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ORDER INSTITUTING DISCIPLINARY PROCEEDINGS, MAKING FINDINGS, AND IMPOSING SANCTIONS

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

Respondents.

PCAOB Release No. 105-2020-011

September 15, 2020

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

- (1) revoking the registration of JS,¹ a registered public accounting firm, and, in the event that the Board grants any future registration application by the Firm, requiring the Firm to undertake certain remedial measures, as described in Section IV of this Order, and imposing a \$10,000 civil money penalty on JS;
- (2) barring Kidman from being associated with a registered public accounting firm,² imposing a \$10,000 civil money penalty on Kidman, and requiring Kidman to complete forty (40) additional hours of continuing professional education (“CPE”) before filing any petition for Board consent to associate with a registered public accounting firm; and
- (3) barring Low from being associated with a registered public accounting firm,³ imposing a \$10,000 civil money penalty on Low, and requiring Low to complete forty (40) additional hours of CPE before filing any petition for Board consent to associate with a registered public accounting firm.

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

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

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

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

I.

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

II.

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

III.

On the basis of Respondents’ Offers, the Board finds⁵ that:

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

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

A. Respondents

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

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

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

B. Issuer

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

C. Summary

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

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

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

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

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

D. Background

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

¹¹ AS 2201.02.

¹² *Id.* at .03.

¹³ *Id.* at .72.

¹⁴ *Id.* at .73, .C2.

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

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

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

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

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

¹⁵ AS 1105.10.

¹⁶ See AS 2805.02, *Management Representations*.

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

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

¹⁹ See AS 2510.11, *Auditing Inventories*.

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

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

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

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

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

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

²⁰ See AS 2201.50, note.

²¹ See AS 1105.04; AS 2201.71.

²² See AS 1105.04; AS 2301.08.

²³ See AS 2510.11; AS 1105.10; AS 2301.16.

²⁴ See AS 2315.24.

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

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

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

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

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

²⁵ See AS 2315.17.

²⁶ See AS 2201.72.

²⁷ See AS 2805.02.

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

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

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

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

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

²⁹ See AS 1105.04; AS 2201.71.

³⁰ See AS 2201.50, note.

³¹ See AS 1105.10; AS 2805.02.

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

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

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

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

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

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

³² See AS 2510.11; AS 1105.10; AS 2301.16.

³³ See AS 2315.24.

³⁴ See AS 2315.17.

³⁵ See AS 2201.72.

³⁶ See AS 2805.02.

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

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

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

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

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

43. Kidman failed to obtain sufficient appropriate audit evidence to provide a reasonable basis for their opinion on the effectiveness of Issuer A's ICFR.³⁸ Specifically, he failed to obtain sufficient appropriate audit evidence to evaluate the effectiveness of the ERP system's ITGC over change management.³⁹ Indeed, he performed substantially the same audit procedures as he did in connection with the 2016 audit, knowing they were deficient. Similar to the 2016 audit, Kidman evaluated the CEO's weekly review of the handwritten change log, which purportedly contained the IT Programmer's notes of all changes made to the ERP system's source code in 2017.⁴⁰ Although Kidman again obtained oral representations from management and obtained the change log, he was aware that the change log did not provide reliable audit evidence. Other than obtaining an oral representation from the IT programmer, Kidman once again failed to perform any procedures to test the accuracy or completeness of the change log, or the controls over the accuracy and completeness of the change log.⁴¹

³⁸ See AS 1105.04; AS 2201.71.

³⁹ AS 2201.50, note.

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

⁴¹ See AS 1105.10; AS 2805.02.

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

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

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

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

⁴² See AS 2201.03, .71-.74.

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

⁴⁴ See AS 1220.01.

⁴⁵ *Id.* at .13.

⁴⁶ See *id.* at .12.

⁴⁷ *Id.*

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

i. Kidman's Engagement Quality Review

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

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

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

ii. Low's Engagement Quality Reviews

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

⁴⁸ AS 1220.12 Note.

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

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

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

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

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

G. The Firm Violated PCAOB Quality Control Standards

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

⁴⁹ Id.

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

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

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

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

IV.

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

⁵¹ QC § 20.04.

⁵² See QC § 20.07.

⁵³ QC § 20.17.

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

⁵⁵ See QC § 20.17; QC § 30.02.

- A. Pursuant to Section 105(c)(4)(A) of the Act and PCAOB Rule 5300(a)(1), the registration of Jones Simkins LLC is revoked;
- B. After two years from the date of this Order, Jones Simkins LLC may reapply for registration by filing an application pursuant to PCAOB Rule 2101;
- C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Michael C. Kidman is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);⁵⁶
- D. Pursuant to PCAOB Rule 5302(b), Kidman may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order;
- E. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Mark E. Low is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i);⁵⁷
- F. Pursuant to PCAOB Rule 5302(b), Low may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order;
- G. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:

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

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

1. Jones Simkins LLC, \$10,000;
2. Michael C. Kidman, \$10,000; and
3. Mark E. Low, \$10,000.

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

- H. Pursuant to Section 105(c)(4)(F) of the Act and PCAOB Rule 5300(a)(6), Kidman and Low are required to complete CPE in subjects that are related to the audits of issuer financial statements under PCAOB standards (such hours shall be in addition to, and shall not be counted in, the CPE they are required to obtain in connection with any professional license) as follows:
1. Kidman shall complete forty additional hours of CPE before filing any petition for Board consent to associate with a registered public accounting firm, including CPE related to audits of ICFR and the performance of EQRs under PCAOB standards; and

2. Low shall complete forty additional hours of CPE before filing any petition for Board consent to associate with a registered public accounting firm, including CPE related to audits of ICFR and the performance of EQRs under PCAOB standards.
- I. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm, should the Board grant any future application of the Firm for registration, shall carry out the following Undertakings:
 1. within ninety days from the date the Board grants any future application of the Firm for registration (“Future Registration Date”), JS shall establish policies and procedures, or revise and/or supplement existing policies and procedures, for the purpose of providing the Firm with reasonable assurance of compliance with applicable PCAOB rules and standards;
 2. within ninety days from the Future Registration Date, JS shall establish a policy of ensuring training, whether internal or external, on an annual or more frequent regular basis, concerning applicable PCAOB rules and standards, of any Firm audit personnel who participate in any way in the planning or performing of any audit or interim review of an issuer or any SEC Registered Broker-Dealer Engagement (defined to mean an engagement to provide a report—whether an audit report, an examination report, or a review report—required under paragraph (d)(1)(i)(C) of Exchange Act Rule 17a-5, 17 C.F.R. § 240.17a-5, as amended);
 3. within ninety days from the Future Registration Date and before the Firm’s commencement of any audit or interim review of an issuer or commencement of any SEC Registered Broker-Dealer Engagement, JS shall ensure training pursuant to the policy described in paragraph IV.I.2. above on at least one occasion; and
 4. JS shall certify in writing to the Director of the Division of Enforcement and Investigations, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, the Firm’s compliance with paragraphs IV.I.1 through I.3 above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. JS shall submit such certification within one hundred twenty days from the Future Registration Date. JS shall also submit such additional evidence of and information concerning

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

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 15, 2020