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ORDER MAKING FINDINGS AND  
IMPOSING SANCTIONS

*In the Matter of Deloitte & Touche LLP,*  
  
*Respondent.*

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) PCAOB Release No. 105-2013-008  
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) October 22, 2013  
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By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is: (1) censuring the registered public accounting firm Deloitte & Touche LLP ("Deloitte"); (2) imposing a civil money penalty in the amount of \$2,000,000; and (3) requiring Deloitte to undertake certain remedial actions.

The Board is imposing these sanctions on the basis of its findings concerning Deloitte's violations of the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and PCAOB rules by permitting a former partner of Deloitte, who was subject to a Board-ordered suspension, to become an "associated person" of Deloitte during the period of the suspension.

I.

On March 20, 2013, the Board instituted disciplinary proceedings against Deloitte pursuant to Section 105(c) of the Act and PCAOB Rule 5200(a)(1). Pursuant to Section 105(c)(2) and PCAOB Rule 5203, these proceedings were not public. Pursuant to Section 105(c) and PCAOB Rule 5203, the Board determined that good cause was shown to make the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, the Division of Enforcement and Investigations consented to making the hearing in this proceeding public. As permitted by Section 105(c)(2) of the Act and PCAOB Rule 5203, Deloitte did not consent to making the hearing public.

II.

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



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matter of these proceedings, which is admitted, Deloitte consents to the entry of this Order Making Findings and Imposing Sanctions ("Order") as set forth below.<sup>1/</sup>

### III.

On the basis of Deloitte's Offer, the Board finds that:<sup>2/</sup>

#### A. Respondent

1. Deloitte is, and at all relevant times was, a public accounting firm organized as a limited liability partnership under the laws of the State of Delaware and headquartered in New York, New York. Deloitte has offices in multiple locations, including Wilton, Connecticut, where it housed certain firm-wide functions included as part of its National Office. Deloitte is registered with the Board under Section 102 of the Act and PCAOB rules.

#### B. Other Relevant Individual

2. Christopher E. Anderson ("Anderson"), 51, of Lake Forest, Illinois, is a certified public accountant licensed in Washington (license no. 15285). At all relevant times, Anderson was an agent of Deloitte, first as a partner in Deloitte's Chicago, Illinois office, and then, in anticipation of the settlement that resulted in the Board's issuance of an Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions, *In the Matter of Christopher E. Anderson, CPA*, PCAOB Rel. No. 105-2008-003 (Oct. 31, 2008) (the "Anderson Order"), as a salaried Director employed in Deloitte's National Office.

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<sup>1/</sup> The findings herein are made pursuant to Deloitte's Offer and are not binding on any other persons or entities in this or any other proceeding.

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



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### C. Deloitte Violated the Act and PCAOB Rules

3. This matter concerns Deloitte's violations of the Act and PCAOB rules when it permitted Anderson, a former Deloitte partner, to become or remain an associated person of Deloitte during the time that Anderson was subject to a Board order suspending Anderson from being associated with a registered public accounting firm.

#### Background

4. On October 31, 2008, the Board issued the Anderson Order, with Anderson's consent, on a neither admit nor deny basis. The Anderson Order resulted from Anderson's violations of PCAOB rules and auditing standards when he served as the engagement partner for Deloitte's audit of the fiscal year 2003 financial statements of Navistar Financial Corporation ("NFC"). Among other things, the Anderson Order suspended Anderson for a period of one year from the date of the Anderson Order (the "suspension year") from being an "associated person of a registered public accounting firm," as that term is defined in Section 2(a)(9) of the Act, *Definitions: Person Associated with a Public Accounting Firm*, and PCAOB Rule 1001(p)(1), *Definitions of Terms Employed in Rules: Person Associated with a Public Accounting Firm (and Related Terms)*. The suspension year covered the period October 31, 2008 through October 30, 2009.

5. Under the Act and PCAOB rules, a registered public accounting firm that knows an individual is suspended from associating with any registered firm may not permit him to become or remain an "associated person" of the firm without the consent of the Board or the United States Securities and Exchange Commission ("Commission").<sup>3/</sup> The Act and PCAOB rules define an "associated person" as, among other things, any "professional employee of a public accounting firm . . . that, in connection with the preparation or issuance of any audit report . . . participates as agent on behalf of such accounting firm in any activity of that firm."<sup>4/</sup>

6. After the Board issued the Anderson Order, Deloitte permitted Anderson to become or remain an associated person of the firm by placing him in a position that allowed him to engage in activities in connection with the preparation or issuance of

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<sup>3/</sup> Act § 105(c)(7)(A); PCAOB Rule 5301(b).

<sup>4/</sup> Act § 2(a)(9); PCAOB Rule 1001(p)(i).



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issuer audit reports.<sup>5/</sup> It did so with knowledge of the Anderson Order and without the consent of the Board or the Commission. Although Deloitte took certain actions to limit Anderson's deployment, Deloitte failed to develop sufficient policies and procedures to ensure that Anderson did not remain associated with the firm during the suspension year. By these acts and omissions, Deloitte violated Section 105(c)(7)(A) of the Act, *Effect of Suspension: Association with a Public Accounting Firm*, and PCAOB Rule 5301(b), *Effect of Sanctions: Effect on Registered Public Accounting Firms*.

7. After the Division began its investigation of Anderson's conduct as the engagement partner for the NFC audit, but before the Anderson Order was issued, Deloitte restricted Anderson's deployment by prohibiting him from signing audit opinions for public company clients, from accepting new public company audit engagements, and from serving as a concurring reviewer on such engagements.

8. In anticipation of a potential settlement between Anderson and the Board, Deloitte began the process of removing Anderson from its Chicago audit practice and transferring him to the Audit and Assurance Services ("A&AS") Group within the firm's National Office. The A&AS Group was responsible for handling consultations with all audit engagement teams, including issuer engagement teams, and also was responsible for developing and maintaining all of Deloitte's audit policies and guidance, including for issuer audits.

9. At that time, in spring 2008, the leader of the A&AS Group in the National Office ("Group Leader"), with input from Anderson, drafted a description of Anderson's proposed job duties ("Anderson position description") for a three to five year assignment in the A&AS Group. The then-deputy managing partner of Deloitte's Audit and Enterprise Risk Services professional practice department reviewed the position description.

10. Based, in part, on the position description drafted and approved by the Group Leader, Deloitte's Leadership Oversight Committee ("LOC") approved transferring Anderson to the A&AS Group of the National Office.<sup>6/</sup> The LOC, among other things, had primary responsibility on behalf of Deloitte for determining and

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<sup>5/</sup> This order uses the term "issuer" as it is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

<sup>6/</sup> The LOC had responsibility and authority, among other things, to restrict individuals from serving audit clients in specific capacities (including, if necessary, to restrict these individuals from performing any audits).



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directing appropriate remedial actions to be taken with respect to Deloitte partners and employees subject to regulatory action. Anderson officially transferred into the National Office in July 2008 and remained there during the suspension year.

11. At the time Deloitte transferred Anderson to the National Office pursuant to the position description, Deloitte assigned the Group Leader to supervise Anderson. During the suspension year, the Group Leader understood that Anderson was subject to a Board-ordered suspension.

12. Anderson's position description listed three general responsibilities. Those general responsibilities included, among other things: (a) "oversee[ing] how [Deloitte] effectively and efficiently use[s] specialists on [Deloitte's] audit engagements;" (b) "oversee[ing] the reconsideration of [Deloitte's] audit approach as it related to the consideration of fraud," and (c) "lead[ing] other miscellaneous projects," including the development of Deloitte audit guidance.

13. The position description did not reference the Board-ordered suspension and did not include an analysis of how Anderson's job responsibilities were consistent with his suspension pursuant to the definition of "associated person," as set forth in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(1), or how Deloitte complied with its obligations in Section 105(c)(7)(A) of the Act and PCAOB Rule 5301(b).

14. The position description stated that, "[a]t this time, we will not be using [Anderson] on consultations or any other client specific matters." The Group Leader and Anderson believed that, consistent with the limitations of the position description, Anderson would have contact with issuer engagement teams, and might provide certain audit advice of a general nature to issuer audit engagement teams. Anderson and the Group Leader did not inform the LOC of their belief, but the Group Leader later confirmed to the LOC that Anderson was "not doing any consultations." No one on the LOC advised Anderson or the Group Leader that Anderson was not permitted to provide advice of a general nature.

15. Prior to the issuance of the Anderson Order and the commencement of the suspension year, Deloitte sought and received guidance from the Board's staff concerning whether Anderson could "continue as a partner of the firm and [continue] to be compensated as such" pursuant to the compensation prong of the definition of "associated person," and at Deloitte's suggestion Anderson resigned from the Deloitte

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partnership and became a Director, a salaried position.<sup>7/</sup> In seeking guidance from the Board's staff, Deloitte did not seek guidance about Anderson's intended role in Deloitte's National Office,<sup>8/</sup> and, during the suspension year, did not inform Board staff about Anderson's actual activities in that role.<sup>9/</sup>

### **Anderson's Activities During the Suspension Year**

#### *Anderson's Role in Deloitte's National Office*

16. Each registered public accounting firm is required to develop, implement, and maintain a system of quality control for its accounting and audit practice.<sup>10/</sup> A firm's system of quality control is designed to provide that "firm with reasonable assurance that its personnel comply with applicable professional standards and the firm's standards of quality."<sup>11/</sup>

17. Deloitte maintains a system of quality control for its audit practice, including its issuer audit practice, which includes a National Office function for ensuring the development, implementation, and maintenance of, among other things, audit guidance, audit training materials, audit practice alerts, and consultations with engagement teams for use in Deloitte's audit practice.

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<sup>7/</sup> The definition of "associated person" includes an individual who, "in connection with the preparation or issuance of any audit report," "shares in the profits of, or receives compensation in any other form from," a registered public accounting firm. Act § 2(a)(9)(A)(i); PCAOB Rule 1001(p)(i)(1).

<sup>8/</sup> Act § 2(a)(9)(A)(ii); PCAOB Rule 1001(p)(i)(2).

<sup>9/</sup> On the day the Anderson Order was issued, the CEO of Deloitte LLP circulated the Anderson Order to all Partners, Principals and Directors by email, with the instruction that Anderson was restricted for one year from performing "audit work." The e-mail did not include any other specifics about Anderson's limitations or what Anderson was or was not permitted to do.

<sup>10/</sup> See PCAOB Rule 3400T, *Interim Quality Control Standards*; QC § 20.01, *System of Quality Control for a CPA Firm's Accounting and Auditing Practice*.

<sup>11/</sup> QC § 20.03.



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18. During the suspension year, and consistent with his position description, Anderson participated in the development of Deloitte's quality control policies and procedures, including among other things, the development and drafting of audit guidance, training materials, and practice alerts applicable to issuer audits.<sup>12/</sup> Deloitte's quality control policies and procedures were designed, among other things, to help issuer engagement teams, among others, understand their responsibilities and comply with professional auditing standards, including PCAOB standards.

19. Among other things, Anderson participated in developing, drafting, and presenting training materials, firm guidance, and forms relating to a variety of topics, including, but not limited to, Pension Actuaries, Insurance Reserves, Capital Markets Valuations, Fair Value, Auditing Assumptions, Self Insurance, Journal Entry Testing, and Risk Management. Anderson did not have ultimate responsibility or approval authority within Deloitte for any of the Deloitte materials he participated in developing or drafting.

20. The individuals with access to the audit guidance that Anderson drafted or contributed to included, among others, individuals working on Deloitte's audits of issuers.

### Anderson's Advice to Issuer Engagement Teams

21. During the suspension year, Anderson's name was included in the firm's internal directories as a National Office consultation resource on subject matters that related to issuer audits. As such, Anderson was listed as one of the professionals in the National Office who was a subject-matter resource for consultations related to "Fair Value/Use of Specialists and Fraud – Miscellaneous."

22. On three occasions during the suspension year, Anderson responded to questions from Deloitte engagement team members seeking guidance on the interpretation of firm-wide policies and procedures and the applicability of PCAOB audit

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<sup>12/</sup> The Act requires the Board, by rule, to establish quality control standards "to be used by registered public accounting firms in the preparation and issuance of audit reports." Act § 103(a)(1), *Auditing, Quality Control, and Independence Standards and Rules*. See also *id.* § 2, *Definitions* (defining "professional standards" to include "quality control policies and procedures . . . that the Board . . . determines relate to the preparation or issuance of audit reports for issuers . . ."); *id.* § 101, *Establishment: Administrative Provisions* ("Duties of the Board" include establishing "quality control . . . standards relating to the preparation of audit reports for issuers").

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standards concerning subjects falling within Anderson's areas of expertise, including, for example, the use of specialists and journal-entry testing in performing audits of the financial statements of issuer clients.

23. Specifically, during the suspension year Anderson provided advice in connection with Deloitte's audits of the fiscal year-end 2009 financial statements of three issuers, each of which Anderson knew, at the time, was an issuer audit client of Deloitte. In each instance, Anderson communicated directly with a member of an audit engagement team who was seeking advice from Deloitte's National Office in connection with the audit of an issuer client.

### *Issuer A*

24. During the suspension year, Anderson consulted with the audit engagement team for Issuer A in connection with the preparation or issuance of Deloitte's audit report on Issuer A's 2009 financial statements.

25. In September 2009, the Issuer A engagement team consulted with Deloitte's National Office to ask whether the engagement team was required to obtain an independence confirmation from a third-party specialist hired by Issuer A to value the company's asbestos reserve. The senior manager on the team contacted Deloitte's consultation hotline, and the request was received by a senior manager in Deloitte's National Office. The senior manager in the National Office forwarded the consultation request to Anderson, stating that because "this question is audit related, I prefer to send it to someone" in Deloitte's A&AS Group in the National Office.

26. Anderson contacted the senior manager on the Issuer A engagement team and consulted with him concerning whether Deloitte needed to obtain an independence confirmation from Issuer A's third-party specialist. After speaking with Anderson, the engagement team documented the consultation in an October 15, 2009 work paper, stating: "We discussed this matter with Chris Anderson, National Office Assurance Services, who agreed with the conclusions reached."

### *Issuer B*

27. During the suspension year, Anderson also advised the audit engagement team for Issuer B in connection with the preparation or issuance of Deloitte's audit report on Issuer B's fiscal year-end 2009 financial statements.

28. In June 2009, a partner in Deloitte's National Office e-mailed Anderson selected work papers from Issuer B's 2008 audit, in connection with the planning of



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Issuer B's 2009 audit. After reviewing those work papers, Anderson participated in a conference call with members of the 2009 Issuer B audit engagement team. Following the conference call, an electronic data analysis specialist ("specialist") in Deloitte's National Office who had also participated in the call, drafted written recommendations to the 2009 Issuer B audit engagement team, and sought comments from Anderson on those draft recommendations. Anderson replied that her draft recommendations "look[ed] good," and the specialist then responded to the engagement team in a June 17, 2009 e-mail that, among other things, identified "[o]pportunities to streamline the working papers documentation" for the Issuer B audit engagement.

29. Next, in August 2009, a senior manager on the 2009 Issuer B audit engagement team sought advice from Deloitte's National Office by e-mailing the specialist and copying the e-mail to Anderson. The senior manager on the audit engagement team noted that the engagement team used a data analysis tool to select journal entries for testing through the first three quarters of 2009, and asked whether the engagement team was required to use that tool to select journal entries for testing for the fourth quarter of 2009.

30. In his August 4, 2009 e-mail response, Anderson advised the senior manager on the 2009 Issuer B audit engagement team that there was no requirement to use the data analysis tool to select journal entries for testing for the fourth quarter of 2009. Anderson further advised that the PCAOB auditing "standard requires that we [, i.e. Deloitte,] consider testing [journal entries] throughout the year." Anderson advised the engagement team that it "may conclude that it is not necessary to test the entries posted during the 4th quarter (other than those recorded as part of the financial close reporting process)."

### *Issuer C*

31. During the suspension year, Anderson also advised the audit engagement team for Issuer C in connection with the preparation or issuance of Deloitte's audit report on Issuer C's December 31, 2009 financial statements.

32. The Issuer C audit engagement team sought input from Deloitte's National Office concerning journal entry testing. Issuer C was a new audit client for Deloitte, and the Issuer C audit engagement team sought input from the National Office regarding Deloitte's ability to rely on journal entry testing performed by Issuer C's internal audit department. At the direction of the audit engagement partner, a manager on the Issuer C audit engagement team sent an e-mail requesting assistance to Deloitte's National Office. The e-mail was received by a senior manager in the National Office, an individual whose responsibilities included forwarding consultation requests to subject-

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matter resources within the National Office. The National Office senior manager forwarded the consultation request to Anderson.

33. On or about September 25, 2009, Anderson and the manager on the Issuer C audit engagement team had a telephone conference to discuss journal entry testing for the Issuer C audit. Anderson identified the relevant Deloitte auditing guidance for the engagement team and discussed whether, and in what way, the engagement team could use the journal entry testing performed by Issuer C's internal audit department.

### **Deloitte Permitted Anderson to Associate with the Firm.**

34. By its acts and omissions described above, Deloitte permitted Anderson to become or remain an associated person by engaging in activities on Deloitte's behalf in connection with the preparation or issuance of audit reports for Deloitte's issuer clients, during the suspension year.

35. The LOC did not develop sufficient policies or procedures to ensure that Anderson complied with the terms of the Anderson Order. The LOC did not appropriately instruct anyone at Deloitte concerning how to monitor Anderson's compliance with the limitations imposed by the Anderson Order.

36. As a result of the actions and omissions described above, Deloitte violated Section 105(c)(7)(A) of the Act, *Effect of Suspension – Association with a Public Accounting Firm*, and PCAOB Rule 5301(b), *Effect of Sanctions – Effect on Registered Public Accounting Firms*.

## IV.

37. Deloitte has represented to the Board that, since the events described in this Order and after the investigation in this matter began, it has established and implemented the following changes to its quality control policies and procedures for persons subject to PCAOB-ordered restrictions on activities:

- a. On February 2, 2010, the LOC adopted procedures requiring (i) definition of the individual's responsibilities while associated with Deloitte and a determination that those responsibilities are consistent with the individual's PCAOB-ordered restrictions; (ii) appointment of a supervisor to monitor the individual's work; (iii) the signing of an LOC-approved job description by both the individual subject to restriction and the supervisor; (iv) periodic meetings

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between the supervisor and the individual for the express purpose of ensuring that the individual's activities are consistent with the regulatory requirements; and (v) semi-annual reporting by the supervisor to the LOC on compliance with restrictions;

- b. On August 16, 2012, the LOC (i) revised its policies to emphasize and clarify that "[t]he [LOC approved] job responsibilities will be such that there is no risk that the individual will engage in conduct that calls into question compliance with the terms of the [o]rder or other limitation;" and (ii) added the requirement that the individual's job responsibilities shall be communicated to the PCAOB staff in advance of or contemporaneously with the term of the restrictions;
- c. The LOC subsequently adopted a policy of not allowing individuals subject to PCAOB-ordered restrictions to hold any role forming part of its system of quality control for its issuer audit practice; and
- d. The LOC formed a subcommittee to handle, on an expedited basis, matters arising between regularly scheduled LOC meetings involving individuals subject to PCAOB-ordered restrictions.

**V.**

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

- A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Deloitte is hereby censured;
- B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of \$2,000,000 is imposed. All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. Deloitte shall pay this civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff, United States postal money order certified check, bank cashier's check, or bank money order; (b) made payable to the Public Company Accounting Oversight Board; (c) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W.,

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

- C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), Deloitte shall establish and implement the following additional changes to its quality control policies and procedures for persons subject to PCAOB-ordered restrictions:
1. The LOC shall document its analysis and resulting determination (see supra paragraph 37.a(i)) that a restricted individual's responsibilities are consistent with his/her PCAOB-ordered restriction;
  2. A member of the LOC, in addition to the individual and supervisor, shall sign the LOC-approved job description (see supra paragraph 37.a.(iii));
  3. The signing member of the LOC shall meet with the supervisor to discuss the specific LOC-approved responsibilities and restrictions, and to discuss how the LOC expects the supervisor to monitor the individual's compliance with the restrictions;
  4. The reporting by the supervisor to the LOC on compliance with restrictions (see supra paragraph 37.a(v)) shall occur on a quarterly basis, rather than semi-annually as Deloitte currently requires;
  5. In connection with the quarterly reporting to the LOC on compliance with restrictions, the individual, the supervisor, and the signing member of the LOC, shall all document and sign their understanding that the individual remains in compliance with the PCAOB-ordered restrictions;
  6. The LOC shall ensure that the restricted individual's specific restrictions are communicated to other individuals at Deloitte, including but not limited to, those supervising the individual's daily responsibilities, those working with the individual, those in the

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issuer audit practice who may reasonably come in contact with the individual in connection with the firm's audit practice, and any others responsible for disseminating information concerning the individual to personnel within the firm or in marketing materials external to the firm; and,

7. If at any time and for any reason, Deloitte believes that the individual has not complied with PCAOB-ordered restrictions and/or the individual, supervisor, or signing member of the LOC is unable to sign the quarterly compliance document referenced in part V.C.5 above, Deloitte must promptly report this information to the PCAOB Division of Enforcement and Investigations staff.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown  
Secretary

October 22, 2013