PCAOB
Public Company Accounting Oversight Board

1666 K Street, N.W.
Washington, DC 20006
Telephone: (202) 207-9100
Facsimile: (202) 862-8430
www.pcaobus.org

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

Summary

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

I.

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

II.

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

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

III.

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

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

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

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

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

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

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

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

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

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

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

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

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

10. PCAOB Rule 4006 states that –

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

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

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

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

IV.

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

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

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

ISSUED BY THE BOARD.

J. Gordon Seymour
Acting Secretary

May 24, 2005