

2. From July 2000 through December 2003, BISYS engaged in a variety of improper accounting practices in its Insurance Services division that overstated BISYS's reported pre-tax income by roughly \$118 million for the fiscal years ended June 30, 2001, 2002, and 2003, and by 34.3%, 38.9%, and 20.6%, respectively, in each of those fiscal years. The improper accounting practices in BISYS's other divisions overstated the company's pre-tax income by an additional \$60.9 million over the same period.

3. These improper accounting practices were the product of a corporate focus on meeting aggressive, short-term earnings targets and a lax internal control environment. Throughout the relevant period, Insurance Services was a major factor in the company's success in achieving those targets. The division's finance department responded to the corporate focus on making numbers by engaging in improper accounting practices.

4. As a result of these improper accounting practices, which were knowingly or recklessly perpetrated by former BISYS officers and employees, the company's books and records were not accurate and its publicly filed financial statements did not comply with Generally Accepted Accounting Principles (GAAP). Without these improper accounting practices, BISYS's reported earnings would have fallen short of Wall Street expectations.

5. BISYS's internal controls were not sufficient to provide reasonable assurance that the company's books and records were accurate or that its financial statements complied with GAAP. Although Insurance Services had grown rapidly through a series of acquisitions, the company failed to adopt and implement adequate controls over the accounting and financial reporting function of the acquired companies as they were integrated. The company lacked adequate controls for reconciling account balances or tracking receivables and lacked controls adequate to ensure that the assumptions used in estimating revenue were valid.

6. With respect to Insurance Services, among other things, BISYS: (a) improperly recorded as its own revenue commissions earned by companies acquired by BISYS before they were acquired; (b) failed adequately to reserve against a substantial aging receivable balance; (c) improperly accounted for renewal and bonus commissions; and (d) made other improper accounting entries that overstated revenue or reduced expenses.

7. With respect to other divisions, among other things, BISYS: (a) improperly recognized revenue from multi-year service contracts; (b) made improper entries in merger accrual accounts in connection with acquisitions; (c) improperly accounted for leases; and (d) improperly accounted for a rebate from a vendor.

8. As a result of these improper accounting practices, BISYS filed annual and quarterly reports with the Commission that included financial statements that were materially inaccurate and misleading. In addition, the company's overstated financial results were incorporated in annual reports to shareholders, press releases, and offering documents including registration statements.

9. On April 22, 2004, BISYS announced that it would take a charge for the quarter ended March 31, 2004 of \$24.7 million to write off commissions receivable in its Insurance Services division. Following the announcement, the closing price of BISYS's common stock on April 22, 2004 was \$13.69, representing a decline of \$1.89, or 12.1%, from the previous day's closing price of \$15.58.

10. After the close of trading on May 17, 2004, BISYS announced: (a) the previously disclosed write-off of \$24.7 million in receivables was then estimated to be approximately \$70-80 million; (b) the company would restate previously issued financial statements; and (c) the company was unable to file its March 31, 2004 10Q, which was due that day. On May 18, 2004,

BISYS announced that the write-off of commissions receivable was then estimated to be approximate \$72 million. The closing price of BISYS's common stock on May 18, 2004 was \$12.97, representing a drop of \$1.13, or 8.0%, from the previous day's closing price of \$14.10. The total decline in the price of BISYS stock from the close of trading on April 21, 2004, the day before the first announcement of any write-off related to commissions receivable, until the close of trading on May 18, 2004, was \$2.61, or 16.8%.

11. On June 16, 2004, BISYS announced that it would restate its previously reported financial results for the fiscal years ended June 30, 2001, 2002 and 2003, and for the quarters ended September 30 and December 31, 2003, to reduce revenue by approximately \$100 million as a result of improper acquisition accounting and improper accounting for commissions receivable in the Insurance Services division. The company ultimately issued two restatements, filing a \$103.7 million restatement in August 2004 and a second restatement of \$108.7 million in April 2006.

12. As a result of the foregoing conduct, BISYS, directly and indirectly, has engaged, and may again engage, in violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Securities Exchange Act of 1934 ("Exchange Act"), and Rules 12b-20, 13a-1, 13a-11 and 13a-13 thereunder.

JURISDICTION

13. The Commission brings this action pursuant to the authority conferred upon it by Section 21(d)(1) of the Exchange Act, 15 U.S.C. § 78u(d)(1), and seeks to restrain and enjoin the defendant from engaging in the acts and practices alleged herein. The Commission also seeks an order requiring BISYS to disgorge the ill-gotten gains received as a result of its violative

conduct, plus prejudgment interest and such other and further relief as the Court deems appropriate.

14. This Court has subject matter jurisdiction over this action pursuant to Sections 21(d)(2), 21(d)(5), 21(e) and 27 of the Exchange Act, 15 U.S.C. §§ 78u(d)(2), 78u(d)(5), 78u(e), and 78aa.

15. BISYS, directly and indirectly, made use of the means or instrumentalities of interstate commerce, or of the mails, or the facilities of a national securities exchange, in connection with the acts, practices, and courses of business alleged in this complaint.

THE DEFENDANT

16. **BISYS** is a publicly-held Delaware corporation with its principal executive office in Roseland, New Jersey. During the relevant period the company was headquartered in New York, New York. BISYS's securities are registered pursuant to Section 12(b) of the Exchange Act. BISYS's common stock trades on the New York Stock Exchange. BISYS's fiscal year ends on June 30th. The improper accounting acts and practices by BISYS described in this Complaint were perpetrated by former BISYS officers and employees.

BACKGROUND

17. During the relevant period, directly and through wholly-owned subsidiaries, BISYS provided products and support services to financial institutions such as insurance companies, banks and mutual funds. At the time, BISYS was divided into three business groups: (1) Insurance and Education Services; (2) Investment Services; and (3) Information Services.

18. During the relevant period, Insurance and Education Services was comprised of the Insurance Services division and the Education Services division. Through the Insurance Services division, BISYS was and is the nation's largest independent distributor of life

insurance. It acts as an insurance broker and provides support services to brokers who sell term, fixed and variable life, long-term care, disability and annuity products.

19. The Investment Services group provided administration and distribution services for mutual fund complexes, hedge funds and private equity funds, and provided retirement plan services to mid-size plans. The Information Services group provided banks, insurance companies and other firms with information processing and check imaging solutions.

20. During the relevant period, Insurance Services' management and finance department were located in Harrisburg, Pennsylvania, and BISYS's corporate finance department, except for its chief financial officer, was located in Columbus, Ohio. The chief financial officer was located at the company's headquarters in New York.

BISYS'S RAPID GROWTH THROUGH ACQUISITIONS IN INSURANCE SERVICES

21. From 2000 through 2003, BISYS consistently reported profits and touted its "record revenue" in earnings releases. This growth was driven in large part by an aggressive acquisition strategy, primarily in Insurance Services, which the company touted as its "fastest growing and highest margin business." Insurance Services' revenues increased as a percentage of BISYS's total reported revenues from 15.7% in the fiscal year ended June 30, 2000 ("fiscal 2000") to 25.5% in the fiscal year ended June 30, 2003 ("fiscal 2003").

22. In fact, however, a material portion of Insurance Services' growth was illusory, and the result of clear deviations from GAAP, including improper acquisition accounting, the failure to reserve properly against uncollectible accounts receivable, improper accounting for renewal and bonus commissions, and a variety of unsupported accounting entries that enabled BISYS to meet Wall Street expectations.

THE IMPROPER ACQUISITION ACCOUNTING

23. From July 2000 through June 2003, Insurance Services acquired twelve insurance brokerage companies. These acquisitions contributed substantially to BISYS's overall growth, accounting for approximately \$86 million of the company's total revenue growth during the period of \$387 million. A material portion of this growth from acquisitions was the result of the use of an improper accounting methodology that enabled BISYS to book income it had not earned but rather that had been earned by the acquired companies before the acquisition.

24. With a few exceptions, the acquired companies used cash basis accounting. This meant that under GAAP, BISYS was required to record the acquired company's commissions receivable on the acquired company's balance sheet at the time of acquisition by estimating the amount still to be received for policies sold prior to the acquisition. Under GAAP, these commissions did not constitute revenue to BISYS.

25. However, contrary to GAAP, BISYS recorded the commissions previously earned by the acquired company, but not yet paid, as its own revenue. For ten acquisitions (of companies using cash basis accounting), BISYS recorded all of the acquired company's previously-earned commissions as BISYS's revenue in periods after the acquisition and recorded none of those commission receivables on the opening balance sheets of the acquired companies. For two other acquisitions (of companies using accrual basis accounting), BISYS recorded some of the acquired company's previously-earned commissions as BISYS's own revenue, and under-recorded commissions receivable on the opening balance sheet of the acquired company.

26. The practice of recording as BISYS's own revenue, commissions earned by the acquired companies prior to the acquisition was well known within the company. The practice was reflected in numerous documents circulated to former members of senior management,

including due diligence reports, management reports and monthly preliminary analyses of financial results that showed that BISYS made significant revenue entries immediately after acquisitions.

27. Within the company, the revenue improperly recorded in connection with Insurance Services' acquisitions was referred to as "cash to accrual pick-ups."

28. Not only was the practice inconsistent with GAAP, but it was contrary to BISYS's own revenue recognition policy. According to that policy, "revenue recognition occurs at the moment the client accepts the policy," which in the case of policies sold by acquired companies occurred before the acquisition.

29. BISYS's improper acquisition accounting resulted in the material overstatement of BISYS's income for fiscal years 2001, 2002, and 2003. By improperly accounting for the income earned by the companies it acquired, BISYS improperly recognized revenue of \$7,214,000 in fiscal 2001, \$7,745,000 in fiscal 2002, and \$7,451,000 in fiscal 2003, overstating pre-tax income in each of those years by 6.9%, 5.7% and 5.1%, respectively.

30. In many instances, BISYS's accounting for acquisitions was the difference between missing or meeting earnings targets. For example, as a result of the company's accounting for its acquisition of Harrison James in May 2002, reported earnings per share ("EPS") was overstated by \$0.01 for the quarter and year ended June 30, 2002, just matching analysts' expectations.

31. One significant example of BISYS's improper acquisition accounting was its accounting for commission revenue earned by Ascensus Insurance Services, which BISYS acquired on July 31, 2000. Ascensus employed accrual accounting and thus had already recorded previously earned commissions as receivables on its own books. While performing due

diligence for the acquisition, BISYS learned that Ascensus had earned but failed to record on its books over \$4 million of bonus commission revenue for fiscal 1999 and 2000. (Bonus commissions are additional commissions on the sale of insurance, based on the insurance brokers having reached certain sales targets.) BISYS did not record this additional receivable as an asset on Ascensus' balance sheet at the time of the acquisition, as required by GAAP. Instead, after the acquisition, over a period of several months BISYS booked millions of dollars of Ascensus's unrecorded bonus revenue as its own.

32. As a result of its improper accounting for the Ascensus under-booked bonus, BISYS improperly recorded \$3.2 million in revenue for the quarter ended September 30, 2000, and thus overstated its income before taxes by approximately 18%. In addition, the company was able to report EPS of \$0.22, exceeding analysts' expectations (excluding merger charges) by \$0.01. Without the revenue attributable to the Ascensus under-booked bonus, EPS would have been \$0.19 and fallen short of analysts' expectations.

THE FAILURE ADEQUATELY TO RESERVE FOR AGING RECEIVABLES

Background – BISYS's Accounting for Insurance Commission Receivables

33. Insurance Services' primary source of revenue was commissions earned on the sale of life insurance products. BISYS received insurance commissions from insurance carriers, generally net of any commissions due the selling agent. The company recorded commission revenue when the policies were placed or renewed. Although premiums were paid annually, semi-annually, quarterly, or monthly, BISYS immediately recorded the total commission due on the full year's premium even though it collected the receivable only as the policy holder made premium payments. BISYS earned three types of insurance commissions: first-year commissions, renewal commissions and bonus commissions.

34. First-year commissions are commissions earned on the initial sale of insurance policies. In January 2001, BISYS began to implement a point-of-sale (“POS”) system that allowed the recording of first-year commissions on a policy-by-policy basis. As BISYS acquired companies, it would transition them to the BISYS POS system. However, there was a time lag between acquisition and integration into the POS system. In this lag period, acquired companies would book receivables for first-year commissions separately, and these “non-POS” receivables were organized on BISYS’s books by acquired company. Unlike the POS system, which had detailed sub-ledgers identifying each policy upon which a commission was due, the non-POS receivables generally were not supported by such detailed information.

35. Renewal commissions were commissions earned on policies renewed in the second year and thereafter, and were substantially smaller than first-year commissions. BISYS had much less information on the renewal of policies than it did on the initial sale because renewals generally occurred directly between the policy holder and the carrier. BISYS received monthly checks from carriers with statements indicating the policies for which renewal commissions were being paid. Rather than recording these commissions on a cash basis as payments were received from carriers, BISYS estimated its renewal commissions and recorded a corresponding receivable. This estimate was then adjusted quarterly, based on historical net cash receipts.

36. In addition to first-year and renewal commissions, BISYS received a variety of bonus commissions. The majority of the bonus commissions were additional commissions based on total business for the year. The bonus rate, which could be calculated either as a percentage of the premium or of the first year commission rate, increased during the year as production thresholds – generally either placed or paid premiums – were reached. For example, the carrier

might pay a 25% bonus if production exceeded \$10 million in premiums and increase the rate to 30% if production exceeded \$20 million. The increase to 30% would be retroactively paid so all production would receive the 30% rate. BISYS's policy was to estimate the bonus commissions based on prior history and adjust quarterly for current production.

The Failure to Adequately Reserve for the Aging Non-POS Balance

37. By the time of fiscal 2003 audit, a large commission receivable balance in Insurance Services was old and lacked adequate support. As of June 30, 2003, the non-POS receivable balance was \$33.6 million, of which more than \$23 million, or 69%, was attributable to first-year commission receivables that were over a year old. This non-POS balance represented roughly 25% of Insurance Services' total accounts receivable balance of \$130 million. The old and uncollectible non-POS receivables ultimately accounted for \$23.2 million of the approximately \$122 million restatement for Insurance Services.

38. The only support for many of the non-POS receivables was a roll-forward schedule that showed an ending balance for the month for each acquired company. BISYS maintained no documentation to support those ending balances, which were based on estimates. Accordingly, it was not possible to compare the amounts supposedly owed by each carrier with data substantiating or detailing the receivable.

39. Company officials were aware of the age, size, and lack of documentation for these receivables. For example:

- a. By the time of the fiscal 2003 audit, analyses by Insurance Division finance staff indicated that at least \$15.9 million of the non-POS balance was probably uncollectible and that anywhere from \$1.6 million to \$4 million of POS receivables were uncollectible, including receivables associated with policies that had lapsed or not been taken out.

b. In addition, BISYS had established a committee to monitor balance sheet accounts throughout the company – the “Reconciliation Review Committee.” The committee included the former corporate controller, among others, and met at roughly six-month intervals, beginning in April 2002. At each of these meetings, the committee noted that “reconciliations for AR-Commissions on most [acquired insurance brokerage] companies are inadequate to support general ledger balances. Presently they consist of a roll forward of monthly activity with no proof of ending balance.” The roll-forward schedules reflected very little cash received in the accounts receivable.

c. By the end of fiscal 2003, former company officials had decided that BISYS would write off between \$7 and \$8 million of Insurance Services’ receivables the following fiscal year rather than in the current year.

40. Notwithstanding all these indications that a substantial portion of Insurance Services’ non-POS and other receivables was probably uncollectible, at June 30, 2003, BISYS established a reserve of only \$4.99 million for all of Insurance Services’ receivables, which totaled over \$130 million. Only \$3 million of the \$4.99 million reserve was attributable to non-POS receivables.

41. This reserve was inadequate. Former BISYS officers were aware that the reserve for non-POS receivables was understated by at least \$12.9 million. In fact, the reserve for non-POS receivables subsequently proved to be understated by approximately \$23 million when BISYS reported its financial results for the fiscal year ended June 30, 2003. When the company restated, it wrote off \$23 million of non-POS receivables as uncollectible, after having established a reserve for non-POS receivables of only \$3 million.

