

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10897 / December 8, 2020

SECURITIES EXCHANGE ACT OF 1934
Release No. 90598 / December 8, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-20163

In the Matter of

**Covia Holdings Corp. and
Fairmount Santrol Holdings
Inc. now known as Bison
Merger Sub I, LLC,**

Respondents.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 8A OF THE SECURITIES ACT
OF 1933 AND SECTION 21C OF THE
SECURITIES EXCHANGE ACT OF 1934,
MAKING FINDINGS, AND IMPOSING A
CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Covia Holdings Corp. (“Covia”) and Fairmount Santrol Holdings Inc., now known as Bison Merger Sub I, LLC (“Fairmount,” and together with Covia, “Respondents”).

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (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, Respondents consent to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondents' Offers, the Commission finds¹ that:

SUMMARY

1. From 2014 to March 2018, Fairmount, a provider of sand-based products used by oil and gas exploration and production companies for fracking, misled investors by overstating the performance and commercial potential of high-margin proppant products it was developing and selling, PowerProp, Propel SSP and Propel SSP 350. Fairmount repeatedly told investors that its development of these products would provide long term and sustainable value for investors. In fact, the products were poor performers and there was a lack of commercial demand for the products.

2. Proppants are granular materials that prop open fractures and perform the vital function of promoting the flow, or conductivity, of hydrocarbons through wells.

3. Fairmount misrepresented that its premium resin-coated sand proppant, PowerProp, had performance characteristics similar to lightweight ceramics. Ceramics were the fracking industry's highest performing proppants that Fairmount did not sell. In fact, PowerProp's conductivity, the key measure of its performance, was well below the conductivity of lightweight ceramics. Nevertheless, Fairmount posted on its website inflated conductivity results for PowerProp that made it appear to have conductivity close to lightweight ceramics.

4. Additionally, Fairmount misrepresented that two polymer coated proppant products, Propel SSP and Propel SSP 350, increased oil and gas production in a large number of test wells, when Fairmount's test well results did not support these statements.

5. Fairmount made materially false and misleading statements about these products in offering documents in connection with a 2014 initial public offering (IPO) that raised \$400 million for selling shareholders and two subsequent offerings in 2016 that raised \$438 million for Fairmount; and in annual, quarterly and current reports filed with the Commission; presentations to investors and research analysts; and on the company's website.

6. Fairmount stopped selling PowerProp in mid-2018. Its successor after a merger, Covia, was not able to successfully commercialize the Propel SSP products, and eventually stopped selling these products and took an impairment charge.

7. As a result of these false and misleading statements, Fairmount and Covia violated Sections 17(a)(2) and 17(a)(3) of the Securities Act and Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11 and 13a-13 thereunder.

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

Respondents

8. **Fairmount Santrol Holdings Inc. (“Fairmount,” n/k/a Bison Merger Sub I, LLC)**, is a provider of sand-based proppant products used by oil and gas exploration and production companies for fracking. Fairmount was headquartered in Chesterland, Ohio and was incorporated in Delaware. Fairmount shares were registered pursuant to Section 12(b) of the Exchange Act when the company went public in October 2014 and selling shareholders sold \$400 million of shares into the market. Fairmount raised \$438 million from investors in follow-on offerings in June and October of 2016. Its shares were listed and traded on the NYSE under the symbol “FMSA” until it merged with Unimin Corporation on June 1, 2018 to create Covia Holdings Corporation. Fairmount continues to be a wholly owned subsidiary of Covia, with its operating results included in Covia’s financial statements.

9. **Covia Holdings Corporation (Covia)** publicly traded its shares on the NYSE under the symbol “CVIA” and its shares were registered pursuant to Section 12(b) of the Exchange Act. Covia is a Delaware company headquartered in Independence, Ohio. After the merger, Covia continued to market and sell certain of Fairmount’s products under Fairmount’s name, and eventually switched to market products under Covia’s name. Some of the same officers and directors of Fairmount continued with Covia. Covia and certain of its U.S. subsidiaries, including Fairmount, filed for Chapter 11 reorganization on June 29, 2020. *In re Covia Holdings Corporation, et al.* Case No. 20-33295 (Bankr. S.D. Tex.). The reorganized company will continue Covia’s business of providing mineral-based solutions for energy and industrial markets. Covia’s stock was delisted from the NYSE on August 3, 2020, but its securities remain registered with the Commission and Covia continues to have reporting obligations with the Commission.

FACTS

Fairmount’s Strategy to Create Value for Investors Included Developing and Commercializing its High Margin Products

10. Fairmount publicly held itself out as a leading provider of high performance sand-based products used by oil and gas companies in fracking. Fairmount was developing and selling a number of high margin products used in fracking, including the resin-coated sand proppant, PowerProp, and polymer-coated proppant products, Propel SSP and Propel SSP 350. Fairmount described proppants as granular materials that prop open fractures and perform the vital function of promoting the flow, or conductivity, of hydrocarbons through wells. Proppant performance is measured by various factors, including conductivity. The higher the conductivity, the more oil and gas will be extracted.

11. Fairmount touted its development of these high margin products as a way to differentiate the company from its competitors. Fairmount stated it had a history of developing innovative technologies that increase the effectiveness of well completions. Fairmount also told investors that its strategy to create long-term and sustainable value for shareholders included developing and commercializing these products.

12. These products were material to investors. PowerProp and Propel SSP alone generated 6.6% of Fairmount's Proppant Solutions segment revenue in 2014, dropping to 4% in 2017, and accounted for 7.8% of Fairmount's total profit margin on products in 2016 and 4.75% in 2017. The company did not report in filings with the Commission revenue and earnings for its individual products. In addition, the company internally tracked tons sold and average selling price for resin-coated sands and Propel SSP in its "Key P&L Metrics."

13. Research analysts discussed the products and their commercial potential in their reports when evaluating the company. One analyst wrote that Fairmount's financial performance was driven primarily by demand and pricing for its resin-coated sands.

Fairmount Overstated the Performance of its Premier Proppant During and After the IPO

14. From at least October 2014, when Fairmount went public, through March 2018, Fairmount overstated the performance of PowerProp.

15. Fairmount repeatedly misrepresented that PowerProp's performance was similar to and competitive with lightweight ceramics. Ceramics are higher performing, more expensive products, that Fairmount did not sell. In fact, PowerProp's conductivity was much lower than lightweight ceramics.

16. Specifically, Fairmount's August 2014 presentation to analysts conveyed that PowerProp is a key innovation with "performance characteristics similar to a light-weight ceramics" and "competes with lightweight ceramics offered by competitors." Fairmount also provided a chart to analysts showing PowerProp competed with lightweight ceramics.

17. Fairmount's September 2014 road show presentation stated PowerProp "competes with lightweight ceramics offered by competitors."

18. Fairmount's registration statement on Form S-1 for the October 2, 2014 IPO stated that PowerProp, the company's "high performance proprietary" proppant, had performance characteristics competitive with and similar to lightweight ceramics.

19. Fairmount employees internally confirmed that PowerProp's performance and competitiveness with lightweight ceramics referred to conductivity. For instance, employees discussed in October 2014: "We have recently communicated (IPO roadshow) that we have PowerProp which is in the ceramic space = very high conductivity." At the same time, the employees acknowledged that PowerProp's conductivity was below Fairmount's published performance results.

20. From at least 2014 to mid-2017, Fairmount posted on its website and provided to customers inflated conductivity results for PowerProp, making it appear that PowerProp's conductivity was in line with lightweight ceramics offered by its competitors.

21. At the time of these misrepresentations, it was known within Fairmount that PowerProp's conductivity was not as high as lightweight ceramics. For example, Fairmount's product performance team and its predecessor, the conductivity improvement team, met for years

beginning in 2011 to discuss Fairmount's resin-coated products, including the underperforming PowerProp. The teams included employees from research and development, sales and marketing, and investor relations, as well as product experts and executives. Team meeting minutes noted that the company's attempts to increase the conductivity of PowerProp were unsuccessful and also noted concerns about continuing to market PowerProp as having comparable conductivity to lightweight ceramics.

22. In addition, from at least January 2014 to March 2014, Fairmount's internal documents show PowerProp's conductivity was as much as 49% below Fairmount's published results on its website.

23. Additionally, internal documents show two managers acknowledged in June 2014 that PowerProp's conductivity could not compete with lightweight ceramics.

24. After the October 2014 IPO, Fairmount continued misrepresenting that PowerProp had conductivity similar to and competitive with lightweight ceramics in Fairmount's 2014, 2015, 2016 and 2017 annual reports, and in quarterly reports for the third quarter of 2014 and the first three quarters of 2015. For example, the annual reports stated PowerProp is a "[t]echnology that delivers strength and performance characteristics similar to lightweight ceramics." In addition, Fairmount's 2016 registration statement and prospectuses incorporated these misrepresentations about PowerProp from the 2015 annual report.

25. At the time of these misrepresentations after the IPO, Fairmount employees had learned more negative information about the performance of PowerProp.

26. For instance, by March 2015, employees learned that the inflated conductivity of PowerProp (which was published on the company's website) was based on test results forged by a former employee.

27. In late 2015 and early 2016, employees learned that a third-party supplier substituted common household products such as table salt and antifreeze for special chemicals used during the manufacture of PowerProp, and these substituted ingredients were not effective. Fairmount took write-downs for this inventory in 2015 and 2016, without publicly disclosing that the inventory related to PowerProp.

28. By April 2016, employees determined after further testing that manufacturing PowerProp with the required special chemicals (not the substituted household products) failed to increase PowerProp's conductivity.

29. By mid-2017, a number of sales employees and research and development employees raised issues internally about PowerProp's performance. For example, a company executive stated, "We can't position ourselves as a technical leader unless we actually lead in product performance."

30. Even with this adverse information, Fairmount issued its 2017 annual report, which was filed with the Commission in March 2018, which again misstated that PowerProp delivered performance characteristics similar to lightweight ceramics. Additionally, inflated conductivity results for PowerProp remained on Fairmount's website until mid-2017.

31. Fairmount never disclosed the actual lower conductivity of PowerProp and stopped selling PowerProp by the time of the merger in mid-2018.

Fairmount Overstated the Effectiveness of Propel SSP

32. From at least May 2015 through March 2018, Fairmount overstated the effectiveness of another product line it was developing and marketing, Propel SSP. Propel SSP coats sand with a gel to purportedly deliver proppants further into the ground to increase ultimate oil and gas recovery from fracking. Fairmount purchased the right to use and develop Propel SSP in 2013 for about \$55 million, which it recorded as an asset. Subsequently, the company spent at least another \$58 million towards Propel SSP and its development.

33. From 2015 through 2016, in Commission filings and investor and analyst presentations, Fairmount overstated Propel SSP's success in increasing hydrocarbon production in test wells. For example, a May 12, 2015 earnings release furnished with the Commission on Form 8-K stated, "[w]hen compared to offset wells, hydrocarbon production in most wells pumped with Propel SSP has increased by more than 30% within six months." The statement that most wells increased production by more than 30% was false and misleading because only a small subset of all test wells had those increases and the company did not have data for many of the test wells.

34. Leading up to and while Fairmount was raising \$438 million from investors in two securities offerings in connection with an S-3 Registration Statement effective July 14, 2016, a Prospectus dated July 20, 2016, and a Prospectus dated October 19, 2016, Fairmount made similar statements inflating the effectiveness of Propel SSP in test wells.

35. For instance, Fairmount's 2015 annual report, filed in March 2016, misleadingly stated "Propel SSP continues to undergo extensive field trials with key customers with successful results (increased productivity and reduced operating costs)," without disclosing that the company had results from very few test wells and only a portion of those wells showed meaningful increases in production.

36. Two months later, Fairmount stated that the use of Propel SSP in 90+ wells typically resulted in production increases greater than 30%. This statement was false because Fairmount had production data for only a small subset (29) of wells and less than half of those wells showed increased production of more than 30%. This misstatement was in a presentation furnished with the Commission on Form 8-K on May 18, 2016 and used at a May 19, 2016 investor and analyst day event.

37. Research analysts reacted positively to Propel SSP's purported success in many test wells. On May 20, 2016, the day after the investor and analyst day event, an analyst issued a research report stating "While our [resin-coated sands] forecasts are unchanged for now, we see

potential upside from the Company's self-suspending proppant 'Propel SSP,' which has been successful in increasing production (30%) compared to offset wells in trials with nearly 20 E&Ps and over 90 wells." On May 23, 2016, another research analyst report noted the upside potential that Propel SSP provided.

38. On September 19, 2016, the company furnished a current report on Form 8-K attaching another investor presentation, which included a similar slide misrepresenting that Propel SSP typically increased production by more than 30% in about 100 wells, when the 30% increases in production applied to a small subset of wells.

39. In 2017 and 2018, Fairmount continued overstating the effectiveness of Propel SSP in statements to investors. For instance, Fairmount's 2016 and 2017 annual reports misleadingly stated that Propel SSP continued to undergo extensive field trials with successful results and increased oil production, but failed to disclose negative trial information and that the company only had results for a small subset of wells.

40. During the period when Fairmount publicly misrepresented the success of Propel SSP in test wells, Fairmount received negative feedback from certain customers that its data did not support its claims about effectiveness, and Fairmount failed to convert trial customers into commercial customers, only ever signing one contract with a repeat commercial customer.

41. Fairmount's and Covia's risk disclosures in 2015 through 2018 annual reports, which noted that Propel SSP technology was still unproven and additional testing ultimately may demonstrate that Propel SSP is ineffective or not commercially viable, were not sufficient to inform investors of the actual impediments with the Propel products, such as limited positive field trial results and lack of commercial demand. Ultimately, in November 2019, Covia disclosed in its third quarter 2019 Form 10-Q that it discontinued sales and marketing efforts for Propel SSP and it took a \$7.8 million impairment charge.

Fairmount Overstated the Effectiveness of Propel SSP 350

42. In January 2017, Fairmount issued a press release saying a new version of Propel SSP, called Propel SSP 350, was "now available for use in high salinity water." Unlike Propel SSP, which was supposed to work using freshwater that is not found at most oil and gas frack wells, Propel SSP 350 was supposed to be compatible with almost any type of water. However, Propel SSP 350 was not commercially available, as the company had not conducted field testing for the product and was unable to manufacture the product in large quantities to be sold at commercially competitive prices.

43. Fairmount overstated the effectiveness of Propel SSP 350. Specifically, Fairmount's 2016 annual report (filed with the Commission in March 2017) falsely stated that Propel SSP 350 increased oil production. In fact, Fairmount had no field results supporting that Propel SSP 350 increased oil and gas production in wells.

44. In addition, Fairmount's 2017 annual report (filed with the Commission in March 2018) similarly misstated that Propel SSP 350 increased oil production, when Fairmount had no field results showing Propel SSP 350 increased production and employees were alerted to a dissatisfied customer with an unsuccessful field trial.

45. Propel SSP 350 never became a commercially viable product. By December of 2018, Covia and Fairmount decided to stop selling Propel SSP 350 while they tried to develop a new formula because Covia and Fairmount could not consistently produce the product to specifications, the formula was too expensive, and Covia and Fairmount could only manufacture the product at one plant that had limited capacity. By the third quarter of 2019, Covia and Fairmount stopped developing Propel SSP 350.

Violations

46. As a result of the conduct described above, Fairmount and Covia violated Sections 17(a)(2) and 17(a)(3) of the Securities Act, which make it unlawful for any person in the offer or sale of any securities by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly, to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser. Negligence is sufficient for liability under Sections 17(a)(2) and 17(a)(3).

47. Further, as a result of the conduct described above, Fairmount and Covia violated Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder, which require every issuer of a security registered pursuant to Section 12 of the Exchange Act to file with the Commission, materially accurate annual, quarterly and current reports, that contain such further material information as may be necessary to make the required statements not misleading.

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 that:

- A. Pursuant to 8A of the Securities Act and Section 21C of the Exchange Act, Fairmount cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act and Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11 and 13a-13 thereunder.
- B. Pursuant to 8A of the Securities Act and Section 21C of the Exchange Act, Covia cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act and Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11 and 13a-13 thereunder.

- C. Respondents pay a civil penalty in the amount of \$17 million, on a joint and several basis, which shall be deemed satisfied by a cash payment from Covia in the amount of \$1 million pursuant to Covia Holdings Corporation and its Debtor Affiliates' confirmed Chapter 11 plan or an order of the bankruptcy court allowing such claim and authorizing such payment. Payment shall be made to the Securities and Exchange Commission within 7 days of the effective date of the Chapter 11 plan or entry of such order of the bankruptcy court. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

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

Payments by check or money order must be accompanied by a cover letter identifying Covia 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 Leete, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

D. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended, a Fair Fund is created for the civil penalty paid as referenced in paragraph IV.C. above for distribution to harmed investors pursuant to a plan approved by the Commission. 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 penalty, Respondents agree that in any Related Investor Action, they 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 Covia's 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.

By the Commission.

Vanessa A. Countryman
Secretary