

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 71154 / December 20, 2013**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 3520 / December 20, 2013**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15536**

**In the Matter of**

**JOHN KINROSS-KENNEDY, CPA,**

**Respondent.**

**ORDER MAKING FINDINGS AND  
IMPOSING REMEDIAL SANCTIONS  
PURSUANT TO SECTIONS 4C AND  
21C OF THE SECURITIES  
EXCHANGE ACT OF 1934 AND RULE  
102(e) OF THE COMMISSION'S  
RULES OF PRACTICE AND A  
CEASE-AND-DESIST ORDER**

**I.**

On September 30, 2013, the Securities and Exchange Commission (“Commission”) instituted public administrative and cease-and-desist proceedings against John Kinross-Kennedy, CPA (“Respondent” or “Kinross”) pursuant to Sections 4C<sup>1</sup> and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(ii) and (iii) of the Commission’s Rules of Practice.<sup>2</sup>

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<sup>1</sup> Section 4C provides, 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 . . . (1) not to possess the requisite qualifications to represent others . . . (2) to be lacking in character or integrity, or 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 thereunder.

<sup>2</sup> Rule 102(e)(1)(ii) provides, in pertinent part, that:

The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have engaged in unethical or improper professional conduct.

Rule 102(e)(1)(iii) provides, in pertinent part, that:

The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have willfully violated, or willfully aided and abetted the violation of any provision of the Federal securities laws or the rules and regulations thereunder.

## II.

Respondent has submitted an Offer of Settlement (the “Offer”) 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 him and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Making Findings and Imposing Remedial Sanctions Pursuant to Sections 4C and 21C of the Exchange Act and Rule 102(e) and a Cease-and-Desist Order (“Order”), as set forth below.

## III.

On the basis of this Order and Respondent’s Offer, the Commission finds<sup>3</sup> that:

### A. SUMMARY

These proceedings arise out of John Kinross-Kennedy’s improper professional conduct in connection with audit and review engagements for issuers for fiscal periods beginning on or after December 15, 2009. During this period, Kinross issued audit reports in which he falsely represents that he conducted his audits in accordance with Public Company Accounting Oversight Board (“PCAOB”) standards. This matter also involves Kinross’s willful violations of Sections 10A(j) and 10A(k) of the Exchange Act and Rules 2-02(b)(1) and 2-07 of Regulation S-X.

### B. RESPONDENT

John Kinross-Kennedy, age 85, of Irvine, California, is a certified public accountant licensed in California. Kinross has operated as an unincorporated sole proprietor since 1993 and has been registered with the PCAOB since 2005. As of July 15, 2013, Kinross is the independent public accountant for six public companies. Since 2009, at any one time, he has been the independent accountant for as many as 23 public companies.

### C. RELEVANT ISSUERS

At all relevant times Issuer A’s common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was traded on the OTC Bulletin Board, and its fiscal year ended on the last day of March.

At all relevant times, Issuer B filed reports with the Commission pursuant to Section 15(d) of the Exchange Act, its common stock was traded on the OTC Market, and its fiscal year ended on the last day of August.

At all relevant times, Issuer C’s common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was traded on the OTC Market, and its fiscal year ended on the last day of September.

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<sup>3</sup> The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

At all relevant times, Issuer D’s common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was traded on the OTC Bulletin Board, and its fiscal year ended on the last day of December.

At all relevant times, Issuer E filed reports with the Commission pursuant to Section 15(d) of the Exchange Act, its common stock was traded on the OTC Bulletin Board, and its fiscal year ended on the last day of December.

**D. FACTS**

1. During 2011 and 2012, Kinross issued six audit reports containing unqualified opinions listed in the table below in connection with his audits of the financial statements of five issuers (the “Issuer Audits”), as well as audit reports for approximately 20 other issuers. In each of these six audit reports, Kinross represents that he conducted his audits in accordance with PCAOB standards. Kinross failed, however, to conduct each of the six audits of the five issuer’s financial statements in accordance with PCAOB standards, as described below.

<b>Issuer</b>	<b>Report Date</b>	<b>Fiscal Periods</b>
Issuer A	June 21, 2011	Periods from inception, March 31, 2009, to March 31, 2010 and 2011
Issuer A	June 25, 2012	Periods from inception, March 31, 2009, to March 31, 2011 and 2012
Issuer B	Oct. 31, 2011	Years ended and periods from inception, August 22, 2008, to August 31, 2011 and 2010
Issuer C	Dec. 22, 2011	Years ended and periods from inception, August 2, 2005, to September 30, 2011 and 2010
Issuer D	March 26, 2012	Years ended and periods from inception, December 22, 2006, to December 31, 2011 and 2010
Issuer E	Feb. 29, 2012	Years ended December 31, 2011 and 2010

**AU §230, Due Professional Care in the Performance of Work**

2. Kinross failed to exercise due professional care in each of the six Issuer Audits. *See* AU §230.02-.06. Kinross does not possess the degree of skill commonly possessed by other auditors and failed to exercise reasonable care and diligence. AU §230.02-.05. Kinross’s lack of knowledge and skill is demonstrated by his admitted unfamiliarity with PCAOB requirements to perform certain auditing procedures, e.g. annual written confirmation of his independence (*See* PCAOB Rule 3526), and his failure to communicate with the predecessor auditor (*See* AU §315) and communicate with the audit committee (*See* AU §380). He also was unaware of certain changes in GAAP, such as the 2001 shift from amortization of goodwill to non-amortization of goodwill (changed by Statement of Financial Accounting Standards No. 142, *Goodwill and Other Intangible Assets* (June 2001)).

3. Kinross also failed to exercise due professional care on fundamental aspects of the audits by using outdated audit templates to document his audit planning and performance of certain audit procedures on each of the audits without any apparent effort to adapt those templates for subsequent changes in auditing standards. Kinross relied upon checklists published in 1993, the

year he formed his audit practice and ten years before the creation of the PCAOB, for client acceptance, internal control evaluation, and transactional audit plans for small organizations. Kinross's audit work papers for Issuer D's December 31, 2011 financial statements included a copy of the cover page and an index of a 1993-checklist, but did not include the checklist itself. Not only was the checklist outdated, the cover page indicated that it pertained to GAAP disclosure requirements for financial statements of a *nonpublic* commercial business.

4. Kinross's inappropriate use of client personnel to perform audit steps also illustrates his lack of due professional care. For example, for Issuer E's December 31, 2011 audit, Kinross instructed client personnel to select one invoice per month for the sample to be subjected to audit testing. Even though he was present at the time the client made the selection, Kinross should have made sure that all items were available for selection, selected the items, and made sure that the sample was expected to be representative of the population.<sup>4</sup>

#### **AU §326, Evidential Matter and Auditing Standard No. 15, Audit Evidence**

5. Under AU §326, *Evidential Matter*, which was in effect for the pertinent periods beginning before December 15, 2010, an auditor was required to obtain sufficient competent evidential matter to afford a reasonable basis for his opinion. See AU §326.01 and 22-24; and AU §150.02, *Generally Accepted Auditing Standards*. Auditing Standard No. 15, *Audit Evidence* ("AS 15"), which is effective for fiscal periods beginning on or after December 15, 2010, requires that an auditor plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his opinion. See AS 15, ¶4. For each of the six Issuer Audits, Kinross failed to obtain the requisite level of evidential matter or audit evidence to support his opinion.

6. For the three audits of fiscal years beginning before December 15, 2010, Kinross failed to obtain sufficient competent evidential matter to afford a reasonable basis for his opinion. For issuer A, Kinross issued an audit report containing an unqualified opinion on Issuer A's financial statements as of March 31, 2010 and 2011 and the periods from inception (March 31, 2009), despite the fact that he had performed no audit procedures as of March 31, 2010 or for the period from inception (March 31, 2009) to March 31, 2010. Kinross issued an audit report containing an unqualified opinion on Issuer B's August 31, 2011 financial statements. Issuer B's sole operating subsidiary accounted for 100 percent of Issuer B's revenues and cost of revenues and 15 percent of its expenses. Yet, Kinross performed no audit procedures on the subsidiary's revenues or its expenses. Instead, Kinross conducted a "balance sheet audit," relying on the change in net equity to validate the subsidiary's net income and limiting the testing of Issuer B's expenses. With respect to Issuer C, which recorded a \$42 million gain upon deconsolidation of Issuer B and a corresponding \$42 million investment in Issuer B (See FASB ASC 810-10-40-5, *Consolidation: Derecognition*), Kinross failed to consider potential impairment of Issuer C's \$42

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<sup>4</sup> AU §350.03 *Audit Sampling*, "[R]equire[s] that the auditor use professional judgment in planning, performing, and evaluating a sample and in relating the evidential matter produced by the sample to other evidential matter when forming a conclusion about the related account balance or class of transactions." Additionally, AU §350.39 provides that the sample should be selected in such a way that the sample can be expected to be representative of the population and that all items in the population should have an opportunity to be selected.

million investment in Issuer B despite Issuer B's stock price having declined by 94 percent by Issuer C's fiscal year end.

7. For the three audits of fiscal years beginning on or after December 15, 2010, Kinross failed to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his opinion. For issuer A, Kinross issued an audit report containing an unqualified opinion on Issuer A's financial statements as of March 31, 2011 and 2012 and the periods from inception (March 31, 2009), despite the fact that he had performed no audit procedures as of March 31, 2010 or for the period from inception (March 31, 2009) to March 31, 2010. With respect to his audit of Issuer D's December 31, 2011 financial statements, Kinross inadequately tested revenues and cost of goods sold. Despite Issuer D having only one customer and relatively few transactions, Kinross did not review sales contracts or purchase orders with customers or suppliers to identify terms that might affect the timing of revenue recognition or cost of goods sold. Additionally, Kinross inappropriately relied upon documents that he could not read, either because the documents were written in Chinese or because the copies were illegible. With respect to Issuer E, Kinross inadequately tested revenues and failed to investigate material differences between schedules detailing sales transactions and the amount of recorded sales revenue.

#### **Auditing Standard No. 8, Audit Risk**

8. Kinross failed to obtain sufficient audit evidence by failing to conduct three audits in compliance with Auditing Standard No. 8, *Audit Risk* ("AS 8"), which was effective for audits of fiscal years beginning on or after December 15, 2010. AS 8 requires an auditor to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement due to error or fraud. An auditor obtains reasonable assurance by reducing audit risk to an appropriately low level through applying due professional care, including obtaining sufficient appropriate audit evidence. *See AS 8, ¶3.* Kinross did not exercise due professional care and did not obtain sufficient appropriate audit evidence for Issuer D's and Issuer E's December 31, 2011 audits or Issuer A's March 31, 2012 audit. Consequently, Kinross did not conduct these audits in a manner designed to reduce audit risk to an appropriately low level.

#### **AU §333, Management Representations**

9. Under AU §333, *Management Representations*, an independent auditor must obtain written representations from management for all financial statements and all periods covered by the audit report. Kinross failed to satisfy this auditing standard for each of the Issuer Audits because he issued audit reports on both the current and prior year's financial statements even though he obtained written representations from management only for the current year's financial statements. *See AU §333.05.*

#### **Auditing Standard No. 3, Audit Documentation**

10. For each of the Issuer Audits, Kinross's audit documentation was deficient. Auditing Standard No. 3, *Audit Documentation* ("AS 3") establishes the requirements for documentation that the auditor should prepare and retain in connection with engagements to support the auditor's conclusions and representations contained in the auditor's report. *See AS 3,*

¶2. Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement to i) understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached; and ii) determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review. *See AS 3 ¶6.* Kinross failed to prepare documentation that sufficiently described the procedures he performed, the evidence he obtained, and the conclusions he reached. Kinross’s documentation also did not identify the person who performed the work and the date such work was completed, or the person who reviewed the work and the date of the review. Kinross performed substantially all of the audit procedures, but he frequently did not sign or initial and date his audit work papers. Additionally, Kinross did not include written audit programs or document the conclusions he reached for most audit areas other than cash. *See AS 3, ¶¶4-6.* Finally, he did not prepare an engagement completion document identifying significant findings or issues. *See AS 3, ¶13.*

11. Kinross added information to his audit work papers after the documentation completion date without identifying who prepared the additional documentation and explaining why it was added. In some instances, he failed to specify the date he added the information. *See AS 3, ¶16.*

12. Kinross did not retain audit documentation for the required seven years. Kinross was unable to locate documentation to support his audit reports on Issuer B’s fiscal year 2008 and Issuer C’s fiscal year 2008 financial statements, the earliest years covered by his initial audit reports for these issuers. *See AS 3, ¶14.*

### **Auditing Standard No. 7, Engagement Quality Review**

13. Kinross failed to obtain required Engagement Quality Reviews (“EQR”) for the vast majority of his audit engagements, and he engaged an unqualified person to perform the few EQRs that he did obtain. Under Auditing Standard No. 7, *Engagement Quality Review* (“AS 7”), an auditor must obtain an EQR and concurring approval of issuance for each audit and interim review engagement.<sup>5</sup> Kinross engaged Wilfred W. Hanson to conduct EQRs on the engagements for five of the 40 audit reports he issued on financial statements for fiscal years beginning on or after December 15, 2009.<sup>6</sup> For the same period, however, Kinross did not obtain the required EQRs for any of the other 35 audits he conducted or for any reviews of interim financial information. *See AS 7, ¶1.*

14. Kinross engaged Hanson to conduct an EQR on the audits of Issuer A’s March 31, 2012 financial statements, Issuer B’s August 31, 2011 financial statements, Issuer C’s September 30, 2011 financial statements, Issuer D’s December 30, 2011 financial statements, and Issuer E’s December 31, 2011 financial statements. In connection with these audits, Kinross did not ascertain whether Hanson was qualified to perform the review. An engagement quality reviewer must be, among other things, competent, i.e., possessing the level of knowledge and competence related to

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<sup>5</sup> AS 7 is effective for audits and interim reviews for fiscal years beginning on or after December 15, 2009.

<sup>6</sup> On September 30, 2013, the Commission brought a settled action against Hanson for his role as EQR on certain Kinross engagements. *In the Matter of Wilfred W. Hanson, CPA*, (Accounting and Auditing Enforcement Release No. 3503).

accounting, auditing and financial reporting required to serve as the engagement partner on the engagement under review. See AS 7, ¶¶4-5. Additionally, Kinross did not establish quality control policies and procedures to provide him with reasonable assurance that the engagement quality reviewer has sufficient competence, among other things, to perform the EQR. See AS 7, ¶4.<sup>7</sup> Finally, Kinross did not ensure that his audit documentation included adequate documentation of Hanson's EQRs. See AS 7, ¶¶19-21.

15. With respect to Issuer D, Kinross requested that Hanson act as the engagement quality reviewer but did not request him to provide concurring approval of issuance of Kinross's audit report. Instead, Kinross improperly signed as the engagement quality reviewer and provided concurring approval to issue the audit report, even though Kinross was the engagement partner responsible for supervising the audit.

### **AU §508, Reports on Audited Financial Statements**

16. Under AU §508, *Reports on Audited Financial Statements*, an auditor may express an unqualified opinion on historical financial statements only when the auditor has formed such an opinion on the basis of an audit performed in accordance with PCAOB standards. See AU §508.07. Kinross failed to conduct each of the Issuer Audits in accordance with PCAOB standards. Kinross should not have issued audit reports expressing an unqualified opinion and asserting he had conducted his audits in accordance with PCAOB standards.

### **Communications with Audit Committees**

17. For each of the Issuer Audits, Kinross failed to make required communications to the audit committee or to others responsible for the oversight of the issuer's financial reporting process. See AU §380, *Communication With Audit Committees*, Section 10A(k) of the Exchange Act, Rule 2-07 of Regulation S-X, and PCAOB Rule 3526, *Communication with Audit Committees Concerning Independence*. Kinross did not make or document that he had made the required communications to the audit committee (or board of directors for the entities without an audit committee), including, where applicable: i) the auditor's responsibility under PCAOB standards, ii) significant accounting policies, iii) management's judgments and accounting estimates, iv) audit adjustments, v) the auditor's judgment about the quality of the company's accounting principles, vi) other information in documents containing audited financial statements, vii) disagreements with management, viii) consultation with other accountants, ix) major issues discussed with management prior to retention, and x) difficulties encountered in performing the audit. See AU §380.03-.16.

18. For each of the Issuer Audits, Kinross neglected to report information regarding: i) all critical accounting policies and practices to be used, ii) all alternative treatments of financial information within GAAP for policies and practices related to material items that have been discussed with management, including ramifications of the use of such alternative disclosures and

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<sup>7</sup> PCAOB standard QC §40, *The Personnel Management Element of a Firm's System of Quality Control-Competencies Required by a Practitioner-in-Charge of an Attest Engagement* states, in part, that policies and procedures should be established to provide the firm with reasonable assurance that "those hired possess the appropriate characteristics to enable them to perform competently" and "[w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances." QC §40, ¶.02.

treatments, and the treatment preferred by the registered public accounting firm, and iii) other material written communications between the registered public accounting firm and management (management letter, schedule of unadjusted differences). See Section 10A(k) of the Exchange Act and Rule 2-07 of Regulation S-X.

19. With respect to Issuer A, Kinross failed to affirm to the audit committee,<sup>8</sup> in writing, prior to accepting his initial engagement pursuant to standards of the PCAOB that he was in compliance with PCAOB Rule 3520, *Auditor Independence*. Similarly, with respect to continuation of engagements for Issuers A, B, C, D, and E, Kinross failed to affirm to the audit committee, in writing, at least annually that he was in compliance with PCAOB Rule 3520. (See PCAOB Rule 3526, *Communication With Audit Committees Concerning Independence*.)

### **AU §315, Communications Between Predecessor and Successor Auditors**

20. Kinross failed to make required communications with the predecessor auditor or obtain sufficient competent evidential matter to afford a reasonable basis for his opinion on Issuer A's fiscal year 2010 financial statements, which were included in his audit report on Issuer A's financial statements for the fiscal years ending March 31, 2011 and March 31, 2010. As the successor auditor, Kinross was required to obtain sufficient competent evidential matter to afford a reasonable basis for expressing an opinion on Issuer A's financial statements, including making an inquiry of the predecessor auditor and requesting to review its work papers. See AU §315, *Communications Between Predecessor and Successor Auditors*, ¶¶.03 and ¶¶.07-.13. For the fiscal year ending March 31, 2010, Kinross never contacted Issuer A's predecessor auditor. Instead, he relied exclusively on the predecessor's audit report on Issuer A's March 31, 2010 financial statements as the basis for his opinion on Issuer A's March 31, 2010 financial statements, even though he had not spoken with the predecessor auditor or reviewed the predecessor auditor's work papers. Because Kinross performed no audit procedures as of March 31, 2010 or for the period then ended, he failed to obtain sufficient competent evidential matter to afford a reasonable basis for his opinion on Issuer A's March 31, 2010 and 2011 financial statements. See AU §326 and AU §315.12.

### **AU § 330, The Confirmation Process**

21. With respect to Issuer A, and consistent with his practice, Kinross did not control the confirmation process. The purpose of the confirmation process, which includes communicating the confirmation request to the appropriate third party, is to obtain evidence from a third party about financial statement assertions made by management. See AU §§ 330.04, 330.06, and 330.28. Kinross failed to maintain control over the confirmation requests and did not establish direct communication with the intended recipients. Kinross knew that the auditor should control the confirmation process, but he instructed his clients to prepare and mail confirmation requests on his behalf.

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<sup>8</sup> Section 3(a)(58) of the Exchange Act states, in part, that the term "audit committee" means the entire board of directors if the issuer does not have an audit committee.

### **AU §334, Related Parties**

22. With respect to Issuer D, Kinross failed to evaluate and assess the adequacy of the issuer's disclosure of related party transactions. Kinross knew that Issuer D derived 100 percent of its revenues and cost of revenues from a company that owned 93 percent of Issuer D's common stock, and with which Issuer D shared its officers and its principal place of business. Kinross also knew or should have known that the transactions with its parent company were material and required disclosure. *See* FASB ASC 850-10-50, *Related Party Disclosures*. Kinross failed to consider whether he had obtained sufficient appropriate evidential matter to understand the relationship of the parties and the effects of the transactions on the financial statements. Similarly, he failed to evaluate all the information available and satisfy himself that Issuer D adequately disclosed related party transactions in its financial statements. *See* AU §334.11. In fact, Issuer D did not make required disclosures regarding related party transactions in its December 31, 2011 financial statements.

### **Auditing Standard No. 14, Evaluating Audit Results**

23. For Issuers C and D, Kinross failed to aggregate uncorrected differences that were clearly not inconsequential, and evaluate whether they were material, either individually or in combination with other misstatements. AS 14, *Evaluating Audit Results*, ("AS 14").<sup>9</sup> Kinross determined planning materiality based on an amount equal to five percent of total expenses. During the audit, Kinross identified, but did not address differences that exceeded five percent of total expenses, i.e., planning materiality. Kinross failed to evaluate whether the uncorrected differences were material, individually or in combination with other misstatements. *See* AS 14, ¶¶11-18.

### **Section 10A(j) of the Exchange Act, Audit Partner Rotation**

24. Kinross was Issuer D's registered public accounting firm from 2007 until he resigned in November 2012. During this period, Kinross issued audit reports for Issuer D's financial statements for each of the five years in the period ended December 31, 2011. Kinross continued to provide audit services in connection with reviews of Issuer D's interim financial information for the quarters ended March 31, June 30, and September 30, 2012.<sup>10</sup> As a result, Kinross was not independent with respect to the audit services he provided in connection with his review of Issuer D's 2012 interim financial statements.<sup>11</sup> *See* Section 10A(j) of the Exchange Act.

## **E. VIOLATIONS**

1. As a result of the conduct described above, Kinross willfully violated Sections 10A(j) and 10A(k) of the Exchange Act.

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<sup>9</sup> AS 14 is effective for audits of fiscal years beginning on or after December 15, 2010.

<sup>10</sup> PCAOB Rule 1001(a)(vii) defines audit services, in part, as "professional services rendered for the audit of an issuer's annual financial statements, and (if applicable) for the reviews of an issuer's financial statements included in the issuer's quarterly reports."

<sup>11</sup> Kinross does not qualify for the audit partner rotation exemption pursuant to Rule 2-01(c)(6)(ii) of Regulation S-X because Kinross was the auditor for five or more issuer clients at all relevant times.

2. As a result of the conduct described above, Kinross willfully violated Rule 2-02(b)(1) and Rule 2-07 of Regulation S-X.

3. As a result of the conduct described above, Kinross engaged in improper professional conduct as defined in Rule 102(e)(1)(iv)(B)(2) in that his conduct constituted negligent conduct, consisting of repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission.

4. As a result of the conduct described above, Kinross willfully violated certain provisions of the Federal securities laws and the rules and regulations thereunder pursuant to Rule 102(e)(1)(iii) of the Commission's Rules of Practice.

#### **F. Findings**

1. Based on the foregoing, the Commission finds that Kinross willfully violated Sections 10A(j) and 10A(k) of the Exchange Act and Rules 2-02(b)(1) and 2-07 of Regulation S-X.

2. Based on the foregoing, the Commission finds that Kinross 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 willfully violated certain provisions of the federal securities laws, pursuant to 4C(a)(3) of the Exchange Act and Rule 102(e)(1)(iii) of the Commission's Rules of Practice.

#### **IV.**

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Kinross' Offer.

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

A. Kinross shall cease and desist from committing or causing any violations and any future violations of Sections 10A(j) and 10A(k) of the Exchange Act and Rules 2-02(b)(1) and 2-07 of Regulation S-X.

B. Kinross is denied the privilege of appearing or practicing before the Commission as an accountant.

C. After five years from the date of this order, Respondent may request that the Commission consider his reinstatement 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 practice before the Commission will be reviewed either by the independent audit committee of the

public company for which he works or in some other acceptable manner, as long as he 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 is associated, is registered with the PCAOB 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 is associated, has been inspected by the PCAOB 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 PCAOB, and has complied with all terms and conditions of any sanctions imposed by the PCAOB (other than reinstatement by the Commission); and

(d) Respondent acknowledges his 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 PCAOB, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

D. The Commission will consider an application by Respondent to resume appearing or practicing before the Commission provided that his state CPA license is current and he 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.

By the Commission.

Elizabeth M. Murphy  
Secretary