

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 73434 / October 27, 2014

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3593 / October 27, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-16215

In the Matter of

**GREAT LAKES DREDGE
& DOCK CORPORATION**

Respondent.

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

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Great Lakes Dredge & Dock Corporation (“Great Lakes” or “the company” or “Respondent”).

II.

In anticipation of the institution of these proceedings, 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 it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order and a Civil Penalty (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

1. During the second and third quarters of 2012, Great Lakes overstated revenue in its demolition segment. Specifically, the demolition segment recorded revenue for pending change orders even though it did not have sufficient proof of customer acceptance of the pending change orders. The company's inadequate internal controls over revenue recognition with respect to pending change orders on its demolition projects failed to prevent or detect these misstatements.

2. The revenue overstatements were discovered during the year-end 2012 audit process. A material weakness in the company's system of internal control over financial reporting failed to prevent or detect misstatements of the company's financial statements for the quarterly and year-to-date periods ended June 30, 2012, and September 30, 2012. Specifically, the company's controls failed to capture and analyze timely and consistently pending change orders in its demolition segment, largely as a result of inadequate accounting policies and procedures, inadequate training of segment personnel, and insufficient monitoring by corporate accounting staff.

3. In addition, by recognizing certain pending change order revenue in its demolition segment without sufficient proof of customer acceptance, the company did not comply with its accounting policies set forth in its annual Commission filings. Moreover, by overstating revenue in its demolition segment, Great Lakes also materially overstated its net income for the second and third quarters of 2012. Accordingly, Great Lakes violated Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 12b-20 and 13a-13 thereunder, the reporting, books-and-records, and internal controls provisions of the federal securities laws.

Respondent

4. Great Lakes Dredge & Dock Corporation is a Delaware corporation, headquartered in Oak Brook, Illinois, that in 2012 operated in two reportable segments: a dredging segment with both U.S. and foreign operations, which was responsible for 85% of the company's revenues; and a demolition segment with only U.S. operations, which was responsible for the remaining 15% of revenues.² Great Lakes's common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act and trades on NASDAQ (Ticker: GLDD). Great Lakes files periodic

¹ 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.

² On April 23, 2014, Great Lakes sold its demolition subsidiary.

reports, including Forms 10-K and 10-Q, with the Commission pursuant to Section 13(a) of the Exchange Act and related rules thereunder.

Facts

Great Lakes's Restatement

5. On March 14, 2013, Great Lakes filed with the Commission a Form 8-K announcing that it would restate its demolition segment revenues for the second and third quarters of 2012. In addition, Great Lakes announced that it had identified a material weakness in its internal control over financial reporting that failed to prevent or detect accounting errors in its financial statements. The Form 8-K further stated that Great Lakes would file amended Forms 10-Q for the quarters ended June 30 and September 30, 2012 and that the filing of its Form 10-K for the year-ended December 31, 2012 would be delayed. According to the Form 8-K and the amended filings, the company had recorded revenues from certain pending change orders in the demolition segment where client acceptance had not been finalized. The revenue recognition was inconsistent with Great Lakes's accounting policy and also inconsistent with Generally Accepted Accounting Principles (GAAP). Great Lakes filed its Forms 10-Q/A for the restated quarters, as well as its 2012 Form 10-K, on March 29, 2013.

Great Lakes's External Auditor Advised the Company in Prior Periods of Concerns Regarding Its Accounting for Pending Change Orders

6. During 2012 and earlier periods, a "pending change order" occurred when Great Lakes's demolition subsidiary performed additional work on a project outside the provisions of the original contract and had not yet received a final written contract amendment approving the scope and price of the work from the customer. Sometimes, the demolition subsidiary did not yet have customer acceptance as to the amounts to be paid for the additional work. Great Lakes's policy for pending change orders was to immediately recognize the costs, but recognize the related revenue (up to cost) when the recovery was probable and collectability was reasonably assured. Once the scope and amount were formally documented in a written contract amendment, it became a "change order," and Great Lakes then recognized profit margin for the additional work. Pending change orders in dispute or unapproved as to both scope and price left Great Lakes with a "claim" for payment. Under Great Lakes's accounting policy, revenue associated with a "claim" was not recognized until such claim was settled.³

³ Under GAAP, accounting for unpriced change orders "depends on their characteristics and the circumstances in which they occur. For all unpriced change orders, recovery should be deemed probable if the future event or events necessary for recovery are likely to occur. Some of the factors to consider in evaluating whether recovery is probable are the customer's written approval of the scope of the change order, separate documentation for change order costs that are identifiable and reasonable, and the entity's favorable experience in negotiating change orders, especially as it relates to the specific type of contract and change order being evaluated." (ASC 605-35-25-28.) Under GAAP, "change orders in dispute or unapproved as to both scope and price" are treated as claims (ASC 605-35-25-30). Recognition of revenue relating to claims is permitted under GAAP only if certain specific conditions are met. However a company may elect, as Great Lakes did, "a practice such as recording revenues from claims only when the amounts have been received or awarded" (ASC 605-35-25-31). The

7. During the 2010 year-end audit, Great Lakes's external auditor advised the Audit Committee and management that it disagreed with the company's accounting for certain pending change orders in one demolition project because the pending change orders had not been prepared, submitted to the customer, or approved. Although the revenue amounts were not material to the company's financial statements, the auditor determined that the issue represented a "significant deficiency" in the company's internal controls.⁴ During the 2011 year-end audit, Great Lakes's auditor advised the company that it disagreed with the company's accounting for certain pending change orders for a different demolition project, because the pending change orders had not been submitted to the customer and there was inadequate documentation of customer acceptance. These revenue amounts were not material to the company's 2011 financial statements. The auditor also determined that, as a result of improved internal controls by the company during 2011, the company had "partially remediated" the "significant deficiency" to a "deficiency" and notified the Audit Committee and management.

8. During the 2011 year-end audit, members of the audit team, including the audit partner, met with Great Lakes's CFO, the demolition subsidiary president, and one other employee to discuss the appropriate level of documentation of pending change orders. At the end of the first quarter of 2012, the audit firm again advised the company about adequate documentation of its pending change orders. The audit firm further advised, and the company understood, that for purposes of the year-end audit it would need to have documentation persuasively supporting the pending change orders. The company's corporate controller also advised in an e-mail at the conclusion of the first quarter of 2012 to demolition subsidiary management and the assistant corporate controller that "we need to continue improving on the quality of evidence" regarding pending change orders.⁵ During the second and third quarters of 2012, demolition subsidiary personnel gathered evidence supporting pending change orders and provided the evidence to the audit firm as part of the auditor's quarterly reviews of Great Lakes's interim financial statements.

Discovery of the Misstatements

9. During the year-end 2012 audit process, an audit confirmation letter was sent to the customer for the large demolition project that related to the auditor's 2011 finding of a deficiency in the company's internal controls. The confirmation letter response from the customer showed an approved contract value materially smaller than the amount of revenue Great Lakes had recorded for the project.

company's policy regarding claims, as stated in its Form 10-K for the year ended December 31, 2011, was that, "Claims for additional compensation due to the Company are not recognized in contract revenues until such claims are settled."

⁴ Rule 1-02(a)(4) of Regulation S-X defines a "significant deficiency" as a deficiency or combination of deficiencies in internal control over financial reporting that is less severe than a material weakness, yet important enough to merit attention by those responsible for oversight of the company's financial reporting.

⁵ The corporate controller left the company in the second quarter of 2012, however, and was not replaced until December 2012.

10. Most of the difference in the contract value was due to several pending change orders recorded as revenue by Great Lakes during fiscal year 2012. Given the circumstances, including the existence of certain disputes between the demolition subsidiary and the customer, Great Lakes did not have sufficient proof of customer acceptance of the specific pending change orders at issue to support the conclusion that recovery was probable and collectability was reasonably assured. Therefore, Great Lakes had improperly recorded revenues for those pending change orders.

Great Lakes's Inadequate Internal Controls

11. A material weakness in Great Lakes's internal control over financial reporting failed to prevent or detect the material misstatements. Great Lakes did not have a written accounting policies and procedures manual during 2012. Moreover, there was inadequate training of demolition personnel as to the evaluation of pending change orders. In practice, Great Lakes's accounting for demolition projects relied heavily on the judgments of a small group of people at the demolition subsidiary. Finally, formal review of these judgments by accountants at Great Lakes was insufficient.

12. At each quarter end during 2012, the determination as to whether revenue should be recognized on a demolition subsidiary pending change order was made by the subsidiary's controller, in consultation with the project manager and the subsidiary's president and with some involvement by corporate accounting staff. One of the main factors considered was whether, in the project manager's opinion, the revenue was reasonably assured of collection. During the second and third quarters of 2012, the conclusion to recognize revenue on the pending change orders at issue was based in part on the project manager's assurance of customer acceptance of the scope and of collectability of the pending change order without adequate confirming written documentation from the customer.

13. The company had no written policies on how to handle negative change orders at the demolition subsidiary.⁶ On the large demolition project, the project manager received numerous negative change orders from the customer. The project manager made the determination, without consulting with any senior manager or accounting personnel, that certain of the negative change orders from the customer were without merit and should not be recognized in the accounting records or in the overall project estimate. Neither Great Lakes management nor the auditor was aware of the existence of certain negative change orders until the year-end 2012 audit process.

⁶ Negative change orders are not uncommon in the construction industry and represent circumstances where the general contractor may perform work or provide equipment originally included in the scope of the subcontractor's contract or where the general contractor believes it is necessary to correct sub-quality work performed by the subcontractor. In such circumstances, the general contractor would issue negative change orders which would reduce the contract value and, thereby, the expected revenue to the subcontractor.

Great Lakes's Restated Q2 and Q3 2012 Financial Statements

14. As a result of these errors, Great Lakes restated its second and third quarter 2012 financial statements. For the second quarter 2012, the company had overstated net income by approximately \$3.2 million or 266% (reducing net income from \$4.4 million to \$1.2 million), and had overstated revenue in its demolition segment by approximately \$3.9 million or 2.1% (reported company revenue decreased from \$166.5 million to \$163.1 million).⁷ For the third quarter, the company had understated net loss by \$3.2 million or 60% (increasing its net loss for the quarter from -\$2.1 million to -\$5.3 million), and overstated revenue in its demolition segment by \$4.3 million or 2.6% (reported company revenue decreased from \$166.8 million to \$162.5 million). For the Q2 and Q3 restatements, \$3.3 million and \$2.8 million, respectively, of overstated revenues in the demolition segment was from the single, large project, including more than \$468,000 for unrecorded negative change orders. The remainder of the restated revenue came from three other projects in Q2 and six other projects in Q3, the largest of which was an error of a little over \$500,000.

Great Lakes's Remediation Plan

15. Upon discovering the accounting errors, the company began investigating the causes. As a result of its investigations, Great Lakes presented, in its year-end 2012 Form 10-K, a proposed remediation plan to address the material weakness in its internal control over financial reporting. The remediation plan had five elements: 1) review of the demolition subsidiary management and resources; 2) direct reporting of the demolition subsidiary finance team to corporate finance, instead of demolition subsidiary management; 3) more accounting resources at corporate level; 4) evaluation of information technology resources; and 5) additional accounting training for the demolition subsidiary and corporate finance personnel. The auditor concurred with the remediation plan. Among the specific changes made were: 1) hiring a new demolition subsidiary controller; 2) providing additional IT resources for the accounting function; and 3) hiring additional accounting staff at the corporate level. In its audit report on the internal control over financial reporting of Great Lakes as of December 31, 2013, the auditor concluded that the company maintained, in all material respects, effective internal control over financial reporting. Ultimately, Great Lakes sold the demolition subsidiary in April 2014.

Violations

16. Under Section 21C of the Exchange Act, the Commission may impose a cease-and-desist order upon any person who is violating, has violated, or is about to violate any provision of the Act and upon any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation.

17. Section 13(a) of the Exchange Act requires issuers to file such periodic and other reports as the Commission may prescribe and in conformity with such rules as the Commission may

⁷ A portion of the revenue changes came from other adjustments made by Great Lakes for the two quarters.

promulgate. Exchange Act Rule 13a-13 requires the filing of quarterly reports. In addition to the information expressly required to be included in such reports, Rule 12b-20 of the Exchange Act requires issuers to add such further material information, if any, as may be necessary to make the required statements, in light of the circumstances under which they are made, not misleading. “The reporting provisions of the Exchange Act are clear and unequivocal, and they are satisfied only by the filing of complete, accurate, and timely reports.” *SEC v. Savoy Industries, Inc.*, 587 F.2d 1149, 1165 (D.C. Cir. 1978) (citing *SEC v. IMC Int’l, Inc.*, 384 F. Supp. 889, 893 (N.D. Tex. 1974)). A violation of the reporting provisions is established if a report is shown to contain materially false or misleading information. *SEC v. Kalvex, Inc.*, 425 F. Supp. 310, 316 (S.D.N.Y. 1975).

18. Section 13(b)(2)(A) of the Exchange Act requires issuers to “make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer.” Section 13(b)(2)(B) of the Exchange Act requires issuers to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit the preparation of financial statements in conformity with GAAP.

19. By engaging in the conduct above, Great Lakes violated Section 13(a) of the Exchange Act and Rules 12b-20 and 13a-13 thereunder, and Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act.

Cooperation and Remediation

20. In determining to accept the Offer, the Commission considered remedial acts undertaken by Great Lakes and the substantial cooperation provided by the company in connection with the Commission’s investigation.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Great Lakes’s Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Great Lakes cease and desist from committing or causing any violations and any future violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 12b-20 and 13a-13 thereunder.

B. Respondent shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$150,000 to the Securities and Exchange Commission. 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 Great Lakes 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 Antonia Chion, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549-5720.

By the Commission.

Brent J. Fields
Secretary