separate instance of negligent conduct. Accordingly, the Firm's violations comprise repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard, pursuant to Section 105(c)(5)(B) of the Act. *See* Stipulation Ex. A ¶ 154.

Based upon the Stipulation and the evidence in the record, this Initial Decision finds that the Division has established by more than a preponderance of the evidence that Robbins' violations of PCAOB Rule 3502 were committed while knowing, or recklessly not knowing, that his acts or omissions would directly and substantially contribute to the Firm's violations. *See* Stipulation Ex. A ¶ 155.

V. SANCTIONS

The Division recommends that the Firm's registration with the PCAOB be permanently revoked, that Robbins be permanently barred from association with any registered public accounting firm, and that a civil monetary penalty of "no less than $100,000" be imposed on the

Firm and Robbins, jointly and severally. *See* Division's Brief on Sanctions at 1, 2. The Division also suggests that "the Hearing Officer may impose a civil money penalty in excess of the $100,000 originally recommended by the Division in the [Division's 2021 Statement], if a higher penalty would be appropriate to further the purposes of the Act." *Id.* at 18.

The Firm and Robbins do not oppose the Division's recommendation that the Firm's registration with the PCAOB be revoked and that Robbins be permanently barred from association with any registered public accounting firm. *See* Opposition Brief on Sanctions at 1 and n.1 ("Robbins personally already has consented to a permanent bar and to the revocation of his firm's registration"). Indeed, according to Robbins, he has "retire[d] from doing any more SEC audits." *See* Robbins Aff. at § III. The Firm and Robbins take issue only with the amount of the civil monetary penalty sought by the Division. According to the Firm and Robbins, a civil monetary penalty of $10,000 "would be [a] fair and just total penalty for both Respondents in this matter." *Id.*; *see also* Opposition Brief on Sanctions at 3.

All of the arguments advanced by the Division, and by the Firm and Robbins, respectively, regarding the appropriate sanctions to be imposed upon the Firm and Robbins have been carefully considered. The parties' arguments have been accepted or rejected as reflected in the balance of this Initial Decision.

A. Heightened Sanctions Are Appropriate

Section 105(c)(4) of the Act authorizes the PCAOB to "impose such disciplinary or remedial sanctions as it determines appropriate" on registered public accounting firms and associated persons for violations of the Act, PCAOB rules, and the provisions of the federal

securities laws relating to the preparation and issuance of audit reports. The range of sanctions the PCAOB may impose includes requiring additional professional education or training, a censure, a temporary suspension or permanent revocation of a firm's registration, a temporary or permanent suspension or bar of a person from further association with any registered public accounting firm, a temporary or permanent limitation on the activities, functions, or operations of a registered public accounting firm or associated person, a civil monetary penalty, or any other appropriate sanction provided for in the rules of the Board. *See* Act § 105(c)(4); PCAOB Rule 5300(a), *Sanctions*. To impose the sanctions of a temporary suspension or permanent revocation of registration or temporary or permanent suspension or bar from association with any registered public accounting firm, or to impose the higher tier of civil monetary penalties authorized by the Act ("heightened sanctions"), the PCAOB must find that a firm's or an individual respondent's violations resulted from intentional or knowing conduct, including reckless conduct,[5] or from repeated instances of negligent conduct. *See* Act § 105(c)(5).

For violations by an individual respondent that do not warrant heightened sanctions, the Act provides that the PCAOB may impose a civil monetary penalty of up to $100,000 for each violation; for violations by an individual respondent that warrant heightened sanctions,

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[5] "[T]he knowledge, recklessness, and negligence standards in Section 105(c)(5) . . . are similar to the standards for Commission discipline of accountants under Rule 102(e) of [the Commission's] Rules of Practice." *See Gately & Assocs., LLC*, Exch. Act Rel. No. 62656, 2010 WL 3071900, at *11 (Aug. 5, 2010). In this context, recklessness "represents an 'extreme departure from the standards of ordinary care, . . . which presents a danger' to investors or the markets 'that is either known to the (actor) or is so obvious that the actor must have been aware of it.'" *S.W. Hatfield, CPA*, Exch. Act Rel. No. 69930, 2013 WL 3339647, at *21 (July 3, 2013).

the Act provides that the PCAOB may impose civil monetary penalties of up to $750,000 for each violation. The comparable statutory limits upon the penalties that may be imposed on registered public accounting firms are $2,000,000 for each violation that does not warrant heightened sanctions and $15,000,000 for each violation that warrants heightened sanctions. *See* Act §§ 105(c)(4)(D) and (5). For violations of the Act subsequent to November 3, 2015, the maximum amount of a civil monetary penalty per violation for individual respondents that do not warrant heightened sanctions has been adjusted for inflation to $164,373, and the comparable maximum amount for firms is $3,287,477; for violations of the Act subsequent to November 3, 2015, the maximum amount of a civil monetary penalty per violation for individual respondents that warrant heightened sanctions has been adjusted for inflation to $1,232,803, and the comparable maximum amount for firms is $24,656,067. *See* Inflation Adjustments to the Civil Monetary Penalties Administered by the Securities and Exchange Commission (as of Jan. 15, 2023), available at https://www.sec.gov/enforce/civil-penalties-inflation-adjustments.htm.

The PCAOB's sanctioning authority under the Act was fashioned by Congress to enforce compliance with the rules of the Board, professional standards, and the securities laws relating to the preparation and issuance of audit reports. The PCAOB exercises that authority not only with fidelity to the language of the Act but also with due regard for the particular role of the auditor. As the Supreme Court has explained, "[b]y certifying the public reports that collectively depict a corporation's financial status, the independent auditor assumes a *public* responsibility"—a "special" "'public watchdog' function" of "a disinterested analyst charged

with public obligations." *See United States v. Arthur Young & Co.*, 465 U.S. 805, 817-18 (1984) (emphasis in original). Other court cases have recognized "the particularly important role" played by auditors in "certifying the accuracy of financial statements of public companies that are so heavily relied upon by the public in making investment decisions," pointing out that "the confidence of the investing public in the integrity of the financial reporting process" and in the reliability of financial information, needed "[f]or the market to operate efficiently—indeed, for it to operate at all," is "bolstered by the knowledge that public financial statements have been subjected to the rigors of independent and objective investigation and analysis." *See Marrie v. SEC*, 374 F.3d 1196, 1200-01 (D.C. Cir. 2004); *McCurdy v. SEC*, 396 F.3d 1258, 1261 (D.C. Cir. 2005). As another court observed, "[b]reaches of professional responsibility" by members of the accounting profession "jeopardize the achievement of the objectives of the securities laws and can inflict great damage on public investors." *See Touche Ross & Co. v. SEC*, 609 F.2d 570, 581 (2d Cir. 1979). While an auditor is "not a guarantor of the accuracy of financial statements of public companies," the "investing public rely heavily on auditors to perform their tasks in auditing public companies diligently and with a reasonable degree of competence." *See Wendy McNeeley, CPA*, SEC Rel. No. 34-68431, 2012 WL 6457291, at *12 (SEC Dec. 13, 2012) (internal quotations omitted).

An audit is thus an important line of defense against unreliable financial information that harms the markets and investors. The seriousness with which Congress viewed the auditor's role is indicated by the sanctions the Act authorizes the PCAOB to impose in auditor disciplinary proceedings.

The Firm and Robbins have admitted that their violations of PCAOB rules and standards satisfy the criteria for heightened sanctions under Section 105(c)(5) of the Act. *See* Stipulation ¶ 2 & Ex. A ¶¶ 153-155. Indeed, as the Division has noted in its Brief on Sanctions at 6-7, the Firm's and Robbins' admissions establish that certain violations were knowing, while others were clearly reckless. *See, e.g.*, Robbins Aff. at § II.2 (acknowledging knowing nature of violations in connection with efforts to conceal audit violations from PCAOB inspectors); Stipulation Ex. A ¶ 4 (same); *id*. at ¶¶ 20-31 (admitting the Firm's and Robbins' knowledge that engagement quality reviews were not obtained and admitting facts reflecting that the Firm and Robbins knew or were reckless in not knowing that engagement quality reviews were required); *id*. at ¶ 77 (admitting that Robbins knew, or was reckless in not knowing, that hiring Pickard to perform engagement quality reviews for the Firm's audits of other clients while Pickard was a director and officer of YayYo would, by itself, impair the Firm's independence with respect to YayYo); *id*. at ¶¶ 3, 84-115 (acknowledging recklessness of certain audit violations in the 2017 Doyen Audit, where the Firm and Robbins "failed to obtain sufficient appropriate audit evidence despite encountering significant evidence contradicting management assertions and numerous fraud risk indicators that cast serious doubt on the existence, value, rights and presentation of the issuer's reported assets").

Their admissions also establish that the Firm and Robbins, at a minimum, engaged in repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard, pursuant to Section 105(c)(5)(B) of the Act. *Id*. at ¶ 154.

This Initial Decision concludes that heightened sanction should be imposed upon the Firm and Robbins.

B. Permanent Bar and Revocation

The PCAOB has emphasized that, in determining appropriate sanctions in auditor disciplinary proceedings, its goal "is to protect the investing public." *See In the Matter of S.W. Hatfield, CPA*, PCAOB File No. 105-2009-003, Final Decision, at 26 (Feb. 8, 2012), *aff'd*, 2013 WL 3339647 (July 3, 2013). The Board determines appropriate sanctions by considering "the nature, seriousness, and circumstances of the violations and any potentially aggravating or mitigating factors supported by the record, to carry out [the Board's] statutory responsibility to protect investors' interests and further the public interest in the preparation of informative, accurate, and independent issuer audit reports." *See In the Matter of Melissa K. Koeppel*, *CPA*, PCAOB File No. 105-2011-007, Final Decision, at 177 (Dec. 29, 2017); *S. Brent Farhang, CPA*, PCAOB File No. 105-2016-001, Final Decision, at 21 (Mar. 16, 2017), *aff'd*, Exch. Act Rel. No. 83494 (June 21, 2018). One of the aggravating factors the PCAOB considers in determining sanctions is a respondent's disregard for the Board's processes. *See Farhang*, PCAOB File No. 105-2016-001, at 9. The "inquiry into the appropriate remedial sanction 'is a flexible one, and no one factor is dispositive.'" *See In the Matter of Chris G. Gunderson*, Exch. Act Rel. No. 61234, 2009 SEC LEXIS 4322, at *20 (Dec. 23, 2009) (citation omitted); *see also In the Matter of Cordovano and Honeck LLP and Samuel D. Cordovano, CPA*, PCAOB File No. 105-2010-004, Initial Decision, at 50 (July 6, 2011); Notice of Finality (Aug. 29, 2011).

The Firm's and Robbins' effort to mislead the PCAOB Inspectors and failure to cooperate in the PCAOB's 2018 inspection of the Firm demonstrates a serious disregard for the Board's processes. As the SEC has noted, the inspection process and full cooperation are "pivotal to the Board's ability to enhance investor protection and the accuracy of issuer auditor reports through its oversight of registered accounting firms." *See Gately & Assocs., LLC, et al.*, SEC Rel. No. 34-62656, 2010 WL 3071900, at *1 (Aug. 5, 2010). That investor safeguard "would be rendered meaningless if firms were permitted with impunity to whitewash their files in advance of an inspection." *See Kabani & Co., et al.*, PCAOB File No. 105-2012-002, Order Summarily Affirming Findings of Certain Violations and Imposition of Sanctions for those Violations, at 18 (Jan. 22, 2015), *aff'd* Exch. Act Rel. No. 80201, 2017 WL 947229 (Mar. 10, 2017), *aff'd*, 733 F. App'x 918 (9th Cir. 2018).

The Firm and Robbins attempted to "whitewash" audit files by adding documents from Pickard containing false and misleading information to the audit documentation for the 2017 Soldino Audit and the 2017 Vado Audit and by modifying audit documentation for the 2017 Novo Audit after the documentation completion date. Robbins has conceded that he has "no justifiable excuse for [his] failure to cooperate with the PCAOB's 2018 inspection" and that "[t]he allegations of the OIP [concerning the failure to cooperate] are all correct." *See* Robbins Aff. at § II.2.

Such failure to cooperate with the Board's processes alone warrants a permanent revocation and permanent bar for the Firm and Robbins. *See Kabani & Co., et al.*, Exch. Act Rel. No. 80201, 2017 WL 947229 (Mar. 10, 2017) (affirming adjudicated order permanently revoking

firm's registration and permanently barring a partner who directed the improper workpaper review and "cleanup" ahead of a PCAOB inspection and failed to disclose that document alteration). But, in this case, the Firm and Robbins committed numerous other serious violations. As described above, those violations include (but are not limited to): (i) failures to obtain timely engagement quality reviews for four audits and the eight Interim Reviews between November 2016 and April 2018; (ii) violations of the independence rules and standards; and (iii) failures to exercise due professional care and professional skepticism in the 2017 Doyen Audit and the 2017 Novo Audit.

Recognizing the gravity of the various violations, the Firm and Robbins do not oppose a revocation of the Firm's PCAOB registration and a permanent bar of Robbins from association with any registered public accounting firm. *See* Opposition Brief on Sanctions at 1 and n.1. Given the severity and range of the Firm's and Robbins' violations, there can be no doubt that a permanent revocation of the Firm's registration and a permanent bar of Robbins from association with any registered public accounting firm are appropriate and in the public interest.

C. Civil Monetary Penalty

In determining whether a civil monetary penalty is an appropriate sanction and in the public interest and, if so, the amount of the penalty, the Board has stated that it is "guided by the statutorily prescribed objectives of any exercise of [its] sanctioning authority: the protection of investors and the public interest." *See Larry O'Donnell, CPA, P.C.*, *et al.*, PCAOB File No. 105-2010-002, Final Decision, at 9 (Oct. 19, 2010) (citations omitted). For guidance, the

Board has also stated that it will consider the factors set forth in Section 21B of the Securities Exchange Act of 1934, as amended. Those factors include (1) whether the conduct for which a penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard for a regulatory requirement; (2) harm to other persons resulting directly or indirectly from the conduct; (3) the extent to which any person was unjustly enriched; (4) whether the person against whom a penalty is being assessed has been previously found by the Commission or another regulatory agency to have violated federal securities laws, state securities laws, or applicable rules, or has been enjoined from such violations or convicted of certain offenses; (5) the need to deter that individual and others from such conduct; and (6) such other matters as justice may require. *See David W. Dube,* PCAOB File No. 105-2014-005, Initial Decision, at 6 (Aug. 26, 2015); Notice of Finality (Nov. 30, 2015); *Joseph Troche, CPA*, PCAOB File No. 105-2014-007, Initial Decision, at 11 (Jan. 12, 2015); Notice of Finality (Mar. 6, 2015). Section 21B does not require that all of these factors be present as a condition to imposing a penalty, but rather sets them out as factors to be considered. *See Dube*, PCAOB File No. 105-2014-005, at 6; *Troche*, PCAOB File No. 105-2014-007, at 11.

Consideration of these factors makes clear that the Firm's and Robbins' conduct was sufficiently egregious to warrant a significant monetary penalty. With respect to the first factor enumerated in Section 21B, the violations in connection with the 2018 inspection involved fraud and deceit. Robbins orchestrated a plan to alter audit work papers and mislead the PCAOB Inspectors. In addition, the failures to obtain engagement quality reviews and violations

of the independence standards involved deliberate or reckless disregard for regulatory requirements.

With respect to the second factor enumerated in Section 21B, harm to others resulting from the conduct, he Board has emphasized that noncooperation with investigations "undermines the Board's ability to protect investors and advance the public interest by identifying and addressing misconduct in connection with the audits of public companies' financial statements" resulting in "a harm to investors and markets that factors into a sanctions analysis." *See R.E. Bassie & Co.*, PCAOB File No. 105-2009-001, Final Decision, at 12, 16 (Oct. 6, 2010), *aff'd*, Rel. No. 3354, 102 S.E.C. Docket 2932, 2012 WL 90269 (SEC Jan. 10, 2012); *Larry O'Donnell, CPA, P.C., et al.*, PCAOB File No. 105-2010-002, Final Decision, at 11-12 (Oct. 19, 2010)*; Davis Accounting Group, P.C., et al.*, PCAOB File No. 105-2009-004, Final Decision, at 19 (Mar. 29, 2011), *app. for review dismissed*, SEC Rel. No. 34-65581, 2011 WL 4954239 (Oct. 18, 2011). *Cf. Gately & Assoc., LLC, et al.*, Exch. Act Rel. No. 62656, 2010 WL 3071900, at *13 (recognizing as obvious the risk to investors and markets posed by a failure to produce information in a Board inspection). Noncooperation with inspections similarly harms investors by depriving them of important protection they should have had by "thwart[ing] the PCAOB's ability to identify and rectify violations of statutes, rules, and standards that the PCAOB is charged with enforcing." *See Hui Yi Chew*, PCAOB File No. 105-2022-002, Initial Decision, at 27 (Aug. 10, 2022); Notice of Finality (Oct. 4, 2022).

With respect to the third factor enumerated in Section 21B, the Division argues that the Firm and Robbins were unjustly enriched through the receipt of audit and audit-related fees

from the audits they conducted that involved violations of PCAOB rules and standards. *See* Division's Brief on Sanctions at 13-14; *see, e.g.,* J-053 at 46 (Novo FY 2017 audit and audit-related fees were $142,250); YayYo Form 10-K for the year ending December 31, 2019, at 66 (filed March 31, 2020) (YayYo FY 2018 audit and audit-related fees were $141,000) available at https://www.sec.gov/Archives/edgar/data/1691077/000149315220005514/form10-k.htm#v_011; J-104 at 28 (Doyen FY 2017 audit and audit-related fees were $31,750). The Firm and Robbins counter that "assuming the Division could prove that Mr. Robbins was not entitled to any of the audit fees from this matter, Mr. Robbins has paid financially for his acts by the almost four years of investigation and prosecution and the devasting impact this matter has had on his practice." *See* Opposition Brief on Sanctions at 2. Without concluding that the Firm and Robbins were not entitled to *any* of the audit fees at issue, the Division has established by more than a preponderance of the evidence in the record that the Firm and Robbins unjustly benefited from significant fees received for audits they conducted that violated PCAOB rules and standards. Although Robbins has no doubt suffered personal and professional consequences from the investigation and prosecution of this matter, including potential monetary losses, such consequences were the foreseeable result of the Firm's and Robbins' failure to cooperate with the PCAOB's inspection and non-compliance with the PCAOB's rules and standards and do not counsel against the imposition of a civil monetary penalty.

With respect to the fourth factor enumerated in Section 21B, whether the person against whom a penalty is being assessed has been previously found by the SEC or another agency to have violated federal securities laws or state securities laws, Robbins argues, and the

Division does not contest, that "[i]n a career of more than fifty years, this is the first time a regulatory agency has sanctioned Mr. Robbins for his audit work." *See* Opposition Brief on Sanctions at 2. However, this Initial Decision agrees with the Division that the weight to be given to Robbins' lack of prior disciplinary history is lessened by the fact that the Firm and Robbins "admit to violating PCAOB rules, SEC rules, and PCAOB auditing, ethics, and quality control standards across several years and eight audits and eight quarterly reviews" and "admit to efforts to conceal those violations from PCAOB inspectors." *See* Division's Reply Brief on Sanctions at 4.

With respect to the fifth factor enumerated in Section 21B, the need to deter an individual and others from future violations, Robbins has retired from "doing any more SEC audits" (*see* Robbins Aff. at § III) and will be permanently barred from associating with a registered public accounting firm, but there remains a significant need to deter conduct like the Firm's and Robbins' by similarly situated parties in the future. For the PCAOB to discharge its statutory duties, it must rely on registered firms and their associated persons both to be cooperative and candid during inspections and also to comply with PCAOB rules and standards when conducting audits. *See Hui Yi Chew*, PCAOB File No. 105-2022-002, at 28 (Aug. 10, 2022), Notice of Finality (Oct. 4, 2022).

The Division notes that in *Kabani & Co.*, PCAOB File No. 105-2012-002 (Jan. 22, 2015), the Board imposed a $100,000 civil monetary penalty in an adjudicated proceeding against a partner who, like Robbins, directed a firm's noncooperation with PCAOB inspectors. Based on *Kabani*, the Division argues that the Firm and Robbins should be assessed no less than a

$100,000 civil monetary penalty given similar misconduct with respect to an inspection, numerous other serious violations not present in *Kabani*, and the fact that the Firm's and Robbins' misconduct occurred at least a decade later than the misconduct in *Kabani*. *See* Division's Brief on Sanctions at 14-15.

The Division also argues that "the Hearing Officer may impose any sanctions he determines are appropriate" including "a civil money penalty in excess of the $100,000 originally recommended by the Division in the [Division's 2021 Statement], if a higher penalty would be appropriate to further the purposes of the Act." *See* Division's Brief on Sanctions at 18. According to the Division, the $100,000 amount included in the Division's 2021 Statement was "predicated on the outcomes of prior PCAOB disciplinary proceedings. Since that time, the Commission has appointed four new Board Members. And the newly reconstituted Board has issued several settled orders with significant penalties for misconduct that was less expansive than Respondents' misconduct." *Id.* at 15 (footnote and citations omitted). In the Division's view, "It is well within the Board's discretion to determine, based on past experience and current circumstances, that civil money penalty amounts imposed in the past are not significant enough today to provide sufficient deterrence to wrong-doers and must move higher." *Id.* at 16 (footnote omitted). Additionally, as the Division also notes, even if the Firm's and Robbins' conduct did not satisfy the criteria under Section 105(c)(5) of the Act for heightened sanctions, the maximum penalty amount *per violation* would be $164,373 for Robbins and $3,287,477 for the Firm. *See* Division's Brief on Sanctions at 6 n.7.

To date, the $100,000 penalty assessed in *Kabani* is the largest civil money penalty ever assessed by the Board in an adjudicated matter.[6] Indeed, since the *Kabani* decision there have been adjudicated PCAOB orders involving noncooperation in which the Board imposed civil monetary penalties of $50,000 and $100,000. *See Michael Freddy*, PCAOB File No. 105-2017-001, Order Summarily Affirming Initial Decision, at 5 (Nov. 2, 2017) (ordering $50,000 civil monetary penalty for noncooperation with a PCAOB investigation); *S. Brent Farhang, CPA*, PCAOB File No. 105-2016-001, Final Decision, at 28 (Mar. 16, 2017) (same), aff'd, Exch. Act Rel. No. 83494 (June 21, 2018); *Chew*, PCAOB File No. 105-2022-002, Initial Decision, at 26-28 (Aug. 10, 2022), Notice of Finality (Oct. 4, 2022) (Board approved civil monetary penalty of $100,000 for a respondent's violation of PCAOB audit documentation requirements, failure to cooperate with a PCAOB inspection, and failure to cooperate with an investigation by the Division). There are also examples of adjudicated orders prior to the *Kabani* decision involving noncooperation

[6] The Board has noted the limited import of settlements in adjudicated proceedings. See George W. Stewart, Jr., CPA, PCAOB File No. 105-2015-016, Final Decision, at 45-46 and n.18 (Dec. 15, 2017) (describing shortcomings of citing settlements in adjudicated cases); see also S.W. Hatfield, CPA, SEC Rel. No. 34-73763, 2014 WL 6850921, at *6 n.28 (Dec. 5, 2014) (citation omitted) (finding by the SEC that while "settled cases are not precedent," the SEC "may use an opinion issued in connection with a settlement to state views on the issues presented in that case that [the SEC] would apply in other contexts"). As the Board also stated in Hatfield, "[T]he appropriate sanction depends upon the facts and circumstances of each particular case and cannot be determined precisely by comparison with actions taken in other proceedings." See Hatfield, 2013 WL 3339647, at *26 (footnote and internal quotations omitted). Comparisons to settled cases are particularly problematic because "settled cases take into account pragmatic considerations such as the avoidance of time-and-manpower-consuming adversary proceedings" and therefore those "who offer to settle may properly receive lesser sanctions than they otherwise might have." Id. (footnote and internal quotations omitted).

in which the Board imposed civil monetary penalties of $75,000. *See R.E. Bassie & Co.*, PCAOB File No. 105-2009-01, Final Decision, at 12 and 19-20 (Oct. 6, 2010); *Larry O'Donnell, CPA, P.C.*, PCAOB File No. 105-2010-002, Final Decision, at 3-5, 14 (Oct. 19, 2010); *Davis Accounting Group, P.C.*, PCAOB File No. 105-2009-004, Final Decision, at 19, 22 (Mar. 29, 2011).

Without addressing any applicable precedent or the egregiousness of the Firm's and Robbins' misconduct, Robbins argues that "because I have voluntarily left the audit practice and have agreed to a lifetime bar from the PCAOB, a $10,000 fine would be [a] fair and just total penalty for both Respondents in this matter." *See* Robbins Aff. at § III; *see also* Opposition Brief on Sanctions at 3 ("Mr. Robbins request[s] that the Hearing Officer order him to pay no more than [a] $10,000 penalty"). But, given the range and seriousness of the violations the Firm and Robbins committed over an extended period of time, and the civil monetary penalties assessed by the Board in prior adjudicated cases involving noncooperation alone, this Initial Decision concludes that a $10,000 civil monetary penalty would not be sufficient to reflect the seriousness of the violations and to deter similar conduct by others.

The Firm and Robbins also argue that a civil monetary penalty of no more than $10,000 should be imposed because of the Division's "previous positions on settlement of this matter." *See* Opposition Brief on Sanctions at 1. According to the Firm and Robbins, prior to the institution of this proceeding, the Division offered to recommend a settlement with the Firm and Robbins to the Board that would have imposed no penalty. Additionally, after the filing of the OIP, the Division agreed to recommend a settlement with the Firm and Robbins to the Board that would have imposed a civil monetary penalty of $10,000. *Id*. at 1. However, as the

Firm and Robbins have also acknowledged, pursuant to PCAOB Rule 5205, *Settlement of Disciplinary Proceedings Without a Determination After Hearing*, only the Board may approve a settlement. *Id.* at 1 n.2. Additionally, as the Firm and Robbins also acknowledge, the Board did not accept the settlement offer submitted by the Firm and Robbins. *Id.* at 1. Accordingly, pursuant to PCAOB Rule 5205(c)(4), *Considerations of Offers of Settlement*, the settlement offer by the Firm and Robbins is deemed withdrawn. Additionally, as the Division noted in the Division's Reply Brief on Sanctions, the Board explained, when adopting PCAOB Rule 5205, that the Board "fully expect[s] that the content of settlement negotiations would not be introduced as evidence in Board proceedings." *See* PCAOB Rel. No. 2003-015 at A2-74 (Sept. 29, 2003). In such circumstances, this Initial Decision concludes that the Division's prior positions on settlement of this matter are not relevant and will not be considered in the determination of the amount of the civil monetary penalty to be assessed against the Firm and Robbins.

The Firm and Robbins also argue that the financial sanctions proposed by the Division "would be impossible for [Robbins] to meet and would cause incredible hardship" due to his limited income and a loss of retirement savings because of personal issues. *See* Robbins Aff. at § III. However, there is some uncertainty whether a respondent's ability to pay should even be taken into account in considering the imposition of a civil monetary penalty under the Act. As the Board has stated, "the Sarbanes-Oxley Act does not recognize ability to pay as a factor to consider in determining whether to impose a civil money penalty." *See Farhang*, PCAOB File No. 105-2016-001, at 25 (internal quotations and citations omitted). Indeed, in the Board's view, in cases where misconduct was egregious, "'evidence concerning Respondents' ability to pay a

penalty would be irrelevant to our determination of whether to impose a penalty' because of 'the egregiousness of Respondents' noncooperation[] and the need to protect investors and advance the public interest by deterring such noncooperation.'" *Id*. at 26 (quoting *Bassie*, PCAOB File No. 105-2009-001, at 18); *Freddy*, PCAOB File No. 105-2017-001, at 4; *see also Bassie*, 2012 WL 90269, *14 n.53 (where the SEC may impose a penalty under Section 21B(c), "the ability to pay may be considered, but it is only one factor, it is discretionary, and where . . . the conduct is egregious, inability to pay may be disregarded") (citations omitted).

Moreover, as the Board has also stated, "where inability to pay is relevant, the person claiming it bears the burden of proving it." *See Farhang*, PCAOB File No. 105-2016-001, at 27 (citation omitted); *accord, Freddy*, PCAOB File No. 105-2017-001, at 4-5. The Firm and Robbins have not satisfied this burden. The Firm and Robbins submitted no financial records or other evidence in support of Robbins' claim of an inability to pay more than a $10,000 penalty. Instead, the Firm and Robbins rely on conclusory statements in Robbins' affidavit that a significant monetary penalty would "be impossible for [Robbins] to meet and would cause incredible hardship," that Robbins is "76 years old and live[s] on Social Security and income from a very small tax practice," and that Robbins had previously suffered a loss of retirement savings because of unspecified personal issues. *See* Robbins Aff. at § III. Even assuming that a respondent's ability to pay a penalty should be considered, the Firm and Robbins have failed to offer sufficient evidence that would support a finding that the Firm and Robbins would in fact be unable to pay a penalty of more than $10,000.

In balancing all of the Section 21B factors described above, and in light of the considerable passage of time since the *Kabani* decision and the additional violations present in the current case, this Initial Decision concludes that a civil monetary penalty of $150,000 should be imposed upon the Firm and Robbins, jointly and severally. This is an egregious case. The Firm and Robbins engaged in serious misconduct, including not only noncooperation but also violations of fundamental auditing standards and accounting principles over an extended period of time. Such misconduct must be deterred to protect the public interest and warrants a civil monetary penalty greater than the $100,000 civil monetary penalty most recently approved by the Board in *Chew,* an adjudicated matter involving noncooperation and a much smaller range of violations than the instant case.

The civil monetary penalty of $150,000 imposed here is well below the maximum civil monetary penalty that could be imposed on either the Firm or Robbins. Indeed, $150,000 is even below the maximum amount that could be imposed on an individual for a single violation when heightened sanctions are not appropriate. While $150,000 is larger than the largest penalty ever previously ordered by the Board in an adjudicated matter and is greater than the $100,000 figure included in the Division’s 2021 Statement, this Initial Decision concludes that this amount is necessary to protect investors and further the significant public interest at stake pursuant to Section 101(a) of the Act without being punitive, excessive, or oppressive.

VI. RECORD CERTIFICATION

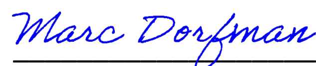
Pursuant to PCAOB Rule 5202(d), I certify that the record includes the items set forth in the Record Index issued by the PCAOB Secretary and served on the parties on December 20, 2022.

VII. ORDER

For the foregoing reasons, to protect the interests of investors and the public interest, it is **ORDERED**, pursuant to Sections 105(c)(4) and 105(c)(5) of the Sarbanes-Oxley Act, as amended, and PCAOB Rule 5300(a), that for violations of the Act and the PCAOB's rules and standards, Respondent AJ Robbins, CPA, LLC's registration with the PCAOB is permanently revoked, Respondent Allan Jeffrie Robbins is permanently barred from associating with a registered public accounting firm, and a civil monetary penalty of $150,000 is imposed upon the Firm and Robbins, jointly and severally.

This Initial Decision will become final in accordance with PCAOB Rule 5204(d)(1) upon issuance of a notice of finality by the Secretary. Any party may obtain Board review of this Initial Decision by filing a petition for review in accordance with PCAOB Rule 5460(a), or the Board may, on its own initiative, order review, in which case this Initial Decision will not become final.

Dated: April 28, 2023



Marc B. Dorfman
Chief Hearing Officer