

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 78873 / September 19, 2016**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 3803 / September 19, 2016**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-17553**

**In the Matter of**

**ERNST & YOUNG LLP,  
ROBERT J. BREHL, CPA,  
PAMELA J. HARTFORD, CPA, AND  
MICHAEL T. KAMIENSKI, CPA**

**Respondents.**

**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 and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 4C(a)(2) and (3)<sup>1</sup> and 21C of the Securities Exchange Act of 1934 ("Exchange Act") and Rules 102(e)(1)(ii) and (iii)<sup>2</sup> of the Commission's Rules of Practice against

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<sup>1</sup> Sections 4C(a)(2) and (3) provide, 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; or (3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations issued thereunder.

<sup>2</sup> Rules 102(e)(1)(ii) and (iii) provide, in pertinent part, that:

The Commission may censure a person or deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . (ii) . . . to have engaged in unethical or improper professional conduct; or (iii) [t]o have willfully violated, or willfully aided

Ernst & Young LLP (“EY”),<sup>3</sup> Robert J. Brehl (“Brehl”), Pamela J. Hartford (“Hartford”) and Michael T. Kamienski (“Kamienski”) (together, the “Respondents”).

## II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (each, an “Offer” and, together, the “Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V as to Hartford and Brehl, Respondents consent 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 Respondents’ Offers, the Commission finds that:<sup>4</sup>

### A. SUMMARY

This matter arises from a close personal relationship between a former EY partner and the former chief accounting officer of an EY audit client (the “Issuer”) that caused EY to violate the auditor independence rules. Between March 2012 and June 2014, Pamela Hartford, then an EY partner, and Robert Brehl, then the Chief Accounting Officer of the Issuer, maintained a close personal and romantic relationship while Hartford was a partner—and later the coordinating partner—on the EY engagement team that performed audit and review services for the Issuer.

From approximately early 2013 through June of 2014, Michael Kamienski, the coordinating partner on the engagement team for the Issuer in 2012 and 2013, was aware of facts suggesting a possible romantic relationship between Hartford and Brehl. Kamienski should have identified those facts as red flags but did not. He failed to perform a reasonable inquiry regarding the extent of the relationship between Brehl and Hartford or to raise concerns internally to EY’s U.S. Independence group.

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and abetted the violation of any provision of the Federal securities laws or the rules and regulations thereunder.

<sup>3</sup> Contemporaneously with this Order, the Commission is issuing *In the Matter of Ernst & Young LLP and Gregory S. Bednar, CPA*, Exchange Act Rel. No. 78872 (September 19, 2016).

<sup>4</sup> The findings herein are made in connection with Respondents’ Offers and are not binding on any other person or entity in this or any other proceeding.

During the period that Hartford and Brehl maintained their romantic relationship, EY represented that it was independent in audit reports issued on the Issuer's financial statements, which were included or incorporated by reference in public filings with the Commission. As a consequence, EY violated Rule 2-02(b)(1) of Regulation S-X and caused the Issuer to violate Section 13(a) of the Exchange Act and Rule 13a-1 thereunder. Hartford caused EY's violation of Rule 2-02(b)(1) and caused the Issuer to violate Section 13(a) of the Exchange Act and Rule 13a-1 thereunder. EY's, Hartford's and Kamienski's conduct also constituted improper professional conduct pursuant to Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice. Brehl caused and willfully<sup>5</sup> aided and abetted the Issuer's violation of Section 13(a) of the Exchange Act and Rule 13a-1 thereunder. Brehl's conduct aiding and abetting the violation of Section 13(a) of the Exchange Act and Rule 13a-1 thereunder constituted willful aiding and abetting of a violation of the Federal securities laws within the meaning of Section 4C(a)(3) of the Exchange Act and Rule 102(e)(1)(iii) of the Commission's Rules of Practice.

## **B. RESPONDENTS**

**Ernst & Young LLP** is a professional services firm headquartered in New York, New York. EY provides auditing, consulting, and tax services to various entities, including companies with securities registered with the Commission and traded in U.S. markets. EY served as the Issuer's auditor during all times relevant to this proceeding.

**Robert J. Brehl**, age 54 and a resident of Kentucky, served as the Chief Accounting Officer of the Issuer from January 2006 through July 2014, when his employment was terminated. Brehl is a certified public accountant licensed in the state of Kentucky.

**Pamela J. Hartford**, age 41 and a resident of Illinois, is a certified public accountant licensed in the state of Illinois. During the time period relevant to this proceeding, Hartford initially served as the engagement partner and later as the coordinating partner on the EY engagement team that provided audit and review services to the Issuer. Her employment was terminated on July 7, 2014.

**Michael T. Kamienski**, age 41 and a resident of Illinois, is a certified public accountant licensed in the state of Illinois. From 2009 through 2013, he served as the coordinating partner on the EY engagement team that provided audit and review services to the Issuer. Kamienski also served in leadership roles at EY including as EY's Global Real Estate, Hospitality & Construction Assurance Leader, beginning in December 2013, and, beginning in July 2014, as EY's Central Region Assurance Real Estate Market Segment Leader. Kamienski left the firm on April 18, 2016 after EY requested his resignation.

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<sup>5</sup> A "willful" violation of the securities laws means merely "that the person charged with the duty knows what he is doing." Wonsover v. SEC, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting, Hughes v. SEC, 174 F.2d 969, 977 (D.C. Cir. 1949)).

## **C. THE ISSUER**

**The Issuer's** securities are registered with the Commission under Section 12(b) of the Exchange Act, and its common shares are listed on the New York Stock Exchange. The Issuer filed annual reports on Form 10-K with the Commission.

## **D. FACTS**

### **Hartford's Role on the EY Engagement Team**

1. From at least 2004 through June 2014, EY provided audit and review services to the Issuer. From 2009 through the conclusion of the Issuer's 2013 audit, Kamienski served as the coordinating partner on the EY engagement team that provided those services (the "Engagement Team"). "Coordinating partner" is the term used by EY to describe the lead partner on an audit engagement.

2. In November 2010, Hartford joined the Engagement Team as a senior manager. After EY promoted her to partner in July 2011, Hartford became the engagement partner on the Engagement Team, reporting to Kamienski. In that capacity she was the second highest ranking member of the Engagement Team and was responsible for overseeing the Engagement Team's day-to-day audit and review services for the Issuer, including preparing, reviewing and signing off on audit workpapers, coordinating resources within EY, and ensuring the completion of the audit as planned.

3. Hartford assumed the position of coordinating partner on the Engagement Team at the end of February 2014 and held that position until EY terminated her employment on July 7, 2014. As the coordinating partner, Hartford held ultimate responsibility for the Engagement Team's provision of audit and review services to the Issuer and for independence issues connected to the engagement.

### **Hartford's and Brehl's Relationship**

4. From March 2012 through June 2014, while Hartford served as the engagement partner and then coordinating partner on the Engagement Team, Hartford and Brehl maintained a romantic relationship. Their relationship was marked by a high level of personal intimacy, affection and friendship, near daily communications about personal and romantic matters (as well as work-related matters), and the occasional exchange of gifts of minimal value on holidays such as Valentine's Day and birthdays. Hartford and Brehl lived in different cities, but they saw each other in person when performing work duties in their hometowns, at industry conferences, and at entertainment events sponsored by either the Issuer or EY.

5. Hartford and Brehl tried to keep their relationship a secret from their employers and colleagues in large part because they were concerned that their employers would deem it

inappropriate and each contemplated the possibility of EY removing Hartford from the Engagement Team. Despite their efforts, several employees within the Issuer's accounting and treasury departments, including lower level employees and Vice Presidents A, B and C, observed interactions between Brehl and Hartford that raised concerns in their minds about a possible inappropriate relationship between them.

6. Despite the nature and extent of their relationship, Hartford signed off on most of the independence-related workpapers from EY's 2012 and 2013 audits of the Issuer that in large part formed the basis for EY's conclusion that it was independent of the Issuer during those years. In addition, in February 2013 and February 2014, Hartford participated in meetings of the Issuer's Audit Committee at which EY represented that it was independent of the Issuer. Brehl participated in those same Audit Committee meetings and also signed management representation letters to EY in February 2013 and February 2014 in which Brehl stated that management, as of the date of the letters, "..... has no actual knowledge of facts or circumstances that it knows would prevent Ernst & Young, LLP from qualifying as independent of the Company for purposes of Rule 2-01 of Regulation S-X."

#### **Hartford's Selection as Coordinating Partner**

7. At the conclusion of the Issuer's 2013 audit, Kamienski, having served as the coordinating partner for five consecutive years, was required by the Commission's auditor independence rules to rotate off the Engagement Team. The new coordinating partner would begin service at the start of the Issuer's 2014 audit year. Accordingly, in the fourth quarter of 2013, EY compiled a short list of suitable replacements for Kamienski and presented that list to the Issuer. Hartford was among the partners on the list.

8. The Issuer's CEO appointed Brehl to a management team. Brehl and the three other members of the management team each separately interviewed Hartford and two other EY partners. Before anyone on the management team interviewed any of the candidates, Brehl informed Hartford, but not the other candidates, about some of the questions that could be posed to her, and he advised her on persuasive responses. Brehl did this to advantage Hartford. Hartford was selected as the new coordinating partner, with the approval of the Issuer's Audit Committee, based in large part on her qualifications, skills and experience, performance on the Engagement Team over the prior three years, her references, and Brehl's support.

#### **Kamienski Failed to Address Red Flags**

9. During the period when he served as the coordinating partner on the Engagement Team, Kamienski was aware of certain facts that should have caused him to conduct further inquiry regarding a possible romantic relationship between Brehl and Hartford. Beginning in at least early 2013 and continuing through June 2014, Kamienski periodically told colleagues that Brehl was interested in a romantic relationship with Hartford and that he thought she obtained responsibilities on the Engagement Team for that reason.

10. Kamienski made these comments to Hartford, a few members of the Engagement Team, and even employees at another EY audit client. Hartford responded to Kamienski's comments by denying that Brehl maintained a romantic interest in her or by walking away. Despite her denials, Kamienski continued to episodically repeat these sorts of comments, including in January 2014 when he told a member of the Engagement Team that he thought Brehl's romantic interest in Hartford was the reason she had been selected as the coordinating partner on the Engagement Team.

11. On February 11, 2014, Vice Presidents A and B informally met with Kamienski and another EY partner at a restaurant after work. During that conversation, Vice Presidents A and B expressed concern that Brehl and Hartford were engaged in an inappropriate relationship. In response, Kamienski and the other EY partner described their observations of other potentially inappropriate interactions between Brehl and Hartford. Without inquiring further, Kamienski authorized the release of EY's Report of Independent Registered Public Accounting Firm which, on February 18, 2014, the Issuer filed along with its 2013 Form 10-K with the Commission.

12. Despite Kamienski's observations and comments, and the comments of Vice Presidents A and B, Kamienski never inquired of Hartford about the extent of her relationship with Brehl or provided her with guidance. Nor did he raise any concerns about Brehl's and Hartford's relationship with EY's U.S. Independence group. Kamienski's failure in this regard violated EY's independence policies. Those policies provide that coordinating partners bear ultimate responsibility for independence issues on their engagements and in that regard they must identify threats to EY's independence, and upon such identification, consult with EY's U.S. Independence group. Kamienski did none of these things.

### **EY's Independence Procedures Did Not Specifically Inquire About Close Personal Relationships**

13. During the relevant period, EY maintained or followed the following policies and procedures regarding auditor independence. EY required audit engagement teams for public company clients, including the Issuer, to follow certain annual audit and quarterly review procedures to assess EY's independence from those audit clients. Those procedures addressed possible familial, employment, and financial relationships between the Issuer and EY that are expressly prohibited by the Commission's auditor independence rules. EY both trained and tested its audit professionals on those policies. They required each audit engagement team member to certify that he was independent of the audit client and that he had read, understood, and was in compliance with EY's policies on independence.

14. In addition, and outside of procedures that were specific to individual audit clients, EY required audit professionals to again certify, on an annual and quarterly basis, that they read, understood, and were in compliance with EY's internal policies on independence. Audit professionals were also required to certify annually that they complied with the Global Code of Conduct, which noted that professionals "avoid relationships that impair—or may appear to impair—our objectivity and independence." In 2012, 2013, and the first quarter of

2014, Hartford repeatedly certified (in quarterly and annual certifications), that she was independent from the Issuer and in compliance with EY's policies on independence.

15. EY's internal policies on independence provided, among other things, that "[i]ndependence issues from an appearance perspective may be created when [an audit professional] has a close relationship with an individual, other than an immediate or close family member, who is in an accounting role or a financial reporting oversight role at an audit client." The policies further provided that audit professionals should assess the significance of any such relationships and were strongly encouraged to discuss them with EY's U.S. Independence group.

16. Although EY's independence policies recognized that a non-familial close personal relationship between an engagement team member and a client employee in an accounting or financial reporting oversight role could present an independence problem, in the context of assessing its independence from the Issuer, EY performed no specific procedures to identify whether members of the Engagement Team, or employees who served in accounting or financial reporting oversight roles at the Issuer, were involved in such a relationship. While the independence certifications that Engagement Team members signed specifically asked about possible employment relationships that could impair EY's independence, they did not specifically ask about possible close personal relationships between that Engagement Team member and any employees at the Issuer who were in accounting or financial reporting oversight roles.

17. As noted, EY's policies on independence provide that the coordinating partner on an audit engagement team bears ultimate responsibility for independence matters related to that engagement and should consult with EY's U.S. Independence group regarding threats to independence. Neither Hartford nor Kamienski conducted any such consultation with EY's U.S. Independence group regarding her personal relationship with Brehl, or the possibility of her having a personal relationship with Brehl.

18. Despite the fact that Kamienski and another EY partner were aware of red flags regarding a possible relationship between Brehl and Hartford, EY represented that it was independent of the Issuer in its audit reports for the Issuer's 2012 and 2013 financial statements. Those audit reports were, in turn, included or incorporated by reference in the Issuer's annual reports on Form 10-K filed with the Commission throughout the relevant period. In connection with the Issuer's 2012 and 2013 audits, EY confirmed in writing to the Audit Committee of the Issuer, as required by PCAOB Rule 3526, that it was independent of the Issuer.

### **EY Learns of Hartford's and Brehl's Relationship**

19. On June 26, 2014, Vice President A made an internal whistleblower complaint to the Issuer regarding a possible inappropriate relationship between Brehl and Hartford. The next day, the Issuer instituted an internal investigation, which revealed the romantic relationship between Hartford and Brehl. On June 30, 2014, the Issuer informed EY about its findings.

20. EY promptly removed Hartford from the Engagement Team and instituted its own internal investigation. On July 3, 2014, EY determined that because of the romantic relationship between Hartford and Brehl it had not been independent of the Issuer. As a consequence, EY withdrew its audit reports on the Issuer’s 2012 and 2013 financial statements and its 2012 and 2013 reports on the effectiveness of the Issuer’s internal control over financial reporting and terminated Hartford’s employment. Additionally, EY informed the Issuer that EY’s quarterly review procedures with respect to the Issuer’s financial statements for the quarter ending March 31, 2014 should no longer be relied upon. After EY withdrew its audit reports, the Issuer hired another accounting firm to re-audit the 2012 and 2013 financial statements. No restatement was made.

## E. LEGAL ANALYSIS

### Basic Principles of Auditor Independence

21. As the Commission has long recognized, “[i]ndependent auditors have an important public trust. . . . It is the auditor’s opinion that furnishes investors with critical assurance that the financial statements have been subjected to a rigorous examination by an objective, impartial, and skilled professional, and that investors, therefore, can rely on them.” *Revision of the Commission’s Auditor Independence Requirements*, Exchange Act Rel. No. 43,602, 2000 WL 1726933, at \*2 (Nov. 21, 2000) (“Adopting Release”). Accordingly, Rule 2-02(b)(1) of Regulation S-X requires each auditor’s report on a public issuer’s financial statements to state “whether the audit was made in accordance with generally accepted auditing standards” (“GAAS”), including auditing standards set forth in PCAOB rules and Commission regulations.<sup>6</sup> GAAS in turn requires auditors to be independent from their clients in both fact and appearance. PCAOB Rule 3520; PCAOB Auditing Standards, Independence, AU § 220.03. Independence in fact and appearance are “equally important under the securities laws.” *In the Matter of Ernst & Young LLP*, Exchange Act Rel. No. 46,821, 2004 WL 824099, at \*30 (Apr. 16, 2004); *see also United States v. Arthur Young & Co.*, 465 U.S. 805, 819 n.15 (1984) (“It is therefore not enough that financial statements *be* accurate; the public must also *perceive* them as being accurate.”)

22. Circumstances in which an auditor will—and will not—be deemed independent are set forth in Rule 2-01 of Regulation S-X. Rule 2-01(c) provides a non-exclusive list of specific relationships that render an accountant non-independent. Rule 2-01(b) provides the “general standard” for auditor independence, which all auditors must meet even if their conduct does not fall within one of the specific prohibitions in Rule 2-01(c). Under the general standard,

[t]he Commission will not recognize an accountant as independent, with respect to an audit client, if the accountant is not, *or a reasonable investor with*

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<sup>6</sup> The Commission has stated that for audit reports issued on or after May 24, 2004, the reference in Rule 2-02(b)(1) to GAAS means the standards of the PCAOB and the applicable Commission regulations, both of which require an auditor to be independent of its client. *See, Commission Guidance Regarding the Public Company Accounting Oversight Board’s Auditing and Related Professional Practice Standard No. 1*, Exchange Act Rel. No. 49,708, 2004 WL 1439831, at \*2 (May 14, 2004); *see also*, PCAOB Rule 3520 (“A registered public accounting firm and its associated persons must be independent of the firm’s audit client throughout the audit and professional engagement period.”); PCAOB Auditing Standards, Independence, AU § 220.03.



*knowledge of all relevant facts and circumstances would conclude that the accountant is not, capable of exercising objective and impartial judgment on all issues encompassed within the accountant's engagement.* In determining whether an accountant is independent, the Commission will consider all relevant circumstances, including all relationships between the accountant and the audit client and not just those relating to reports filed with the Commission.

17 C.F.R. § 210.2-01(b) (emphasis added). This standard applies with equal force to both individual accountants and the audit firms in which they practice. *See* 17 C.F.R. § 210.2-01(f)(1).

## **VIOLATIONS**

23. As a result of the conduct described above, Hartford lacked independence from the Issuer under Rule 2-01(b)'s general standard for the 2012 and 2013 financial statement audits and the first quarter 2014 financial statement review. A reasonable investor with knowledge of all relevant facts and circumstances concerning Hartford's personal relationship with Brehl would conclude that Hartford was not capable of exercising objective and impartial judgment with respect to the audits of the Issuer.

24. As a result of the conduct described above, EY lacked independence from the Issuer for the 2012 and 2013 financial statement audits and the first quarter 2014 review. As the Commission noted in the Adopting Release for the revisions to Rules 2-01 and 2-02, "[t]he definition of 'accountant' includes the accounting firm in which the auditor practices. The definition makes clear that an individual accountant's lack of independence may be attributed to the firm." Adopting Release, at \*86.

25. As a result, EY violated Rule 2-02(b)(1) of Regulation S-X by falsely certifying that its reports for the 2012 and 2013 financial statement audits were conducted in accordance with PCAOB standards, when in fact the firm lacked independence during each of those audit and professional engagement periods.

26. Hartford caused EY's violations of Rule 2-02(b)(1).

27. Hartford and EY also caused the Issuer to violate Section 13(a) of the Exchange Act and Rule 13a-1 thereunder in 2012 and 2013. Section 13(a) and Rule 13a-1 require public issuers to file annual reports with the Commission that have been audited by an independent accountant. Hartford and EY caused the Issuer's violations of Section 13(a) and Rule 13a-1 because they each knew or should have known that Hartford's relationship with Brehl deprived the Issuer of an independent auditor.

28. Brehl caused and willfully aided and abetted the Issuer's violation of Section 13(a) and Rule 13a-1 thereunder in 2012 and 2013.

29. Rules 102(e)(1)(ii) and (iii) of the Commission's Rules of Practice, and Sections 4C(a)(2) and (3) of the Exchange Act, permit the Commission to censure a person or deny a person the privilege of appearing or practicing before it after finding that person engaged in "improper professional conduct" or "willfully violated, or willfully aided and abetted the violation of any provision of the Federal securities laws or the rules and regulations thereunder." 17 C.F.R. 201.102(3)(1)(ii) and (iii); 15 U.S.C. § 78d-3(b)(2) and (3).

30. Rule 102(e)(1)(iv) of the Commission's Rules of Practice and Section 4C(b)(2) of the Exchange Act both define negligent "improper professional conduct" to include: "(i) [a] single instance of highly unreasonable conduct that results in a violation of applicable professional standards" in circumstances in which the "accountant," in the case of Rule 102(e), or "registered public accounting firm or associated person," in the case of Section 4C(b)(2), "knows, or should know, that heightened scrutiny is warranted;" and (ii) [r]epeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission." 17 C.F.R. 201.102(3)(1)(iv); 15 U.S.C. § 78d-3(b)(2).

31. The Commission has made clear that auditor independence is *always* an area requiring heightened scrutiny. *See Amendment to Rule 102(e), Commission's Rules of Practice*, Securities Act Rel. No.7593, 1998 WL 729201, at \*8 (Oct. 19, 1998) ("Because of the importance of an accountant's independence to the integrity of the financial reporting system, the Commission has concluded that circumstances that raise questions about an accountant's independence always merit heightened scrutiny. Therefore, if an accountant acts highly unreasonably with respect to an independence issue, that accountant has engaged in 'improper professional conduct.'").

32. As a result of the conduct described above, EY, Hartford and Kamienski engaged in improper professional conduct.

33. As a result of the conduct described above, Brehl willfully aided and abetted the Issuer's violation of Section 13(a) and Rule 13a-1 thereunder for purposes of Rule 102(e)(1)(iii).

## **F. FINDINGS**

Based on the foregoing, the Commission finds that (a) EY violated Rule 2-02(b)(1) of Regulation S-X; (b) Hartford caused EY's violation of Rule 2-02(b)(1) of Regulation S-X; (c) EY and Hartford caused the Issuer to violate Section 13(a) of the Exchange Act and Rule 13a-1; (d) Brehl caused and willfully aided and abetted the Issuer's violations of Section 13(a) of the Exchange Act and Rule 13a-1 thereunder; (e) EY, Hartford and Kamienski engaged in improper professional conduct pursuant to Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice; and (f) Brehl's willful aiding and abetting of the Issuer's violations of Section 13(a) of the Exchange Act and Rule 13a-1 thereunder constituted violations

of the Federal securities laws and regulations within the meaning of Section 4C(a)(3) of the Exchange Act and Rule 102(e)(iii) of the Commission's Rules of Practice.

### **EY's Remedial Efforts**

In determining to accept EY's Offer, the Commission considered remedial acts promptly undertaken by EY. EY has improved its annual audit and quarterly review independence policies and procedures, training, controls, and reporting regarding close personal relationships between EY professionals and audit client employees and the impact of such relationships on EY's independence. Generally, those procedures now require that EY audit engagement team members inquire whether management of an audit client or engagement team members are aware of any close relationships between any member of the audit engagement team and any individuals employed by or associated with the audit client. They also require audit team members to disclose any such relationships and, as appropriate, to certify annually and quarterly that they are not participating in or aware of any such relationships. In addition, EY revised its annual and quarterly independence certifications to require EY audit professionals to certify that they have consulted with an EY independence leader in circumstances where they have a close personal relationship with an audit client employee in an accounting or financial reporting oversight role.

### **IV.**

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED, effective immediately, that:

- A. Respondent EY shall cease and desist from committing or causing any violations and any future violations of Rule 2-02(b)(1) of Regulation S-X, Section 13(a) of the Exchange Act, and Rule 13a-1 promulgated thereunder.
- B. Respondent Hartford shall cease and desist from committing or causing any violations and any future violations of Rule 2-02(b)(1) of Regulation S-X, Section 13(a) of the Exchange Act, and Rule 13a-1 thereunder.
- C. Respondent Brehl shall cease and desist from committing or causing any violations and any future violations of Section 13(a) of the Exchange Act and Rule 13a-1 thereunder.
- D. Respondent EY is hereby censured.
- E. Respondents Hartford, Kamienski and Brehl are denied the privilege of appearing or practicing before the Commission as accountants.

F. After 3 years from the date of this Order for Hartford and Kamienski, and after 1 year from the date of this Order for Brehl, Respondents Hartford, Kamienski, and Brehl may separately request that the Commission consider each of their reinstatements by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as:

1. a preparer or reviewer, or a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission. Such an application must satisfy the Commission that Respondent's work in his or her practice before the Commission will be reviewed either by the independent audit committee of the public company for which he or she works or in some other acceptable manner, as long as he or she practices before the Commission in this capacity; and/or
2. an independent accountant. Such an application must satisfy the Commission that:
  - (a) Respondent, or the public accounting firm with which he or she is associated, is registered with the Public Company Accounting Oversight Board ("Board") in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;
  - (b) Respondent, or the registered public accounting firm with which he or she is associated, has been inspected by the Board and that inspection did not identify any criticisms of or potential defects in the respondent's or the firm's quality control system that would indicate that the respondent will not receive appropriate supervision;
  - (c) Respondent has resolved all disciplinary issues with the Board, and has complied with all terms and conditions of any sanctions imposed by the Board (other than reinstatement by the Commission); and
  - (d) Respondent acknowledges his or her responsibility, as long as Respondent appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the Board, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

G. The Commission will consider an application by Hartford, Kamienski, or Brehl to resume appearing or practicing before the Commission provided that his or her state CPA license is current and he or she has resolved all other disciplinary issues with the applicable state boards of accountancy. However, if state licensure is dependent on reinstatement by the Commission,

the Commission will consider an application on its other merits. The Commission's review may include consideration of, in addition to the matters referenced above, any other matters relating to Respondent's character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

H. Respondent EY shall, within 10 days of issuance of this Order, pay disgorgement of \$3,168,500 in audit fees, prejudgment interest of \$198,151, and a civil money penalty in the amount of \$1,000,000, for a total of \$4,366,651 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Exchange Act. If timely payment of disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600, and if timely payment of a civil monetary penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

I. Respondents Hartford and Brehl shall, within 10 days of the entry of this Order, each pay a civil money penalty in the amount of \$25,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Section 21F(g)(3) of the Exchange Act. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

J. Payment must be made in one of the following ways:

- (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondents 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) Respondents 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 as appropriate either EY, Hartford, or Brehl 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 Jennifer S. Leete, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., N.E., Washington, DC 20549.

Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalties, Respondents agree that in any Related Investor Action, EY, Hartford, and Brehl shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondents by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

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 Hartford and Brehl, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Hartford or Brehl 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 Hartford or Brehl 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