UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 75862 / September 9, 2015

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3692 / September 9, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16800

In the Matter of **BDO USA, LLP,** **Respondent.**	**ORDER INSTITUTING PUBLIC ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTIONS 4C AND 21C OF THE SECURITIES EXCHANGE ACT OF 1934, AND RULE 102(e) OF THE COMMISSION'S RULES OF PRACTICE, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS AND A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 4C[1] and 21C of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 102(e)(1)(ii) of the Commission's Rules of Practice[2] against BDO USA, LLP ("BDO" or "Respondent").

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[1] Section 4C provides, in relevant part, that:

> The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found . . . (2) . . . to have engaged in unethical or improper professional conduct.

[2] Rule 102(e)(1) provides, in relevant part:

> The Commission may censure a person . . . who is found . . .
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> (ii) to have engaged in unethical or improper professional conduct.
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II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement ("Offer") that the Commission has determined to accept. Respondent admits the facts set forth in Sections III.B., C., and E. through H. below, acknowledges that its conduct violated the federal securities laws, admits the Commission's jurisdiction over it and the subject matter of these proceedings, and consents to the entry of this Order Instituting Public Administrative and Cease-and-Desist Proceedings Pursuant to Sections 4C and 21C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (the "Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds[3] that:

A. SUMMARY

1. This matter involves improper professional conduct by BDO while serving as the auditor for General Employment Enterprises, Inc. ("GEE" or the "Company"), a staffing services company whose stock trades on the NYSE MKT. During BDO's 2009 audit of GEE's financial statements for its fiscal year ended September 30, 2009, BDO learned that $2.3 million (comprising approximately half of GEE's assets and substantially all of its cash) was unaccounted for when GEE's chief financial officer (the "GEE CFO") advised BDO, in November 2009, that (a) GEE's purported 90-day non-renewable certificate of deposit ("CD") at a New York bank had not been repaid by the bank after the stated maturity date in mid-October, (b) GEE was missing documentation supporting the CD, and (c) a bank employee had told GEE's CFO that the bank had no record of a CD. Thereafter, BDO received multiple conflicting stories from GEE management

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> (iv) with respect to persons licensed to practice as accountants, "improper professional conduct" under Rule 102(e)(1)(ii) means:
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> (B) either of the following two types of negligent conduct:
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> (1) A single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which an accountant knows, or should know, that heightened scrutiny is warranted.
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> (2) Repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission.

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

and board members concerning both the status of the CD and a series of transfers totaling $2.3 million made to GEE by three entities unaffiliated with the bank, one of which BDO had been told was owned by GEE's Chairman and majority shareholder. After BDO raised questions about these deposits, GEE's chief executive officer claimed the deposits were the proceeds of an agreement to assign the CD to a purported unrelated party.

2. BDO's engagement and concurring partners consulted with senior BDO partners, including the assigned BDO regional technical director, BDO's national director of accounting, and BDO's national SEC practice director. The consultation resulted in BDO issuing a five-page letter, dated December 21, 2009, in which BDO advised GEE of its belief that BDO had not been provided sufficient audit evidence to formally conclude on the matter and demanded that GEE's audit committee commission a full investigation of the matter by an independent firm. BDO received conflicting information from various sources as to the existence of the CD and never received rational explanations as to why the $2.3 million went missing and why an equivalent amount was later received under suspect circumstances. Only days later, however, after GEE's chief executive officer resigned, BDO agreed to withdraw its demand for an independent investigation and issued an audit report containing an unqualified opinion on GEE's financial statements. Those financial statements, included in GEE's Form 10-K filed on January 8, 2010, represented that GEE had a $2.3 million cash equivalent in the form of CD as of September 30, 2009, and had entered into an assignment agreement to sell the CD for full face value to an unrelated party.

3. Approximately two months after GEE filed its 2009 Form 10-K with BDO's unqualified audit opinion, BDO learned of a criminal complaint against the New York bank president. The criminal complaint alleged, in connection with a wide-ranging conspiracy involving, among others, GEE's then-chief executive officer and GEE's then-majority shareholder and chairman of the board, that (i) GEE's purported $2.3 million CD never existed, (ii) the bank president signed a false confirmation to BDO, (iii) GEE's $2.3 million was used to attempt to conceal a loan default connected to the broader conspiracy, and (iv) the entities that transferred the $2.3 million back to GEE were related to the bank president's co-conspirators, including GEE's then-majority shareholder and chairman of the board. The bank president pled guilty in October 2010. Despite this additional new information, which was conveyed to senior partners in BDO's regional and national offices, BDO failed to perform appropriate audit procedures to determine whether this new information had any impact on GEE's 2009 financial statements or BDO's audit report thereon. In addition, BDO failed to adequately consider this information during its subsequent audit when it provided an audit report containing an unqualified opinion on GEE's financial statements included in the Company's 2010 Form 10-K.

4. Specifically, among other audit failures during the 2009 and 2010 audits of GEE, BDO: (1) failed to adequately plan, design, and perform audit procedures necessary to determine the existence of a disputed asset and the existence of related party transactions; (2) failed to obtain sufficient competent evidential matter; (3) failed to exercise professional skepticism and due professional care; (4) ignored red flags of fraud, potential illegal acts by GEE's agents, and unidentified related party transactions; (5) placed improper reliance on management representations from individuals they did not trust; and (6) failed to appropriately consider the discovery of new facts.

5. BDO issued audit reports containing unqualified opinions on the financial statements in GEE's 2009 and 2010 Form 10-Ks, which incorrectly stated that GEE had a cash equivalent of $2.3 million as of September 30, 2009, and did not disclose that the $2.3 million was returned by entities related to GEE's chairman of the board. BDO's reports, which BDO knew would be filed with GEE's Form 10-Ks, inaccurately stated that the audits had been conducted in accordance with standards adopted by the Public Company Accounting Oversight Board ("PCAOB") and that GEE's financial statements presented fairly, in all material respects, the company's position and results at September 30, 2009, in conformity with generally accepted accounting principles in the United States of America ("GAAP").

B. RESPONDENT

6. **BDO**, formerly known as BDO Seidman, LLP, is a Delaware limited liability partnership and a PCAOB-registered public accounting firm with its headquarters in Chicago, Illinois. BDO served as GEE's independent auditor from 2004 through 2012.

C. RELEVANT BDO PROFESSIONALS

7. **Sean C. Henaghan** ("Henaghan"), age 42, is a Certified Public Accountant ("CPA") licensed to practice in Illinois and was licensed in Florida from 2010 through 2012. Henaghan served as the BDO engagement partner on the 2009 and 2010 audits of GEE and had final responsibility for the audits.

8. **John E. Rainis** ("Rainis"), age 57, is a CPA licensed to practice in Illinois. Rainis served as the BDO concurring reviewer on the 2009 and 2010 audits of GEE.

9. **Leland E. Graul** ("Graul"), age 66, is a CPA licensed to practice in Illinois. Prior to his retirement, Graul served as BDO's national director of accounting and risk management partner when he was consulted during the 2009 and 2010 audits of GEE.

10. **James J. Gerace** ("Gerace"), age 54, is a CPA licensed to practice in Illinois. Gerace served as the regional technical director of BDO when he was consulted during the 2009 and 2010 audits of GEE.

11. **Wendy M. Hambleton** ("Hambleton"), age 53, is a CPA licensed to practice in Illinois. Hambleton served as BDO's national SEC practice director when she was consulted during the 2009 and 2010 audits of GEE.

D. ISSUER AND OTHER RELEVANT ENTITIES AND INDIVIDUALS

12. **GEE** is an Illinois corporation headquartered in Oakbrook Terrace, Illinois that provides professional placement services and temporary staffing services in certain industries. GEE's common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act and trades on the NYSE MKT stock exchange. GEE files periodic reports, including Forms 10-K and 10-Q, with the Commission pursuant to Section 13(a) of the Exchange Act and related rules thereunder.

13. **River Falls Financial Services, LLC** ("River Falls Financial"), **River Falls Investments, LLC f/k/a Oxygen Unlimited II, LLC** ("River Falls Investments"), **River Falls Holdings, LLC** ("RFH"), **Accredited Investor Resources, LLC f/k/a Oxygen Investment Partners, LLC** ("AIR"), **Oxygen Unlimited, LLC** ("Oxygen"), **O2HR, LLC** ("O2HR"), **SDH Realty, LLC** ("SDH"), **WTS Acquisition LLC** ("WTS"), **H2H Holdings, LLC** ("H2H"), and **PSQ, LLC** ("PSQ") (collectively, the "Affiliated Entities") are purported holding, investment, employment-related, and insurance companies. During at least 2009 and 2010, **Wilbur Anthony Huff** ("Huff")[4] exercised substantial financial and management control over numerous entities, including, among others, the Affiliated Entities and their holdings. Huff installed other business partners to perform day-to-day operational functions and/or serve as the listed owners, directors, or managers. As a convicted felon, Huff faced legal and practical barriers to operating business entities in his own name, particularly business in regulated industries, including employment-related, insurance, and banking companies.

14. **Park Avenue Bank** ("PAB" or "the Bank") was a New York State chartered bank until it was closed by the New York State Banking Department on March 12, 2010, and the Federal Deposit Insurance Corporation was named Receiver. The Affiliated Entities primarily conducted their banking business through PAB. **Charles J. Antonucci, Sr.** ("Antonucci") served as the president and CEO of PAB from June 2004 until October 2009. In October 2010, Antonucci pled guilty to multiple criminal charges, including securities fraud, bank bribery, embezzlement, and providing a false confirmation to BDO of GEE's purported CD at PAB. Separately, **Park Avenue Insurance** was a private insurance company owned by Antonucci that was not affiliated with PAB.

15. **Stephen B. Pence** ("Pence") served as the chairman of the board of GEE from July 1, 2009, through November 17, 2010. Although Pence purported to be the sole member and owner of PSQ, whose sole asset was the GEE shares representing a controlling stake in the Company as of July 1, 2009, PSQ was one of the Affiliated Entities over which Huff exercised substantial financial and management control. PSQ's acquisition of GEE stake was funded by AIR and Oxygen. Pence also represented to BDO that he was the 100% owner of River Falls Financial, another of the Affiliated Entities. Huff directed substantial monthly payments to Pence ($25,000)

[4] Huff pled guilty to federal mail fraud charges for obtaining insurance premium finance loans under false pretenses in the Western District of Kentucky in 2003. In 2008, the Commission filed charges against Huff related to a scheme to misappropriate assets from and to record fake letters of credit at Certified Services, Inc. ("Certified"). *SEC v. Huff*, 08-CV-60315 (S.D. Fla.). On October 22, 2010, the Court entered judgment for the Commission against Huff requiring him to pay more than $13 million, among other relief. Separately, after an October 2012 indictment against him, Huff pled guilty on December 23, 2014 to an information, which alleged, among other things, that: (1) Huff controlled GEE, in whole or in part, by installing other individuals; (2) Huff participated with Antonucci in a conspiracy in which they stole $2.3 million from GEE and Huff later returned the $2.3 million to GEE from three companies he controlled; and (3) a large portion of the $2.3 million received by GEE were funds entrusted to Oxygen by its clients for payment of the clients' employment tax and other obligations. *U.S. v. Huff*, 12-CR-750 (S.D.N.Y.).

from several of the Affiliated Entities to ensure his control over, and ability to influence, GEE's operations. Pence formerly served as the lieutenant governor of Kentucky from 2003 to 2007 and the United States Attorney for the Western District of Kentucky from 2001 to 2003.

16. **Ronald E. Heineman** ("Heineman") was appointed as the chief executive officer ("CEO") of GEE on July 1, 2009, in connection with PSQ's acquisition of a controlling stake in GEE. Heineman served as CEO until his resignation on December 23, 2009, in connection with the events described herein. Huff directed substantial monthly payments to Heineman ($15,000) from the Affiliated Entities during this time period.

17. **Salvatore J. Zizza** ("Zizza") served as the CEO of GEE from December 23, 2009, through December 2012. Prior to his appointment as CEO, Zizza received monthly payments of $20,000 from PSQ, which were funded by several of the Affiliated Entities, for purported consulting services, and Zizza frequently attended GEE board meetings as an "invited guest." In 2009, businesses owned or operated by Zizza received loans in excess of $1 million that Huff directed from certain of the Affiliated Entities.

18. **Associate-1** was another of Huff's business partners and was listed or served at various times as a manager of River Falls Investments, Oxygen, and O2HR, and as co-manager of River Falls Financial with Heineman. Associate-1 was also involved in PSQ's acquisition of a controlling stake in GEE and attended several GEE board meetings in 2009. In addition, from July 2009 until September 2009, Associate-1 was a signatory on GEE's bank account at PAB despite the fact that Associate-1 was not an official employee, officer, or director of the Company. Associate-1 also purported to be the owner of WTS (another of the Affiliated Entities), a holding company of **On-Site Services, Inc.** ("On-Site") and **Ameritemps, Inc.** ("Ameritemps"), which WTS had acquired in January 2009 with funding from other Affiliated Entities. Almost immediately after PSQ's acquisition of a controlling stake in GEE, Heineman began presenting proposals to GEE's board for GEE to acquire these companies. For example, at an August 10, 2009, GEE board meeting, attended by Pence and Zizza, the board authorized Heineman to enter into a letter of intent with WTS to acquire On-Site, and Heineman reported that he would present another acquisition candidate, Ameritemps, at the September board meeting.

E. BACKGROUND

19. GEE's May 18, 2009, definitive proxy statement disclosed that, in January 2009, GEE began discussions with representatives of River Falls Financial, including Heineman and Pence, concerning the possibility of a tender offer and direct cash investment in GEE. As BDO learned later in 2009, Huff was also present for one of the relevant meetings. The proxy statement further disclosed that, on February 11, 2009, River Falls Financial and PSQ, a special purpose vehicle purportedly formed by Pence, entered into a non-binding letter of intent with GEE for a purchase and tender offer agreement to obtain a controlling stake in GEE.

20. According to GEE's May 18, 2009, definitive proxy statement, on March 30, 2009, after negotiations continued following the February 2009 non-binding letter of intent, Pence signed on behalf of PSQ a definitive securities purchase and tender offer agreement (the "Purchase Agreement"). The Purchase Agreement provided that, subject to shareholder approval, PSQ would

acquire a controlling stake in GEE by (1) purchasing 7,700,000 newly-issued shares of GEE common stock in a private placement transaction at a purchase price of $0.25 per share for a total purchase price of $1,925,000; (2) commencing a cash tender offer to purchase from the Company's shareholders up to 2,500,000 shares of common stock at a purchase price of $0.60 per share; (3) appointing three directors to a five-member board of directors, including Pence becoming the chairman of the board; and (4) designating Heineman GEE's CEO. On June 22, 2009, a GEE press release announced that shareholders approved the Purchase Agreement and the closing of the Purchase Agreement was announced on July 1, 2009. As a result, PSQ acquired more than 65% ownership of the Company, Pence became GEE's chairman and appointed two other directors, and Heineman became GEE's CEO.

21. As part of the July 2009 closing of PSQ's purchase agreement with GEE, GEE opened a checking account at PAB into which PSQ's escrowed $1,925,000 would be deposited upon the closing. According to PAB records received by BDO in 2009, in June 2009, Associate-1 coordinated with GEE's chief financial officer (the "GEE CFO") to have the GEE checking account opened at PAB and the authorized signatories on the account were the GEE CFO, Pence, and Associate-1. Those PAB records also indicated that the GEE CFO, Pence, and Associate-1 remained the only authorized signatories on the account until September 2009, at which time Associate-1 was removed and Heineman was added. Following the closing in early July 2009, GEE transferred an additional $750,000 from GEE's accounts at other banks to the GEE PAB checking account. The approximately $2.6 million deposited in the GEE PAB checking account constituted substantially all of GEE's cash and half of its assets.

22. According to information received by BDO, GEE's CFO identified that $2.3 million had been withdrawn from the GEE PAB operating account on July 23, 2009, without the GEE CFO's knowledge. The GEE CFO reported to BDO that when he asked about the withdrawn funds, GEE's CEO Heineman claimed that he had authorized GEE to invest $2.3 million into a CD at PAB. The GEE CFO also informed BDO that, although he had repeatedly requested documentation concerning the purported CD, such as a written approval or account agreement—and cited the lack of documentation as a control deficiency—Heineman only provided the GEE CFO with a one-page PDF of a typewritten "Certificate of Deposit Receipt" for $2.3 million with a single maturity date of October 21, 2009 and interest rate of two percent.

F. BDO RECEIVED INCONSISTENT EVIDENCE CONCERNING THE PURPORTED CD AND THE EXISTENCE OF RELATED PARTY TRANSCTIONS

23. GEE's fiscal year ended on September 30, 2009. As part of its audit of GEE, BDO addressed confirmations for GEE's bank accounts, including the purported CD, to a PAB vice president and branch manager. In October, BDO received a confirmation signed by that vice president for the operating account and a confirmation signed by the PAB president Antonucci for the purported CD. BDO concurring partner Rainis noted that it was "unusual" for the PAB president to sign the confirmation.

24. On October 19, 2009, the GEE CFO provided to audit committee members and BDO a report of the evaluation of internal control for fiscal year 2009, which noted the purported

PAB CD as an identified control deficiency. The report noted that"[t]he transaction was not executed by the office of the Treasurer, and no written approval or account agreement was provided to the accounting department" and that "it did not conform to the company's investment guidelines" because it did not provide sufficient diversification and PAB did not meet GEE's size requirement. However, the report concluded that the control deficiency did not constitute a material weakness. BDO concurred with this assessment.

25. In early November 2009, the GEE CFO noticed that PAB had not remitted the proceeds of the purported CD of $2.3 million plus interest into GEE's operating account upon the maturity date, October 21, 2009. When the GEE CFO contacted PAB, a PAB representative stated that the Bank had no record of the purported CD in its system and then refused to investigate the matter any further. On November 18, 2009, the GEE CFO conveyed this information to the BDO engagement partner Henaghan. The GEE CFO also communicated this information to GEE's audit committee chairman (the "AC Chair").

26. Also in November 2009, BDO partners Henaghan, Graul, and Gerace reviewed background check reports of Heineman and Associate-1 that identified potential concerns. As part of BDO's client retention procedures, BDO had procured a background check of Heineman because he was the new CEO of GEE and of Associate-1 because he purportedly owned On-Site, a subsidiary of WTS that GEE intended to acquire and which BDO agreed to audit. Those background checks revealed that:

- A 2009 lawsuit named GEE's CEO Heineman as a defendant and alleged that he received a fraudulent distribution of in excess of $2 million in cash from a bankrupt company he formally ran.

- Associate-1 served as the chief operating officer of a subsidiary of Certified. The Commission had alleged in a 2008 complaint that Huff was an "undisclosed control person" who, with others, stole $30 million from Certified.

- Associate-1 and Heineman were co-managers of River Falls Financial, and participated in negotiating PSQ's acquisition of GEE shares.

- Heineman and Associate-1 had several substantial personal tax liens.

27. At a November 23, 2009, audit committee meeting, attended by BDO engagement partner Henaghan and concurring partner Rainis, the GEE CFO reported his concerns that GEE had little documentation supporting the purported CD, including no written authorization from an account signatory and no deposit agreement. According to the audit committee minutes, Heineman claimed that he authorized the purported CD at Pence's direction, and claimed the lack of documentation was due to "the rapid pace of the transactions in which he had been involved, coupled with reorganization and personnel changes at Park Avenue Bank." Heineman next stated that he had anticipated that the CD would be maintained on a continuing renewal basis but he had asked Pence to liquidate the purported CD and have the funds transferred into the PAB checking account by the end of the week. The minutes also state that Henaghan "said that the audit was substantially completed, pending resolution of the missing funds issue, receipt of legal letters from

counsel, and the executed management representation letter" and that BDO "would be issuing an unqualified opinion on the consolidated financial statements."

28. On November 24, 2009, Henaghan emailed the AC Chair, stating that the GEE CFO had "indicated there was an update on the CD and that the funds would be returned in installments. I am not sure if you can provide any further clarity on why this would be. I wanted to check with you before I had another discussion with [Heineman]." The AC Chair replied that he "[could] not provide any clarity" and expressed concern that one of the audit committee members (the "AC Member") "seems to be tied in with this group." The AC Member had been appointed by Pence in connection with the PSQ transaction in July.

29. Henaghan replied to the AC Chair the following day, November 25, 2009, that he had spoken to Heineman that morning and Heineman indicated that Pence and the AC Member "were taking the lead on this as they have a previous working relationship with the bank." Henaghan also noted that Heineman, however, had "disagreed with the fact that the CD would be 'paid back in installments'" and had "indicated that the proceeds of the CD would be in the Company's bank account by Monday."

30. By the following Monday, November 30, 2009, GEE still had not obtained the $2.3 million in proceeds of the purported CD from PAB. That day, Pence, Heineman, and Zizza attended a GEE board of directors meeting. Zizza, who had no formal role at GEE at this time, attended as an "invited guest." The board minutes indicate that the AC Chair explained that the Company's Form 10-K had not yet been filed because BDO's "final" opinion was predicated on the satisfactory accounting for the PAB CD and an explanation for where GEE's funds had been since the CD matured on October 21. During this November 30, 2009, board meeting, the AC Member stated he believed that the situation occurred as a result of administrative errors on the part of the Bank, and Pence said that the AC Member had agreed to pursue the matter with PAB. Neither Pence nor Heineman mentioned anything about GEE selling or assigning the purported CD to a third party.[5]

31. By December 3, 2009, BDO learned that GEE had received four transfers from SDH and Oxygen totaling $1 million. On December 3, 2009, the AC Member, who had been tasked by Pence with contacting PAB about the purported CD, told the AC Chair and BDO engagement partner Henaghan that PAB was sending GEE the $2.3 million proceeds of the purported CD. The AC Member also told Henaghan that the Bank had made an "administrative error" and would provide a short apology note.

32. After consulting with fellow BDO partners Rainis and Gerace, Henaghan sent GEE's AC Chair an email on December 4, 2009, summarizing the open items requiring resolution prior to the issuance of BDO's audit report: (1) the purported CD; (2) identification of potential

[5] BDO engagement partner Henaghan and concurring partner Rainis confirmed in the workpaper index that they reviewed all of the minutes for the GEE board and audit committee meetings discussing the purported CD issue.

related parties to Pence; and (3) additional subsequent event procedures. The email begins by noting that after the CD had matured in October 2009, when the GEE CFO had contacted the Bank, a PAB representative informed the GEE CFO that there was no record of the purported CD and that after some investigation by the AC Member, "in late November it was determined that the funds would be returned to GEE in installments." The email then notes that GEE had received the following wire transfers: (i) November 24: $300,000 wire transfer from SDH; (ii) November 25: $300,000 wire transfer from Oxygen; (iii) November 27: $300,000 wire transfer from SDH; and (iv) December 1: $100,000 wire transfer from Oxygen. Henaghan's email then noted that he had discussed the matter with Heineman and Pence, who both referred him to the AC Member who was working directly with PAB on the matter, and that the AC Member left him a voicemail "indicating the bank continues to put money against the CD they owe [GEE] and it should be fully repaid by the close of business on Monday, Dec. 7" and that the Bank would provide a short apology note. Henaghan's email continued:

> [G]iven the highly unusual nature of this issue and the significant amount of time it is taking to recover the funds, it is critical that we understand both the nature of the administrative error as well as the underlying cause of this error.... As I have never encountered such an issue with a bank or CD and any reasonable person (including the PCAOB or SEC) would certainly question such an issue, I need to be in a position to fully explain exactly what occurred…. As such, from an audit perspective I will require the following prior to issuance of the fiscal 2009 financial statements:
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> > -Source documents (bank statements, etc.) showing the flow of funds from the closing of the PSQ transaction through the date the funds are fully transferred to Chase bank in December 2009 (including an understanding of where the CD funds were disbursed upon maturity of the CD in October)
> >
> > -Explanation as to why the funds received in November and December are being wire transferred from entities other than Park Avenue Bank
> >
> > -To corroborate this documentation, we may request to meet with someone at Park Avenue Bank to understand the nature of the administrative error
> >
> > -A written report by management or others to fully explain the circumstances surrounding the matter including steps [GEE] took to gain its understanding of what transpired....
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> Also, as the $2.3 million is critical to our assessment of the Company's ability to continue as a going concern, it is important for us to understand this situation so as to gain comfort that the funds will remain available to the Company to fund operations as needed.

33. Henaghan's December 4 email also noted as an open item that he had a conversation with Pence that day "to gain an understanding of other investments he has to make sure we have appropriately identified any potential related parties and may have a few follow up

questions regarding that matter." One of the items Henaghan had spoken to Pence about was the ownership of River Falls Financial, of which Pence had indicated he was the 100% owner.

34. Shortly after receiving it, the AC Chair forwarded Henaghan's email to Heineman, Pence, the AC Member, the GEE CFO, and GEE's board, noting: "Multiple representatives of BDO have told me that they will not sign off on the GEE Audit . . . until they have sufficient documentation of what has transpired. [BDO's] position is that the Liabilities associated with a sign-off far exceed any past or potential future Audit Fees that [they] have received or will receive. The high level message is that a letter of apology from Park Avenue Bank will not be sufficient." Henaghan received a copy of this email and replied to all: "To clarify, [our] primary concern is getting an understanding of exactly what has occurred in order to allow us to complete our audit procedures. As I am sure everyone would agree, what has transpired over the last few weeks with the funds at [PAB] has been highly unusual. I know everyone has been working to resolve the issue. However, time continues to pass and [GEE's] filing deadline will be here before we know it. As such, I wanted to clarify the importance of appropriately addressing the issue as quickly as possible to allow us to complete the audit."

35. Later in the day on December 4, the AC Chair sent an email to Henaghan and Rainis summarizing his call with the AC Member, stating that when he spoke with the AC Member "he told me that [PAB] had reported these transaction [sic] to the FDIC and that the money sent to the various entities that are now sending GEE the money are sending us the banks money rather than sending it back to the bank." The AC Chair continued: "This makes absolutely no sense. It looks like [PAB] is on the verge of failing. The FDIC and a bankruptcy estate are going to require [PAB] to collect every cent they can under loans or other arrangements to settle with the creditors of the bank before they send money to third parties."

36. The following day, on December 5, 2009, the AC Chair emailed GEE's board and Heineman calling for a special audit committee meeting on December 9 because of "several unanswered questions related to $2.3 million of the Company's cash which supposedly was invested in a Certificate of Deposit ('CD') at Park Avenue Bank which will need to be answered before BDO will complete their Audit Report for the Company's fiscal year ended September 30, 2009." The AC Chair's email noted several issues, including that (i) there was no account agreement with PAB or regular reporting on the CD; (ii) PAB did not remit the proceeds of the CD into GEE's operating account when it reached its maturity date on October 21, 2009; (iii) PAB provided no explanation to the GEE CFO when he attempted to investigate; and (iv) the AC Member who took the lead on this matter with PAB "was informed on or about November 21, 2009 that the funds would be returned to [GEE] in a series of deposits." The email also provided a chart of seven wire transfers totaling $1.7 million, which included the four noted in Henaghan's December 4 email plus a December 2, 2009, wire transfer from Oxygen for $100,000, a December 2, 2009, wire transfer from River Falls Financial of $300,000, and a December 3, 2009, wire transfer from River Falls Financial also for $300,000. The address listed for both SDH and River Falls Financial on each of their wire transfers in the chart was 11921 Brinley Ave, Louisville, KY. BDO's engagement partner Henaghan received a copy of the AC Chair's December 5 email and forwarded it to Rainis, Gerace, and BDO's general counsel.

37. River Falls Financial was the entity that Henaghan had just been told was 100% owned by Pence. BDO had also learned in conducting background investigations that Associate-1 and Heineman were co-managers of River Falls Financial.

38. On December 4 and December 9, 2009, GEE received two additional wire transfers from River Falls Financial for $300,000 each, bringing the total amount received by GEE from River Falls Financial to $1.2 million and the total of the nine wire transfers to $2.3 million, the same amount that Heineman had purported to invest in a CD.

39. On December 8, the AC Chair emailed Henaghan, providing some links he suggested Henaghan review before Henaghan had a conversation with the AC Member and any representatives of PAB, "particularly the Anthony Huff links" and explained that he "met Anthony Huff when we went to New York" to negotiate PSQ's acquisition. The email included links to a press release announcing the Commission's lawsuit against Huff, a link to Huff's website noting the address 11921 Brinley Avenue, Louisville, KY in the text of the email, and a link to the website for Oxygen noting the identical address. This is the same address that appeared in the wires sent to GEE by River Falls Financial and SDH, as noted in the AC Chair's December 5 email described in paragraph 36, above. Also, Huff's website at the time contained references to River Falls Investments, SDH, Oxygen, and O2HR.

40. In addition to the background checks of Heineman and Associate-1 discussed in paragraph 26, on November 23 and December 21, Henaghan, Rainis, and Gerace participated in phone calls with Associate-1. According to Henaghan's notes of the calls, they discussed Huff's connections to River Falls Financial and River Falls Investments and the Commission's lawsuit against Huff "alleging fraudulent transfer of assets & non-disclosure of related party transactions." Associate-1 told BDO that Huff's wife was the original 100% owner of River Falls Financial before it was sold to Pence. Associate-1 also told BDO that, through a family trust, Huff had a 70% ownership interest in River Falls Investments.

41. Also on December 8, 2009, the day before the special audit committee meeting, the AC Chair received an email from Heineman to the audit committee with several attachments. Heineman's email purported to offer a new explanation for why GEE had received $2.3 million from the three entities rather than PAB. Heineman claimed that he had negotiated an assignment agreement with the manager of River Falls Investments (Associate-1), who "offered to purchase" the purported CD from GEE at face value. Heineman also attached to his email an unsigned, draft assignment agreement and a letter from Heineman to PAB, dated July 21, 2009, that purportedly authorized the $2.3 million CD investment. Heineman's email also attached a July 2009 monthly statement for GEE's operating account at PAB, which included the description of the $2.3 million withdrawal as a debit on July 23 with a debit memo stating in handwriting: "To: Park Avenue Insurance, See Attachment Approval, $2,300,000.00."

42. The AC Chair responded to Heineman's email that day, stating: "Given the chain of event[s] you described below, why was GEE not informed immediately when River Falls Investments purchased the CD and why are we just now learning that a law firm has been engaged to document the assignment of the CD? We have been asking questions about the CD now for

nearly a month." BDO engagement partner Henaghan received a copy of Heineman's email with attachments and the AC Chair's reply email. On a printout of the AC Chair's reply email, BDO engagement partner Henaghan wrote "$ Anthony Huff."

43. Henaghan also exchanged emails with the AC Chair later that day, noting his agreement with the AC Chair's questions to Heineman and that "the sale of the CD would constitute a related party transaction which typically should be approved by the board." The AC Chair replied to Henaghan that he had just spoken to Heineman and Heineman "claims that RFI (River Falls Investment) is 100% owned by [Associate-1] and is not related to River Falls Financial Services or any of the other entities." Henaghan replied, "That is consistent with what [] Pence told me in my conversation with him. The common names are a little strange though."

44. Prior to the December 9, 2009, special audit committee meeting, BDO had learned of several indications of fraud relating to the purported CD. Moreover, during the 2009 audit of GEE, BDO became aware of multiple indications that the purported assignment agreement with River Falls Investments was a related party transaction, including:

- the common names of River Falls Investments (purportedly owned by a Huff family trust and Associate-1) and River Falls Financial (purportedly owned by Pence, GEE's chairman);

- River Falls Financial had sent GEE $1.2 million in four installments in connection with the assignment agreement ;

- Heineman and Associate-1 were co-managers of River Falls Financial;

- Associate-1 was a signatory for GEE's operating account at PAB from July to September 2009, when the $2.3 million was purportedly invested in a CD;

- Heineman's email address was rheineman@riverfallsfinancialgroup.com;

- The validity of a business purpose for River Falls Investments to purchase the CD at face value was questionable given that (i) PAB stated that it had no record of the purported CD in its system; and (ii) GEE did not have a binding agreement in its possession concerning its purported purchase of the CD with PAB;

- River Falls Investments was not listed in GEE's banking records as the originator of the wire transfers that were purported to be in connection with the assignment agreement. GEE received the payments from SDH, River Falls Financial, and Oxygen—all of which were made before a binding agreement with River Falls Investments was executed; and

- River Falls Financial, River Falls Investments, SDH, Oxygen, and Huff all shared a common address: 11921 Brinley Avenue in Louisville, KY 40234.

45. Prior to the GEE special audit committee meeting scheduled for December 9, 2009, Henaghan alerted Rainis, Gerace, and BDO's Midwest Regional Business Line Leader (the "BDO

Midwest Leader") of Heineman's new explanation concerning the assignment agreement and each of them attended the meeting. According to the audit committee meeting minutes:

- Henaghan expressed concern that BDO still did not have a clear understanding of the purported CD transaction.

- Henaghan said that BDO needed to understand the nature of the purported administrative errors at PAB that he had been told were responsible for the lack of proper documentation regarding the CD transaction. Henaghan also explained that BDO required documentation validating the banking transactions, and an explanation as to why there was no existence of an account agreement with the Bank or no record of the CD being at the bank.

- The BDO Midwest Leader said he believed members of GEE's senior management appeared hesitant to provide information related to these transactions.

- Henaghan stated that the assignment agreement did not resolve the outstanding issues as BDO still needed to know what transpired within PAB and make a determination of whether the assignment agreement with River Falls Investments was a related party transaction.

- BDO also advised that although the assignment agreement "may reduce or eliminate the need for going concern disclosure, it would increase the requirement that management provide sufficient disclosure regarding any related party conflicts."

46. On December 14, 2009, GEE's outside counsel sent PAB a formal letter requesting all documentation and information concerning the purported CD. BDO received a copy of this letter. PAB's December 16, 2009, response, also received by BDO, provided only documents relating to GEE's checking account and did not provide any documents or other information about the purported CD. The checking account documentation, however, indicated that only Associate-1, the GEE CFO, and Pence were authorized signers on GEE's account from July to September 2009—not Heineman—and the checking account statements reflected a debit memo for the transfer of $2.3 million of GEE's cash to Park Avenue Insurance on July 23, 2009.

47. On Friday, December 18, 2009, BDO received a letter from GEE's general counsel that attached the final assignment agreement, dated December 11, and a letter from Associate-1 claiming that the $2.3 million sent to GEE by SDH, Oxygen, and River Falls Financial originated from River Falls Investments and its "wholly owned subsidiaries or affiliates." The letter concluded: "The entirety, sans interest, used by the Company for the purchase of the CD was received into the Company's Chase bank account…. Since time is certainly of the essence to complete the audit work for the Form 10-K to be filed by the Company no later than December 31, 2009, we believe that any open concerns your firm had with respect to the source of the initial concerns over the CD are now resolved." The letter did not provide any additional information concerning what had happened with the purported CD and why Associate-1 and River Falls Investments would pay face value for the purported CD which PAB had not honored and had no records to support.

48. Following the receipt of the December 18 letter, BDO partners Henaghan, Rainis, and Gerace requested consultation with Graul, BDO's national director of accounting and risk management partner, Hambleton, BDO's national director of SEC practice, and BDO's general counsel. After discussion of the situation, these BDO partners agreed they should inform GEE that the December 18 letter did not fully address the questions BDO had raised and demand that the audit committee commission an independent investigation to determine exactly what happened.

G. BDO DEMANDED AN INDEPENDENT INVESTIGATION AND, SHORTLY THEREAFTER, WITHDREW THE DEMAND

49. On Monday, December 21, 2009, Henaghan sent an email to Graul and Hambleton, copying Rainis and Gerace, stating: "This morning we informed the [AC Chair] that we will require an independent investigation of the CD matter in order to conclude the audit of General Employment (consistent with our discussions with you on Friday.) Attached is our proposed written communication." The five-page draft communication described in detail much of the inconsistent evidence BDO had received concerning the purported CD and the purported assignment agreement with River Falls Investments and also included a number of proposed questions. Graul responded:

> We do not owe the Board any explanation other than our "audit" of the CD in question is incomplete because we have been unable to obtain sufficient evidence to support the existence and ownership of this asset. You could say that we have obtained bits and pieces of evidence[] but are not satisfied with the sufficiency of such evidence to support our opinion on the financial statements. You could also say that because of the unusual circumstances surrounding the evidence provided thus far, we concluded that the Board should undertake a full investigation of the matter.

50. Later that day, Hambleton replied to Graul's email, asking whether they "should go into detail of the issues in the letter." Graul responded to Hambleton: "Short of saying we think there is fraud, the point is we have been looking for support for months and don't have anything satisfactory to support a final opinion. If we give a list of questions, we'll get answers to those questions and still not know what is really going on. An independent investigation is the only way to get to the bottom of this. The list doesn't look like it would get us there."

51. Also on December 21, 2009, BDO partners Henaghan, Rainis, and Gerace questioned Associate-1 about the assignment agreement and Huff's involvement with GEE, River Falls Financial, and River Falls Investments. According to summary notes of the call, Associate-1's explanation for why River Falls Financial, purportedly owned by Pence, wired payments of $300,000 each to GEE on four days (December 2, 3, 4, and 9), was that the funds were "initially inadvertently transferred to the [River Falls Financial] account rather than the GEE account." Associate-1 also informed BDO that Huff's wife was the original 100% owner of River Falls Financial and that Pence acquired the company in 2009. The notes also reflect that Associate-1 conveyed that through a trust Huff has an ownership interest in River Falls Investments. Associate-1 further told BDO that he was familiar with Park Avenue Insurance and he believes it "is insolvent at this point."

52. Ultimately it was determined that the detailed letter would be sent and, early on December 22, 2009, Henaghan sent GEE's AC Chair a five-page letter, dated December 21, 2009, in substantially the same form as Henaghan had internally circulated earlier. Henaghan's letter identified a number of inconsistencies in the audit evidence BDO had received regarding the purported CD:

- BDO had not received "sufficient audit evidence" to support the existence of a CD investment as of September 30, 2009. The questions raised in regards to the CD at both the November and December audit committee meetings remained unaddressed.

- BDO had not received an adequate explanation from PAB as to the whereabouts of the $2.3 million after July 23, 2009, because the Bank claimed to have no record of a CD in its system. PAB never "repaid the CD proceeds or provided an adequate explanation regarding the status of the CD."

- BDO had "requested (but not been granted) an opportunity to speak directly with [PAB] regarding this matter."[6]

- The July 2009 PAB statement "indicates the amount was transferred to Park Avenue Insurance. We would like to understand why it appears that the funds were transferred to Park Avenue Insurance and were not invested into a CD. . . . [M]anagement has provided no explanation for this. The documentation also appears to indicate that prior to September 2009, [Associate-1] was an authorized signor on the Company's operating account."

- Heineman's statements to BDO: (1) claiming on November 23 that "the issue would be resolved and the funds deposited in the Company's bank account within a few days"—which did not happen; (2) stating on November 25 that the money would not be "paid back in installments"—which did happen; (3) claiming GEE would have the proceeds by November 30—which did not happen; (4) asserting on December 8 that he negotiated the assignment with Associate-1—but "during [BDO's] earlier discussions with Mr. Heineman he had represented that he was not involved in the process of resolving the issues related to the CD."

- BDO received conflicting reports regarding the return of the CD funds: (1) the AC Member stated on December 4 that "the bank continues to put money against the CD they owe the Company and it should be fully repaid"; (2) Pence and Heineman referred BDO to the AC Member; and (3) "In all discussions leading up to December 7, 2009, no one ever indicated that the CD had been assigned to [Associate-1]."

- "At the December 9, 2009 audit committee meeting, general counsel and one audit committee member requested that BDO not be present for the discussion regarding the CD matter."

[6] BDO never contacted PAB or spoke to anyone from PAB after learning that PAB failed to repay the CD proceeds.

- BDO had not received a clear explanation as to why River Falls Investments would purchase the CD that the Bank has said does not exist, why River Falls Investments would transfer funds to GEE before an assignment agreement had been executed, and whether Associate-1's intent to sell companies to GEE was related to his agreement to purchase the CD.

- "Approximately $900,000 of the proceeds recovered by the Company was received from River Falls Financial Services. [BDO] had previously been informed that River Falls Financial Services was 100% owned by Steve Pence. However, in a December 18, 2009 telephone conversation with Steve Pence, he was unable to explain why these amounts were transferred from River Falls Financial Services (as the proceeds were for [Associate-1's] purchase of the CD)."

53. Henaghan's letter indicated that he included specific facts in the letter "to illustrate that it appears that management has not been forthcoming with information surrounding this matter. This fact pattern has caused us to raise the level of scrutiny surrounding this issue."

54. At the end of his letter, Henaghan stated that BDO did not have sufficient audit evidence at that time to formally conclude the audit and demanded an independent investigation:

> While BDO recognizes that the issue related to the CD may be the result of potential administrative or other errors at [PAB], we do not believe we have been provided sufficient audit evidence to formally conclude on this matter at this point. As a result of the fact that almost one month has passed since the first audit committee meeting discussing this matter, that it appears management has not been fully forthcoming on how it was resolving the issue, and certain question remain unanswered, we will require the audit committee to commission a full investigation of this matter prior to the completion of our audit for the year ended September 30, 2009. This investigation should be conducted by an independent firm that is acceptable to our firm and should address the following unexplained matters:
>
> - Why would the Company maintain $2.3 million at Park Avenue Bank in direct violation of its own investment policy?
> - Why was [Associate-1] an authorized signor on the Company's account at Park Avenue Bank?
> - What happened to the CD? We would like an explanation for all of the facts noted above surrounding the situation.
> - Why did the Company not pursue legal action against the bank and report the situation to the FDIC when the bank failed to reimburse the Company when the CD matured?
> - Why would Mr. Heineman & Mr. Pence represent they were unaware of the status of the CD resolution and why funds were being received from entities other than Park Avenue Bank when it appears they were aware of the assignment agreement with [Associate-1]?

- Why would [Associate-1] be willing to purchase an asset whose value is in question when he has no relationship to the Company?
- Why did River Falls Financial Services reimburse the Company for the CD if they did not have any relationship with [Associate-1] and were not a party to the assignment agreement?
- We would like a clear understanding of the relationships between [Associate-1], Mr. Pence and Mr. Heineman and any entities where they may have joint ownership?
- What is the relationship between [Associate-1], Mr. Pence, Mr. Heineman and Park Avenue Bank?

Please note that the issues listed above represent[] some of the areas of concern based on our current understanding of the facts. The above items should not be considered an all-inclusive list and the investigation should not be limited to the above identified items. We may identify additional questions and require additional audit evidence based on the results of the investigation. BDO recommends that this investigation be commissioned as soon as possible.

55. On the evening of December 22, 2009, BDO learned that the audit committee meeting that was scheduled for the following day had been cancelled, Zizza, an advisor to Pence who had attended GEE board meetings through the fall of 2009, would be taking over as CEO, and that Pence and Associate-1 intended to prepare written responses to each of the issues identified in the December 21 letter. In email exchanges that evening and the following morning regarding these events, Henaghan, Gerace, Hambleton, and the BDO Midwest Leader agreed that BDO should communicate to GEE in writing that BDO "will continue to require an independent investigation."

56. Following Zizza's appointment as GEE's new CEO, BDO partners Henaghan, Rainis, Gerace, and the BDO Midwest Leader spoke to Zizza and the AC Chair on December 24, 2009. A senior partner in BDO's New York office (the "NY Partner") also attended the call because he handled some of Zizza's other business relationships with BDO, including audit or tax work for Zizza's private company and three public companies for which Zizza served as a board member. Henaghan later wrote a memo describing the December 24 call, stating that Zizza "requested that BDO conclude the audit without the need for an independent investigation" because of "the change in management and the fact that the Company had recovered full control of the $2.3 million in question" and that the AC Chair agreed. The memo also indicates that both Zizza and the AC Chair "acknowledged that some inappropriate actions were taken within the Company and that it was likely that even more inappropriate actions were taken at the Bank" and that both "felt that with [Heineman's] removal from the management team, the inappropriate actions within the Company would stop."

57. Also on December 24, BDO partners Henaghan, Rainis, and Gerace had a telephone conversation with Pence, Zizza, and the AC Chair. According to a memo Henaghan later wrote describing this call, Pence indicated he asked GEE to move its business to PAB because of his prior working relationship as an attorney for Antonucci, PAB's then-President, and

Associate-1's association with PAB as a customer. The memo also indicates that Pence had told BDO that the reason he represented he was unaware of the status of the CD resolution and why funds were being received from entities other than PAB was because "he was unaware of the assignment agreement until after the funds were returned to the Company." The memo further noted that Associate-1's explanation for why River Falls Financial transferred funds to GEE was because River Falls Financial "also has an operating account" at the same bank and "[t]he funds were transferred from one of his companies to [River Falls Financial] in error," and as such, River Falls Financial "then had to transfer the funds to GEE."

58. After these calls with Zizza, Pence, and the AC Chair, Henaghan sent Rainis, Graul, Gerace, Hambleton, the NY Partner, the BDO Midwest Leader, and BDO's general counsel an email on December 24, 2009, asking for their availability for a call and stating he was drafting a memo summarizing current facts. Graul responded: "Unless there is something new that hasn't been discussed in the last few calls, what's the purpose?" The NY Partner replied: "The purpose is to try to salvage an account where they made [] changes in the management because of the alleged wrongdoing." Graul responded: "Did they change the guy that can't support the $2 million that supposedly was put into company? What about the two audit committee members that stalled the investigation and the lawyer that wouldn't let us participate in a board meeting to preserve privilege. There's something funny going on here." The NY Partner replied that he had no disagreement with Graul on the last point.

59. BDO's 2009 Assurance Manual required Henaghan to consult with Graul, Hambleton, and Gerace in the circumstances presented here. The Manual required the engagement partner seeking consultation to prepare a memorandum concerning all consultations, which should, among other things, define the issues; "identify client source documents/evidence reviewed"; summarize the proper accounting treatment; summarize the impact on the financial statement presentation and disclosure; and describe any alternative solutions considered and why they were rejected. Finally, BDO's 2009 Assurance Manual required the memorandum to be sent to all consultants, who "should acknowledge their agreement with the memorandum."

60. Early in the morning on December 28, Henaghan sent a draft memo to Rainis, Graul, Gerace, Hambleton, the NY Partner, the BDO Midwest Leader, and BDO's general counsel. The memo summarized BDO's calls with Zizza, the AC Chair, Pence, and Associate-1, and attempted to answer the questions posed in Henaghan's letter to the AC Chair dated December 21, 2009. The memo concluded: "the engagement team believes it is appropriate to reconsider the need for an independent investigation and as such is requesting a consultation on this matter."

61. That same day, Henaghan, Graul, Gerace, Hambleton, the NY Partner, the BDO Midwest Leader, and BDO's general counsel discussed GEE for approximately one hour. Despite the existence of multiple, unanswered questions, they ultimately agreed to drop the demand for an independent investigation if GEE agreed to include commentary on two material weaknesses in internal controls, including certain circumstances surrounding the purported CD, in a Form 8-K and that Associate-1 would not become part of management, among other things. A memo later written by Henaghan to document the discussion notes as considerations, among other things, that Zizza—whom BDO trusted—had replaced Heineman as CEO and that the AC Chair, who had initially supported the independent investigation, no longer believed that it was required.

62. Following their call, the NY Partner spoke to Zizza and Henaghan spoke to the AC Chair about the statements BDO wanted made in the Form 8-K and Associate-1's contemplated role with GEE. Henaghan emailed an update to Rainis, Graul, Gerace, Hambleton, the NY Partner, the BDO Midwest Leader, and BDO's general counsel, stating that the AC Chair indicated that GEE was contemplating an acquisition that would make Associate-1 an approximate 20% shareholder of GEE, but not an officer, director, or part of management. Graul responded: "I don't like it but won't object provided [that Associate-1] is not a board member and has no managerial responsibilities, even with respect to the business he is selling. Please make it perfectly clear that this is the last accommodation that I am willing to make from a risk management perspective."

63. Also following their December 28 call, Hambleton sent an email to the other BDO partners asking whether they were comfortable with the classification of the $2.3 million as cash at September 30. Henaghan responded: "we have a confirmation from Park Ave Bank & the subsequent execution and funding of the assignment agreement as evidence of the existence of the CD at 9/30." Henaghan did not mention any of the inconsistent evidence that he identified in his letter to the AC Chair dated December 21, 2009, and that indicated that no such CD or other cash equivalent existed as of September 30, 2009. Neither Hambleton nor any of the other BDO partners responded or commented on these omissions.

64. BDO provided a draft Form 8-K disclosure to GEE, and reviewed and agreed to the language ultimately included in GEE's Form 8-K filed on December 30, 2009. The Form 8-K disclosed Heineman's resignation, Zizza's appointment as CEO, and the fact that Zizza was paid $20,000 per month since March 2009 to consult for Pence. The Form 8-K also stated:

> In July 2009, the Registrant purchased a $2.3 million certificate of deposit ("CD") at a New York bank. When the CD matured in October 2009, the bank did not timely credit the proceeds of the CD to the Registrant's account. Although the Registrant has made a formal inquiry of the bank, to date the Company has not received an adequate explanation for the bank's non-performance relating to the CD. In December 2009, the Registrant was reimbursed in full through a non-recourse assignment of the CD for face value to an unrelated party, who has other business interests with the bank. The purchaser of the CD is neither an employee nor a director of the Registrant.

65. The Form 8-K also disclosed two material weaknesses: (1) "the size of the New York bank from which the CD was purchased did not meet the minimum requirements of [GEE]'s investment policy"; and (2) the Company "authorized an individual that was neither an employer nor a director as an authorized signor on the Registrant's bank account." The Form 8-K did not indicate that Associate-1 was both the authorized signatory and the purportedly "unrelated party" who purchased the purported CD.

66. On January 4, 2010, Henaghan sent an email to the other BDO partners attaching the Form 8-K, the December 21, 2009, letter to the AC Chair demanding an independent investigation, Heineman's resignation email, and a final memo discussing BDO's calls with the AC Chair, Pence, Zizza, and Associate-1 and concluding that BDO should issue its opinion on GEE's financial statements. The final memo noted that Zizza and the AC Chair "acknowledged

that some inappropriate actions were taken within the Company and that it was likely that even more inappropriate actions were taken at the Bank…. Both men also acknowledged that they felt that with [Heineman's] removal from the management team, the inappropriate actions within the Company would stop." The memo noted that "without the cooperation of [Heineman] and the Bank – neither of which anyone was likely to obtain, it was highly unlikely that the motivations or even all of the actions would ever be learned." BDO did not attempt to contact Heineman following his resignation nor did BDO attempt to contact PAB at any time after this issue arose.

67. The memo also stated that Zizza "represented to BDO that [Associate-1] will not become an employee or director of the Company" and concluded: "To the extent any new adverse information related to the transaction comes to our attention we will again consult with BDO's risk management and National SEC groups in regards to continued client retention." Rainis, Graul, Gerace, and Hambleton each reviewed the memo and concurred with the decision to drop the demand for an independent investigation. BDO's general counsel also agreed with the approach outlined in the memo.

68. On January 5, 2010, after BDO had already decided that GEE's Form 8-K disclosure concerning the purported CD was adequate and informed GEE that it would withdraw its demand for an investigation and issue an unqualified audit opinion, Hambleton asked BDO's general counsel, Henaghan, Rainis, Graul, Gerace, and the NY Partner: "I want to make sure we believe the company's response is a sufficient response to a potential illegal act. Although we didn't specifically say we thought there was a potential illegal act in the [December 21] letter, we did include enough issues that would lead someone to that view as does the memo's statement about some 'inappropriate actions.'" BDO's general counsel responded: "I do believe the company's response was appropriate under the circumstances."

69. On January 8, 2010, GEE filed its Form 10-K, which classified the $2.3 million purported CD as a cash equivalent and stated in footnote disclosure to the financial statements:

> In July 2009, the Company purchased a $2,300,000 certificate of deposit ("CD") at a New York bank. When the CD matured in October 2009, the bank did not timely credit the proceeds of the CD to the Company's account. Although the Company has made a formal inquiry of the bank, to date the Company has not received an adequate explanation for the bank's non-performance relating to the CD. In December 2009, the Company was reimbursed in full through a non-recourse assignment of the CD for face value to an unrelated party, who has other business interests with the bank. The purchaser of the CD is neither an employee nor a director of the Company.

70. GEE's Form 10-K filed on January 8, 2010 contained an audit report from BDO that stated BDO's audits were conducted "in accordance with the standards of the Public Company Accounting Oversight Board (United States)" and that GEE's financial statements presented fairly, in all material respects, the company's position and results at September 30, 2009, in conformity with GAAP.

H. IN 2010, BDO LEARNED OF FACTUAL ALLEGATIONS IN A CRIMINAL COMPLAINT AGAINST THE PAB PRESIDENT ALLEGING THAT THE PURPORTED CD DID NOT EXIST

71. On January 19, 2010, just days after BDO issued its unqualified opinion and GEE filed its 2009 Form 10-K, Henaghan sent an email to Rainis, Graul, Gerace, Hambleton, the BDO Midwest Leader, and NY Partner attaching a January 12, 2010, Grand Jury Subpoena, issued to the AC Chair seeking his appearance and production of "any and all documents relating to any account maintained at Park Avenue Bank."

72. On March 13, 2010, the United States of America filed a 44-page criminal Complaint against former PAB president Antonucci (the "Antonucci Complaint"), alleging a scheme and conspiracy involving a $6.5 million round-trip transaction in which GEE's $2.3 million was diverted as part of the conspiracy. Huff, Heineman, and Pence are referred to and identifiable as designated "co-conspirator[s] not named herein" in certain aspects of that conspiracy. The allegations in the Antonucci Complaint contained several details that indicated that GEE did not have a CD with PAB, that River Falls Financial, River Falls Investments, Oxygen, SDH, and PSQ were related parties, and that Heineman had authorized the money to be transferred to Park Avenue Insurance as part of the conspiracy, and not to purchase a CD:

- "To hide the improper diversion of GEE's funds from GEE's auditors and Board of Directors, [Antonucci] and others created a counterfeit certificate of deposit [], falsely representing that GEE's $2.3 million had been invested in a 90-day certificate of deposit at the Bank. In fact, and as [Antonucci] well knew, there was no $2.3 million CD."

- GEE's $2.3 million had been transferred to Park Avenue Insurance, which was controlled by Antonucci. According to the Bank records, Heineman authorized this transfer.

- Antonucci fraudulently signed the BDO confirmation of the $2.3 million CD, when Antonucci knew it did not exist.

The Antonucci Complaint further identified several "Oxygen-related entities" as participants in the conspiracy, including, River Falls Financial (which Pence said he owned), PSQ (Pence's entity that purchased the majority stake in GEE), and Oxygen and SDH—two companies that paid GEE purportedly under the assignment agreement with River Falls Investments (which Associate-1 said he and a Huff family trust owned). It further alleged that a group of five associates (including Huff and Pence) were listed on some of the accounts of the Oxygen-related entities, which shared a common address in Louisville, Kentucky.

73. On April 27, 2010, Henaghan sent an email attaching the Antonucci Complaint to Rainis, Graul, Gerace, Hambleton, the BDO Midwest Leader, and BDO's general counsel. Henaghan's email also attached a March 10, 2010 Grand Jury Subpoena issued to GEE, requesting (i) documents relating to Huff, Pence, Heineman, the purported CD, SDH, Oxygen, O2HR, and River Falls Financial and (ii) documents reflecting any payments to Heineman, Pence, Associate-1, or the AC Member. Henaghan further attached a client retention memo addressed to Graul, Hambleton, Gerace, the BDO Midwest Leader, and BDO's general counsel. The memo stated:

"As I believe everyone is aware, in March 2010, Charles Antonucci, the president of Park Avenue Bank was arrested related to allegations of criminal acts in his role as bank president, including signing a counterfeit CD and our confirmation when he had in fact diverted the funds for his own personal use." The memo also noted that Pence was an unnamed co-conspirator. The memo concluded that the engagement team recommended that BDO continue its relationship with GEE because, among other factors, "Pence has not been formally charged yet with any criminal wrong-doing." However, the memo did not address what impact the Antonucci Complaint's allegations might have on the representations contained in GEE's financial statements (issued two months before the complaint) concerning the purported CD.

74. On April 28, 2010, Graul responded to Henaghan's email requesting that he obtain additional information concerning certain allegations in connection with client retention concerns. Specifically, Graul indicated that Gerace had confirmed to him that "[w]hen the missing company funds were 'dribbling' in from other sources" those sources included entities linked to the conspiracy alleged in the Antonucci Complaint. Graul asked Henaghan to determine (i) whether any related party transactions might involve the entities mentioned in the complaint; (ii) who authorized the funds to be paid to GEE from the "Oxygen-related entities" River Falls Financial, SDH, and Oxygen; and (iii) whether the AC Chair and Zizza are comfortable working with Pence because "the preponderance of the accusations seem pretty bad for Mr. Pence." Hambleton responded to all, stating: "I agree with [Graul]. It seems there are more potential connections here." However, neither Graul, Hambleton, Gerace, nor Rainis ever followed up with Henaghan to learn whether he had identified those "potential connections."

75. In a May 25, 2010, email, Henaghan told Zizza that he would like to discuss certain issues regarding the Antonucci Complaint. Henaghan wrote that he wanted to discuss the allegations that "Pence purchased a 25% interest in Bedford Consulting from Antonucci for $6.5 million in what the complaint describes as an 'artifice designed to cover up the true source of the $6.5 million.'" Henaghan also wrote: "The Complaint indicates that River Falls is owned by Pence, [Associate-1], and Heineman. All previous information disclosed to us by Heineman and Pence indicated that Pence owned 100% of River Falls." He further noted that the Complaint indicated that PSQ borrowed money from River Falls to buy the GEE shares. Henaghan's email to Zizza did not address the allegations in the Antonucci Complaint denying the existence of the purported CD or indicating related party issues concerning the funds received by the "Oxygen-related entities."

76. On June 1, 2010, in connection with the allegations contained in the Antonucci Complaint, an Assistant United States Attorney for the Southern District of New York interviewed Henaghan in detail about BDO's 2009 audit, including the information BDO received about the ownership structures of River Falls Financial, River Falls Investments, WTS, On-Site, Oxygen, and AIR.

77. Other than Henaghan's single discussion with Pence (who denied the allegations) and further communications with Zizza (who stated that he still trusted Pence), BDO did not perform any additional procedures specific to the allegations in the Antonucci Complaint concerning GEE, its chairman and former CEO, or the purported CD. BDO's workpapers do not

include any information about what BDO did to investigate the allegation that PAB records indicated that Heineman authorized the transfer of $2.3 million to Park Avenue Insurance. BDO's workpapers also do not include any analysis of the impact on GEE's financial statements if Heineman had conspired with Antonucci to steal GEE's $2.3 million, by authorizing the transfer of the money to Antonucci's company, Park Avenue Insurance, as alleged in the Antonucci Complaint. The workpapers do not include an analysis of whether the assignment agreement with River Falls Investments, in which GEE received $2.3 million from SDH, Oxygen, or River Falls Financial, was a related party transaction. In fact, Henaghan did not document any answers he received pursuant to his discussions with Pence or Zizza. Moreover, the client retention memo and "matters for reviewer concern" memo retained in the workpapers for the 2010 audit make no reference to the Antonucci Complaint or guilty plea.

78. In October 2010, Antonucci pled guilty to multiple criminal charges in a criminal information, including securities fraud, bank bribery, and embezzlement of bank funds. As part of his guilty plea, Antonucci admitted that he and his co-conspirators caused GEE to use $2.3 million of its funds to make PAB whole on a loan PAB made to a company controlled by his co-conspirators that had gone bankrupt, that the purported CD had never existed, and that he had signed a false confirmation that the bank had issued a CD to GEE that he then sent to BDO. BDO learned of this guilty plea shortly thereafter.

79. BDO also learned, through GEE's November 2010 Form 8-K filing and publicly available information, that Pence purportedly sold PSQ to a person associated with Huff ("Associate-2"). After Associate-2 became the majority owner of GEE, a BDO senior manager on the GEE audit noted that Google showed that Associate-2 was connected to O2HR, Huff, and Associate-1. According to the Form 8-K, Associate-2 paid nothing for PSQ; he just assumed promissory notes issued by Pence to AIR for approximately $3 million, which funded PSQ's purchase of the majority of GEE shares in July 2009. Associate-1 had previously informed Henaghan in a December 21, 2009 email that AIR had "investments received and invested in" River Falls Investments, the entity that purchased the purported CD from GEE.

80. Despite all of these additional indications of affiliation among AIR, River Falls Investments, River Falls Financial, Pence, Associate-1, and Huff, BDO did not perform additional audit procedures in 2010 to determine whether the purported purchase by River Falls Investments of the purported CD from GEE (i) was fairly characterized in GEE's financial statements or (ii) should have been identified as a related party transaction in GEE's financial statements. Instead, BDO relied on GEE management and director representations that there were no undisclosed related party transactions. BDO also relied on Associate-1's representations although, as Graul acknowledged to Gerace and Henaghan on August 10, 2010: "Anything and everything that involves [Associate-1] should be scrutinized carefully . . . [Associate-1] is not to be trusted and everyone on the engagement should be made aware of this."

81. GEE's Form 10-K filed on December 28, 2010, for its fiscal year ended September 30, 2010, classified the $2.3 million CD as a cash equivalent as of September 30, 2009, included a similar disclosure as the disclosure in the Form 10-K filed in January 2010:

> In November 2009, the Company discovered that it did not receive the proceeds from a bank for a $2,300,000 certificate of deposit that was scheduled to mature in October 2009. Although the Company made a formal inquiry of the bank, it did not receive an adequate explanation for the bank's non-performance related to the deposit. In December 2009, the Company entered into an agreement to assign its interests in the certificate of deposit, without recourse, to an unrelated party that has other business interests with the bank, and the Company was reimbursed for the face value of the deposit.

82. GEE's Form 10-K filed on December 28, 2010, as amended on April 15, 2011, contained an audit report from BDO that stated BDO's audits were conducted in accordance with PCAOB standards and that GEE's financial statements presented fairly, in all material respects, the company's position and results at September 30, 2010 and 2009, in conformity with GAAP.

I. VIOLATIONS

RULE 102(e) AND SECTION 4C OF THE EXCHANGE ACT

83. BDO's 2009 and 2010 audits were deficient and not performed in accordance with PCAOB standards.[7] Section 4C(b) and Rule 102(e)(1)(iv) define improper professional conduct with respect to persons licensed to practice as accountants. Pursuant to these provisions, "improper professional conduct" includes two types of negligent conduct: (1) a single instance of highly unreasonable conduct that results in a violation of professional standards in circumstances in which heightened scrutiny is warranted; or (2) repeated instances of unreasonable conduct, each resulting in violations of professional standards, that indicate a lack of competence.

84. As set forth above, BDO knew or should have known facts that cast substantial doubt on the existence of the purported CD given, among other things, (1) significant integrity issues with Heineman, the person who claimed to have authorized the investment, and Associate-1, the person with whom Heineman purportedly "negotiated" the assignment agreement; (2) PAB had told GEE that it had no record of the purported CD; and (3) PAB had provided GEE and BDO with documentation showing the $2.3 million actually had been transferred to Park Avenue Insurance on July 23, 2009.

85. BDO also knew or should have known that the circumstances presented by the purported $2.3 million CD that was not honored by PAB, the subsequent receipt by GEE of $2.3 million from River Falls Financial, SDH, and Oxygen, and the purported assignment agreement with River Falls Investments warranted heightened scrutiny. Notwithstanding the many red flags concerning the purported CD and the assignment agreement discussed above, BDO issued audit reports in both 2009 and 2010 containing unqualified opinions that were filed with GEE's financial

[7] References to auditing standards in this Order are to PCAOB standards in effect at the time the audit work was performed.

statements in the Form 10-Ks. In those reports, BDO inaccurately stated that the audit had been conducted in accordance with PCAOB standards and that GEE's financial statements presented fairly, in all material respects, the company's position and results in conformity with GAAP.

Failed to exercise due professional care and an attitude of professional skepticism (AU § 230)

86. PCAOB standards require auditors to exercise due professional care in the planning and performance of the audit and the preparation of the report. (AU § 230.01) Auditors must maintain an attitude of professional skepticism, which includes "a questioning mind and a critical assessment of audit evidence." (AU § 230.07) In addition, the auditor should "consider the competency and sufficiency of the evidence. Since evidence is gathered and evaluated throughout the audit, professional skepticism should be exercised throughout the audit process." (AU § 230.08) The Commission and courts have held that related party transactions require heightened scrutiny.[8]

87. As a result of BDO's conduct described above, BDO failed to exercise due professional care and an attitude of professional skepticism in its 2009 and 2010 audits of GEE.

Failed to obtain sufficient competent evidential matter concerning the purported CD (AU §§ 326 and 333)

88. PCAOB standards require auditors to obtain sufficient competent evidential matter to afford a reasonable basis for an opinion with respect to the financial statements under audit. To be "competent," evidence "must be both valid and relevant." (AU § 326.21) "The amount and kinds of evidential matter required to support an informed opinion are matters for the auditor to determine in the exercise of his or her professional judgment after a careful study of the circumstance in the particular case." (AU § 326.22) This includes evaluating the reliability of the evidence,[9] and weighing all of the evidence obtained. The validity and sufficiency of required evidence depends on the circumstances and the auditors' judgment, but should be "persuasive" though it need not be "convincing." (AU § 326.22)

89. PCAOB standards also provide that management representations "are not a substitute for the application of th[e] auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit," that "the auditor obtains written representations from management to complement other auditing procedures," and that "[i]n

[8] *See McCurdy v. SEC*, 396 F.3d 1258, 1261 (D.C. Cir. 2005) (citing *Howard v. SEC*, 376 F.3d 1136, 1149 (D.C. Cir. 2004)) (noting that related party transactions "are viewed with extreme skepticism in all areas of finance").

[9] AU § 330.33: "the auditor should consider (a) the reliability of the confirmations…."

exercising professional skepticism, the auditor should not be satisfied with less than persuasive evidence because of a belief that management is honest." (AU §§ 333.02, 333.03, 230.09)[10]

90. As a result of BDO's conduct described above, BDO failed to obtain sufficient evidence supporting assertions in GEE's 2009 and 2010 Form 10-K financial statements that the purported CD existed and was a cash equivalent as of September 30, 2009, and that GEE entered into an assignment agreement with an unrelated party.[11]

Failed to determine whether fraud or potential illegal acts may have impacted GEE's fiscal year 2009 and 2010 financial statements (AU §§ 316, 317)

91. Under AU § 316.01, an auditor must plan and perform an audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud. The auditors must brainstorm "how and where they believe the entity's financial statements might be susceptible to material misstatement due to fraud, how management could perpetrate and conceal fraudulent financial reporting, and how assets of the entity could be misappropriated." (AU § 316.14) AU § 316.06 states that there are "[t]wo types of misstatements relevant to the auditor's consideration of fraud—misstatements arising from fraudulent financial reporting and misstatements arising from misappropriation of assets." It explains that financial reporting may be accomplished by falsification of supporting documentation, or misrepresentations of events, transactions, or other significant information. It further instructs that fraudulent financial reporting "need not be the result of a grand plan or conspiracy" and may instead "be that management representatives rationalize the appropriateness of a material misstatement … as a temporary misstatement of financial statement … expected to be corrected later." It instructs that that misappropriation of assets may be accompanied by "false or misleading records or documents, possibly created by circumventing controls." AU § 316.09 also notes that management engaged in fraud will take steps to conceal the fraud from auditors. AU § 316.10 further states that fraud may be concealed through collusion among management and third parties. For these reasons, AU § 316.13 requires auditors to exercise professional skepticism when considering the risk of material misstatement due to fraud.

92. AU § 316.68 lists conditions that may be identified during the fieldwork that are indicators of potential fraud, including (i) unsupported or unauthorized balances or transactions; (ii) missing documents; (iii) unusual discrepancies between the entity's records and confirmation replies; (iv) inconsistent, vague or implausible responses from management or employees; and

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[10] AU § 508.20 also provided that "[c]ertain circumstances may require a qualified opinion … [when] "[t]here is a lack of sufficient competent evidential matter or there are restrictions on the scope of the audit that have led the auditor to conclude that he or she cannot express an unqualified opinion…."

[11] In addition, AS § 3.12 required BDO to "document significant audit findings or issues, actions taken to address them (including additional evidence obtained), and the basis for the conclusions reached." BDO failed to comply with this documentation requirement with respect to each of the major auditing issues encountered during the 2009 and 2010 audits.

(v) denial of access to records, facilities, certain employees, customers, vendors or others from whom audit evidence might be sought.

93. AU § 317.10 notes that auditors may become aware of possible illegal acts during the course of their audit: "When the auditor becomes aware of information concerning a possible illegal act, the auditor should obtain an understanding of the nature of the act, the circumstances in which it occurred and sufficient other information to evaluate the effect on the financial statements."

94. As a result of BDO's conduct described above, BDO failed to adhere to these PCAOB standards during its 2009 or 2010 audits of GEE.

Failed to obtain sufficient audit evidence to determine whether the assignment agreement was a related party transaction (AU §§ 326 and 334)

95. PCAOB standards require that "[an] auditor should view related party transactions within the framework of existing [accounting] pronouncements, placing primary emphasis on the adequacy of disclosure. In addition, the auditor should be aware that the substance of a particular transaction could be significantly different from its form and that the financial statements should recognize the substance of particular transactions rather than merely their legal form." (AU § 334.02)

96. PCAOB standards require an auditor to obtain sufficient competent evidential matter to afford a reasonable basis for an opinion regarding the financial statements under audit. (AU § 326.01) In selecting particular substantive tests to achieve the audit objectives, an auditor considers, among other things, the risk of material misstatement of the financial statements. (AU § 326.11) With respect to related party transactions, PCAOB standards require that after an auditor identifies related party transactions, he or she should apply the procedures considered necessary to obtain satisfaction concerning their purpose, nature, and extent and their effect on the financial statements. (AU § 334.09) For each related party transaction for which disclosure is required, PCAOB standards require that the auditor satisfy himself that the transaction is adequately disclosed in the financial statements. (AU § 334.11)

97. The failure to disclose the assignment agreement as a related party transaction caused the financial statements to be misleading. Financial Accounting Standards Board Accounting Standards Codification ("ASC") Topic 850, *Related Party Disclosures* required that the following must be disclosed concerning related party transactions: (a) the nature of the relationship involved; (b) a description of the transaction; (c) the dollar amount of the transaction; and (d) amounts due from or to related parties and, if not otherwise apparent, the terms and manner of settlement. Related party transactions cannot be presumed to have been conducted at arm's-length. GAAP requires these disclosures so the reader can be alerted to their existence, so as to help the reader of the financial statements detect and explain possible differences in financial

statements of a company that engaged in related party transactions to those that did not.[12] Such disclosure helps the reader evaluate the substance of the related party transaction.

98. As a result of BDO's above-described conduct, BDO failed to exercise the requisite level of care, failed to perform sufficient procedures to identify related party transactions, failed to obtain sufficient audit evidence to determine whether the assignment agreement was a related party transaction during its 2009 or 2010 audits of GEE, and failed to follow up on evidence indicating that assertions regarding the purported CD and assignment agreement were unsubstantiated. BDO also failed to ensure the issuance of an accurate audit report in 2009 and 2010, which misrepresented that GEE's financial statements were presented fairly, in all material respects, in accordance with GAAP.

Failed to Investigate Newly Discovered Facts in 2010 (AU § 561)

99. AU § 561.04 states that when an auditor becomes aware of information that he would have investigated if it had come to his attention during the course of the audit, he must determine if the information is reliable and whether the facts existed at the date of his report. If the information is reliable and existed at the date of the report, the auditor must determine if his report would have been affected and people relying on the financial statements would find it important. (AU § 561.05.)

100. As a result of BDO's conduct described above, BDO failed to adhere to this PCAOB Standard after learning of, among other things, the Antonucci Complaint in March 2010 and subsequent guilty plea in October 2010, as it concerned GEE's 2009 financial statements.

Finding

101. As a result of the conduct described above, the Commission finds that BDO engaged in improper professional conduct within the meaning of Sections 4C(a)(2), 4C(b)(2)(A), and 4C(b)(2)(B) of the Exchange Act and Rules 102(e)(1)(ii), 102(e)(1)(iv)(B)(1), and 102(e)(1)(iv)(B)(2) of the Commission's Rules of Practice. BDO's conduct in the 2009 and 2010 audits of GEE involved repeated instances of unreasonable conduct, each resulting in violations of PCAOB standards and indicating a lack of competence, and also satisfies the standard of highly unreasonable conduct resulting in violations of PCAOB standards in circumstances in which heightened scrutiny was warranted.

BDO VIOLATED SECTION 10A OF THE EXCHANGE ACT

102. Section 10A(a)(1) of the Exchange Act requires each audit conducted of an issuer by a registered public accounting firm to include "procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts." Section 10A(a)(2) of the Exchange Act requires

[12] ASC 850-10-05-2.

each audit conducted of an issuer by a registered public accounting firm to include "procedures designed to identify related party transactions that are material to the financial statements or otherwise require disclosure therein." Section 10A(b)(1) requires a registered public accounting firm to, in accordance with PCAOB standards, "determine whether it is likely that an illegal act has occurred" if the firm "detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have a material effect on the financial statements of the issuer) has or may have occurred." No showing of scienter is necessary to establish a violation of Section 10A. *See SEC v. Solucorp Indus.*, Ltd., 197 F. Supp. 2d. 4, 10-11 (S.D.N.Y. 2002).

103. In connection with the 2009 and 2010 GEE audits, BDO violated Section 10A(a)(1) of the Exchange Act by failing to plan, design, and carry out audit procedures to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statements amounts.

104. In connection with the 2009 and 2010 GEE audits, BDO violated Section 10A(a)(2) of the Exchange Act by failing to plan, design, and carry out audit procedures to identify GEE's material related party transactions that required disclosure in the financial statements.

105. In connection with the 2009 and 2010 GEE audits, BDO violated Section 10A(b)(1) of the Exchange Act by failing to determine whether it was likely that an illegal act had occurred after BDO was made aware of information indicating that an illegal act may have occurred.

106. As a result of the conduct described above, the Commission finds that BDO violated Sections 10A(a)(1), (a)(2), and (b)(1) of the Exchange Act.

BDO WAS A CAUSE OF VIOLATIONS OF SECTION 13(a) OF THE EXCHANGE ACT AND RULE 13a-1 THEREUNDER

107. Section 13(a) of the Exchange Act and Rule 13a-1 thereunder require that every issuer of a security registered pursuant to Section 12 of the Exchange Act file with the Commission annual reports (i.e., Form 10-K) as the Commission may require, and mandate that periodic reports contain such further material information as may be necessary to make the required statements not misleading. The obligation to file such reports embodies the requirement that they be true and correct.

108. GEE's annual reports on Form 10-K for fiscal years 2009 and 2010 included audit reports from BDO that stated BDO's audits were conducted "in accordance with the standards of the Public Company Accounting Oversight Board (United States)" and that GEE's financial statements presented fairly, in all material respects, the company's position and results. These statements were materially misleading. As a result of BDO's above-described conduct, BDO's 2009 and 2010 audits were not conducted in accordance with PCAOB standards and the financial statements included in GEE's 2009 and 2010 Form 10-Ks were materially misstated because, among other things, they incorrectly represented GEE had a $2.3 million CD and classified it as a

cash equivalent as of September 30, 2009, and did not disclose the assignment agreement as a related party transaction, contrary to GAAP. At a minimum, BDO knew or should have known that its unreasonable conduct would contribute to GEE's filing of inaccurate 2009 and 2010 Form 10-Ks.

109. As a result of the conduct described above, the Commission finds that BDO was a cause of GEE's violations of Section 13(a) of the Exchange Act and Rule 13a-1 thereunder.

J. UNDERTAKINGS

110. BDO's Review. Within one hundred and twenty days after the entry of this Order, BDO shall perform and complete a review and evaluation ("BDO's Review") of the sufficiency and adequacy of BDO's quality controls set forth in its audit manual, including its policies and procedures set forth therein for audit and interim review procedures, regarding the following (hereinafter referred to as "BDO's Policies"):

(i) client acceptance and retention;

(ii) the exercise of due professional care and professional skepticism (as set forth in AU § 230);

(iii) the identification and consideration of disclosures of related parties and related party transactions (as set forth in Auditing Standard No. 18 and AU § 334);

(iv) fraud detection (as set forth in AU § 316);

(v) compliance with the requirements of AU § 317, including the identification of "illegal acts" as defined in AU § 317.02: "Illegal acts by clients are acts attributable to the entity whose financial statements are under audit or acts by management or employees acting on behalf of the entity. Illegal acts by clients do not include personal misconduct by the entity's personnel unrelated to their business activities";

(vi) compliance with Section 10A of the Securities Exchange Act of 1934, including designing procedures to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts, and to comply with all requirements under the standards of the Commission, the PCAOB, and Section 10A to evaluate and report suspected illegal acts;

(vii) obtaining sufficient appropriate audit evidence (as set forth in Auditing Standard No. 15);

(viii) evaluation of and reliance upon management representations (as set forth in AU § 333);

(ix) third-party confirmations (as set forth in AU § 330), including evaluating the results of the confirmation procedures in accordance with AU § 330.33, "In performing that evaluation, the auditor should consider (a) the reliability of the confirmations and alternative procedures; (b) the nature of any exceptions, including the implications, both quantitative and qualitative, of those exceptions; (c) the evidence provided by other procedures; and (d) whether additional evidence is needed."

(x) consultations with local, regional or national office technical oversight professionals;

(xi) adequate audit documentation, including work paper sign-off, archiving, and dating (as set forth in Auditing Standard No. 3);

(xii) document retention; and

(xiii) the response to the discovery of new facts subsequent to the issuance of audit report (as set forth in AU § 561).

BDO's Review shall assess the forgoing areas to determine whether BDO's Policies are adequate and sufficient to provide reasonable assurance of compliance with all relevant Commission regulations and PCAOB standards and rules.

111. BDO Report. Within sixty days of completing the BDO Review, BDO shall deliver to the Commission staff a detailed written report ("BDO Report") summarizing its review and changes to BDO's Policies, if any, to provide reasonable assurance of compliance with all relevant Commission regulations and PCAOB standards and rules. The BDO Report shall identify the undertaking, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and BDO agrees to provide such evidence.

112. Independent Consultant's Review. BDO has undertaken to retain, within one hundred and eighty days after the entry of this Order, an independent consultant ("Independent Consultant"), not unacceptable to the Commission staff. BDO shall provide to the Commission staff a copy of the engagement letter detailing the scope of the Independent Consultant's responsibilities. The Independent Consultant's compensation and expenses shall be borne exclusively by BDO. BDO shall deliver to the Independent Consultant the BDO Report at the same time as BDO provides such report to the Commission staff as specified in paragraph 111 above. BDO shall require that the Independent Consultant perform a review (the "IC Review") of BDO's Policies to determine whether BDO's Policies are adequate and sufficient to provide reasonable assurance of compliance with all relevant Commission regulations and PCAOB standards and rules. BDO shall cooperate fully with the Independent Consultant and shall provide reasonable access to firm personnel, information, and records as the Independent Consultant may reasonably request for the IC Review (including training materials pertaining to the undertaking in paragraph 116), subject to BDO's right to withhold from disclosure any information or records protected by any applicable protection or privilege such as the attorney-client privilege or the attorney work product doctrine.

113. Independent Consultant's Report. After the IC Review is completed, but no later than ninety days after receiving the BDO Report, the Independent Consultant shall issue a detailed written report (the "IC Report") to BDO: (a) summarizing the IC Review; and (b) making recommendations, where appropriate, reasonably designed to ensure that BDO's Policies are adequate and sufficient to provide reasonable assurance of compliance with all relevant Commission regulations and PCAOB standards and rules. BDO shall require the Independent Consultant to provide a copy of the IC Report to the Commission staff and the PCAOB staff when the IC Report is issued.

114. BDO shall adopt, as soon as practicable, all recommendations of the Independent Consultant in the IC Report. Provided, however, that within thirty days of issuance of the IC Report, BDO may advise the Independent Consultant in writing of any recommendation that it considers to be unnecessary, outside the scope of this Order, unduly burdensome, or impractical. BDO need not adopt any such recommendation at that time, but instead may propose in writing to the Independent Consultant and the Commission staff an alternative policy or procedure designed to achieve the same objective or purpose. BDO and the Independent Consultant shall engage in good-faith negotiations in an effort to reach agreement on any recommendations objected to by BDO. In the event that the Independent Consultant and BDO are unable to agree on an alternative proposal within sixty days, BDO shall abide by the determinations of the Independent Consultant.

115. Certification by BDO's CEO. Within sixty days of issuance of the IC Report, but not sooner than thirty days after a copy of the IC Report is provided to the Commission staff, BDO's chief executive officer ("CEO") must certify to the Commission staff in writing that (i) BDO has adopted and has implemented or will implement all recommendations of the Independent Consultant, if any; and (ii) the Independent Consultant agrees with BDO's adoption and implementation of the recommendations. To the extent that BDO has not implemented all recommendations of the Independent Consultant within sixty days of issuance of the IC Report, BDO's CEO must certify to the Commission staff in writing, thirty days after their implementation, that (i) BDO has adopted and has implemented all recommendations of the Independent Consultant; and (ii) the Independent Consultant agrees that the recommendations have been adequately adopted and implemented by BDO. The certifications by BDO's CEO shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and BDO agrees to provide such evidence.

116. Undertakings Regarding Audit Training. Prior to September 30, 2016, BDO shall require each audit professional serving public company audits to complete successfully:

a. A Minimum of 24 Hours of Audit-Related Training. The audit-related training requirement shall cover the topics specified in paragraph 110(i)-(xiii). A minimum of four hours must be allocated to each of these two topics: (i) potential illegal acts and Section 10A of the Exchange Act, and (ii) identification and disclosure of related party transactions. The audit-related training requirement may be fulfilled by completing course(s) conducted in accordance with the applicable state boards of accountancy.

b. A Minimum of 8 Hours of Fraud-Detection Training. BDO shall ensure that audit professionals assigned to public company engagements undergo fraud detection training. The training shall include techniques in detecting and responding to possible fraud in the course of public company audits by audit clients or by employees, officers or directors of audit clients.

117. To ensure the independence of the Independent Consultant, BDO: (1) shall not have the authority to terminate the Independent Consultant or substitute another independent compliance consultant for the initial Independent Consultant, without the prior written approval of the Commission staff; and (2) shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

118. BDO shall require the Independent Consultant to enter into an agreement that provides that, for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with BDO, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such. The agreement shall also provide that the Independent Consultant will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in performance of his/her duties under this Order shall not, without prior written consent of the Division of Enforcement, enter into any employment, consultant, attorney-client, auditing or other professional relationship with BDO, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two years after the engagement.

119. BDO shall not be in, and shall not have an attorney-client relationship with the Independent Consultant and shall not seek to invoke the attorney-client privilege or any other doctrine or privilege to prevent the Independent Consultant from transmitting any information, reports, or documents to Commission staff.

120. BDO shall inform its audit professionals of the terms of the Order within ten business days after entry of the Order.

121. By December 31, 2016, BDO's CEO shall certify, in writing, compliance with the undertakings set forth in paragraphs 116 and 120. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and BDO agrees to provide such evidence.

122. Annual Certifications. With respect to each of the calendar year periods 2017 and 2018, BDO's chief compliance officer ("CCO") shall certify that BDO has assessed whether BDO's Policies are adequate and sufficient to provide reasonable assurance of compliance with all relevant Commission regulations and PCAOB standards and rules by, among other things, testing the firm's implementation of BDO's Policies during the twelve (12) months preceding the certification ("Annual Certification"). The Annual Certification shall describe the nature and

scope of BDO's testing. The Annual Certification shall represent that the CCO has reviewed and evaluated the firm's assessment and testing process and that, based on belief and after reasonable inquiry, the CCO believes that BDO's Policies are adequate and sufficient to provide reasonable assurance of compliance with all relevant Commission regulations and PCAOB standards and rules. If the CCO cannot represent that BDO's Policies are adequate and sufficient, then the CCO shall describe in reasonable detail the reasons for the inability to so certify. The CCO shall provide the Annual Certifications to the Commission's staff within sixty days of the end of the annual period. BDO shall preserve and retain all documentation regarding the CCO's Annual Certification for seven (7) years and will make it available to the staffs of the Commission or the PCAOB upon request.

123. All reports and certifications mentioned in these undertakings shall be submitted to Wendy Tepperman, Assistant Regional Director, Division of Enforcement, Securities and Exchange Commission, 200 Vesey Street, New York, NY 10281, with a copy to the Office of Chief Counsel of the Enforcement Division.

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

125. In determining whether to accept BDO's Offer, the Commission has considered these undertakings. BDO agrees that if the Division of Enforcement believes that BDO has not satisfied these undertakings, it may petition the Commission to reopen the matter to determine whether additional sanctions are appropriate.

IV.

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

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, BDO shall cease and desist from committing or causing any violations and any future violations of Sections 10A and 13(a) of the Exchange Act and Rule 13a-1 thereunder.

B. BDO is censured.

C. BDO shall comply with the undertakings enumerated in Section III.J. above.

D. BDO shall within 14 days of the entry of this Order, pay disgorgement of $536,000 and prejudgment interest of $76,000, to the Commission for transfer to the general fund of the United States Treasury in accordance with Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600.

E. BDO shall within 14 days of the entry of this Order, pay a civil money penalty of $1,500,000 to the Commission for transfer to the general fund of the United States Treasury in accordance with Exchange Act Section 21F(g)(3). If timely payment is not made additional interest shall accrue pursuant to 31 U.S.C. § 3717.

F. Payments ordered in paragraphs D and E above must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

(3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying BDO as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Timothy Casey, New York Regional Office, Securities and Exchange Commission, 200 Vesey Street, New York, NY 10281-1022.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

By the Commission.

Brent J. Fields
Secretary