UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 76066 / October 1, 2015

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3711 / October 1, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16880

In the Matter of **GRANT THORNTON AUDIT PTY LIMITED** **Respondent.**	**ORDER INSTITUTING PUBLIC ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTIONS 4C AND 21C OF THE SECURITIES EXCHANGE ACT OF 1934 AND RULE 102(e) OF THE COMMISSION'S RULES OF PRACTICE, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS AND A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission ("Commission" or "SEC") deems it appropriate that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 4C(a)(2)[1] and 21C[2] of the Securities Exchange Act of 1934

[1] Section 4C(a)(2) 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 . . . to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct.

[2] Section 21C provides, in relevant part, that:

If the Commission finds…that any person…has violated…any provision of this title, or any rule or regulation thereunder, the Commission may…enter an order requiring such person, and any other person that …was…a cause of the violation…to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation.

("Exchange Act") and Rule 102(e)(1)(ii)[3] of the Commission's Rules of Practice against Grant Thornton Audit Pty Limited ("Respondent GT Australia/Audit" 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 Public Administrative and Cease-and-Desist Proceedings Pursuant to Sections 4C and 21C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds[4] that:

A. SUMMARY

1. This matter arises out of violations of the auditor independence rules by Respondent GT Australia/Audit. The violations occurred in connection with two Grant Thornton Mauritius ("GT Mauritius") partners serving on the board of directors of a Mauritius-based subsidiary of Respondent's audit client, and their performance of prohibited non-audit services for that subsidiary. Respondent's violations occurred for the fiscal years ended June 30, 2008, 2009, 2010, and 2011.

B. RESPONDENT

2. Respondent GT Australia/Audit is an audit firm with its principal office in Sydney Australia. Respondent is a related entity to Grant Thornton Australia Limited, which is a member firm of Grant Thornton International Ltd. Respondent, through its relationship with Grant Thornton Australia Limited, is legally bound by the rules applying to members of Grant Thornton International Ltd. GT Australia/Audit is registered with the PCAOB.

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[3] Rule 102(e)(1)(ii) provides, in pertinent part, that:

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

[4] 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.

C. OTHER RELEVANT ENTITIES

3. GT Mauritius is an accounting and advisory firm and a member firm of Grant Thornton International Ltd. GT Mauritius is not registered with the PCAOB.

4. Grant Thornton International Ltd. ("GT International"), incorporated in London, United Kingdom, is the world's sixth largest professional services network of independent accounting and consulting member firms. GT International member firms provide assurance, tax and advisory services to privately held businesses, public interest entities, and public sector entities in over 125 countries.

5. Anex Management Services Limited ("Anex") is a Mauritius company that was created in 1994 and operates in Mauritius. Anex creates, structures, licenses, administers, and manages Mauritius-based corporations for non-domestic corporate groups by providing, for example, resident directors as required by Mauritius law. During the relevant time, Anex was owned by two partners of GT Mauritius.

6. Beginning on November 8, 2010, Client A had shares registered with the Commission and, until July 2012, its shares traded on the NASDAQ Global Market. Client A filed an initial registration statement on Form F-1 and Annual Reports on Form 20-F with the Commission.

D. FACTS

7. Client A was founded as a private Australian company in November 2005, and in May 2006, its securities began trading on the Australia Stock Exchange (ASX). At that time, a former GT International member firm in Australia served as Client A's outside auditor. By late 2006, Client A's finance director asked a partner of the former GT International member firm to recommend a company that would incorporate a wholly-owned subsidiary in Mauritius. Client A wanted to restructure its corporate group by creating a new "mezzanine" subsidiary to own its operating company, which would enable it to avail itself of favorable tax laws in Mauritius. In early July 2006, Client A was put in touch with Anex, which was then owned by two partners of GT Mauritius, a member firm of GT International.

8. In or about September 2006, Client A executed a services agreement with Anex. On September 8, 2006, Anex incorporated a wholly-owned subsidiary in Mauritius as a holding company of Client A. Because Mauritius law required that the board of directors of Mauritius corporations have at least two resident directors, Anex appointed its co-owners, both of whom were, and continue to be, GT Mauritius partners, to the board of Client A's Mauritius subsidiary. As directors, the two GT Mauritius partners had signatory authority over the bank accounts of Client A's subsidiary and provided management representations in connection with the Australian-based statutory audits of the company. The two GT Mauritius partners also maintained Client A's subsidiary registered office and agent and its stock and minutes books, all of which were prohibited non-audit services under the Commission's auditor independence rules. In total, Client A paid Anex $78,545 for these services.

9. On November 26, 2009, Respondent GT Australia/Audit became Client A's auditor. The former GT International member firm that served as Client A's outside auditor had

left the GT network before Client A's audit for the year ending in June 30, 2007, and there was no affiliation or continuity of engagements between Client A's former auditor and Respondent GT Australia/Audit. The audit work papers that Respondent GT Australia/Audit obtained from Client A's former auditor did not disclose the referral or the relationship between GT Mauritius, Anex, and Client A. GT Mauritius, including the two partners who were acting as directors of Client A's subsidiary, did not participate in Respondent GT Australia/Audit's audit.

10. On November 8, 2010, Client A filed with the Commission an initial registration statement on Form F-1, and on April 20, 2011, Client A became listed on NASDAQ. The Form F-1 filing included Client A's consolidated financial statements for each of its three fiscal years ended June 30, 2008, 2009 and 2010, which had been audited by Respondent. Client A thereafter filed an annual report on Form 20-F with the Commission on December 28, 2011, for fiscal year ended June 30, 2011. These filings included Respondent GT Australia/Audit's audit reports, which stated that Respondent GT Australia/Audit had "conducted [its] audit in accordance with the standards of the Public Company Accounting Oversight Board (United States)." However, GT Australia/Audit was not independent because (1) partners of GT Mauritius sat on the board of directors of Client A's Mauritius subsidiary when Respondent audited Client A's publicly-held parent; and (2) GT Mauritius' related party, Anex, provided prohibited non-audit services to the audit client of Respondent. Client A paid GT Australia/Audit total audit fees of $88,683 for the audits of its financial statements for the four fiscal years ended through 2011. GT Audit resigned as Client A's auditor in November 2012.

11. As early as 2006, GT International required member firms proposing to audit a Commission registrant to submit an International Relationship Check ("IRC")[5] for circulation to GT International member firms in countries where the proposed client had related entities. The purpose of the IRC was to determine whether the member firm or its network firms in the other countries had any existing relationship with a corporate group of the proposed audit client. GT International defined "network firm" to include "(a) a firm that is part of a larger structure and that (i) uses a name in its firm name that is common to the larger structure; or (ii) shares significant professional resources with other firms in the larger structure; or (iii) shares profits or costs with other firms within the larger structure," or (b) an entity that controls, is controlled by, or is under common control with the firm through ownership, management, or other means." Under this definition, Anex fell within the definition of a network firm of GT Mauritius, as it was under common control through the two GT Mauritius partners.

[5] At all relevant times, GT International required its member firms with audit clients whose securities were registered with the Commission to employ IRCs, which are conflict-of-interest and independence checks. According to GT International, its IRC process is

> designed to check for the existence of relationships in order to identify potential conflicts of interest and/or threats to independence. These IRCs take the form of emails sent to member firms [by Grant Thornton International, at the request of the member firm auditing the client] asking about the existence of client, vendor or business relationships.

The emails included GT International forms on which the firm proposing to audit an entity included names of individuals and entities related to the entity, and a form on which the responding firm would identify reportable relationships.

12. In addition, GT International's global audit manual required its member firms to obtain annual independence confirmation letters in connection with auditing work. Specifically, the manual provided: "To assist in maintaining our independence, an independence letter must also be obtained from [GT International] member firms in countries where Commission audit clients have subsidiaries or operating units, even if a [GT International] member firm does not audit the subsidiary or operating unit in that country."

13. With regard to the 2008, 2009, 2010 and 2011 audits of Client A, Respondent GT Australia/Audit failed to follow required independence compliance checks for GT Mauritius, including the IRC process and annual independence confirmations, although Respondent did send annual independence confirmations to GT member firms in the countries where a supporting audit was required. Respondent did not make efforts over the course of the performance of these audits to learn whether an independence violation was implicated by Client A's corporate presence in Mauritius or the activities of GT Mauritius' partners.

E. VIOLATIONS

14. The Supreme Court has observed that "[p]ublic faith in the reliability of a corporation's financial statements depends upon the public perception of the outside auditor as an independent professional." *U.S. v. Arthur Young*, 465 U.S. 805, 819 n.15 (1984). To insure such independence, Rule 2-02(b)(1) of Regulation S-X requires each accountant's report to state "whether the audit was made in accordance with generally accepted auditing standards" ("GAAS"). GAAS, in turn, require auditors to maintain strict independence—both in fact and appearance—from their audit clients.[6] For purposes of the independence rules, Rule 2-01(f)(2) of Regulation S-X defines an accounting firm to include its associated entities.

15. The objective of Rule 2-01 of Regulation S-X is to ensure that auditors are qualified and independent of their Commission audit clients[7]—both in fact and in appearance—throughout the audit and professional engagement period.[8] The rule sets forth a non-exhaustive list of non-audit services which an auditor cannot provide to its audit clients and be considered independent. *See* 17 C.F.R. § 210-2.01(c)(4)(i)-(x). Among other things, it prohibits an auditor

[6] The Commission has stated that for audit reports issued on or after May 24, 2004, the reference in Rule 2-02(b)(1) to "generally accepted auditing standards" means the standards of the PCAOB and the applicable Commission regulations, both of which require an auditor to be independent of its client. *See*, "Commission Guidance Regarding the Public Company Accounting Oversight Board's Auditing and Related Professional Practice Standard No. 1," Exchange Act Rel. No. 49708, 82 SEC Docket 3060 (May 14, 2004). *See, also,* PCAOB Rule 3520 ("A registered public accounting firm and its associated persons must be independent of the firm's audit client throughout the audit and professional engagement period."); and PCAOB Auditing Standards, Independence, AU § 220.

[7] With certain exceptions that are not relevant here, "audit client" is defined as "the entity whose financial statements or other information is [*sic*] being audited, reviewed, or attested and any affiliates, of the audit client." 17 C.F.R. § 210-2.01(f)(6) (emphasis added). In turn, "affiliate" is defined to include "[a]n entity that has control over the audit client, over which the audit client has control, or which is under common control with the audit client, including the client's parents and subsidiaries. . . ." 17 C.F.R. § 210-2.01(f)(4)(i).

[8] Audit and professional engagement period includes both the periods covered by any financial statements being audited and the period of the engagements to audit the financial statements or to prepare a report filed with the Commission. This period ends when the audit client or the accountant notifies the Commission that the client is no longer that accountant's audit client.17 C.F.R. § 210-2.01(f)(5).

from providing bookkeeping services, payroll services, appraisal or valuation services, internal audit outsourcing services, legal services, expert services, and broker-dealer, investment adviser, or investment bank services. *Id.* It also prohibits an auditor from designing and implementing financial information systems or performing human resources or management functions for its audit clients. *See* 17 C.F.R. § 210-2.01(c)(4)(ii), (vi) and (vii). Rule 2-01(c)(4)(viii) further prohibits the auditor from having custody of the assets of the audit client.

16. Rule 2-01(c)(2) of Regulation S-X provides that an auditor is not independent of its audit client if "a current partner, principal, shareholder, or professional employee of the accounting firm is employed by the audit client or serves as a member of the board of directors or similar management or governing body of the audit client." Rule 2-01(c)(4)(vi) of Regulation S-X also provides that an auditor is not independent of its audit client if the auditor is "[a]cting, temporarily or permanently, as a director, officer, or employee of an audit client, or performing any decision-making, supervisory, or ongoing monitoring function for the audit client." 17 C.F.R. § 210-2.01(c)(4)(vi). Similarly, Preliminary Note 2 to Rule 2-01 of Regulation S-X makes clear that, in applying the general standard of auditor independence set forth in Rule 2-01(b), the Commission considers, among three other principles, whether a relationship or service "results in the accountant acting as management or an employee of the audit client." 17 C.F.R. § 210-2.01, Preliminary Note 2.

17. PCAOB Standards require auditors to be independent of their audit clients. To affirm that one's audit was conducted in accordance with PCAOB Standards when one was not independent (because of a prohibited employment relationship with or provision of prohibited non-audit services to an audit client) is a direct violation of Rule 2-02(b)(1) of Regulation S-X. Such an independence violation also constitutes (i) improper professional conduct under Rule 102(e) of the Commission's Rules of Practice and Section 4C of the Exchange Act and (ii) causing violations of Section 13(a) of the Exchange Act and Rule 13a-1 thereunder because the filing fails to include financial statements audited by an independent accountant.

18. Client A included its consolidated financial statements for three fiscal years ended June 30, 2008, 2009 and 2010 in its Form F-1 filed with the Commission on November 8, 2010. Client A also included GT Australia/Audit's audit report in its Annual Report on Form 20-F filed on December 28, 2011. In those audit reports, GT Australia/Audit stated that, "We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States)." However, the audits were not conducted in accordance with PCAOB standards because these standards require auditor independence and GT Australia/Audit was not independent during the audit and professional engagement period. GT Australia/Audit was not independent because (1) partners of GT Mauritius sat on the board of directors of Client A's Mauritius subsidiary when Respondent audited Client A's publicly-held parent; and (2) GT Mauritius' related party, Anex, provided prohibited non-audit services to the audit client of Respondent. As a consequence, GT Australia/Audit violated Rule 2-02(b)(1) of Regulation S-X and caused Client A to violate Section 13(a) of the Exchange Act and Rule 13a-1 thereunder. Respondent's conduct also constituted improper professional conduct pursuant to Section 4C(a)(c) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rule of Practice.

19. Section 13(a) of the Exchange Act requires, among other things, every issuer of a security registered pursuant to Section 12 of the Exchange Act to file with the Commission

annual reports audited by independent public accountants. Rule 13a-1 under the Exchange Act provides that each such registrant "shall file an annual report on the appropriate form authorized or prescribed therefor for each fiscal year." Item 8 ("Financial Statements and Supplementary Data") of Form 10-K, in turn, requires an issuer filing an annual report on that Form to "[f]urnish financial statements meeting the requirements of Regulation S-X." Rules 3-01 and 3-02 of Regulation S-X require the filing of "audited" balance sheets and "audited" statements of income and cash flows, and Rule 1-02(d) of Regulation S-X provides that an "audit" is "an examination of the financial statements by an independent accountant in accordance with generally accepted auditing standards." Foreign private issuers with securities registered pursuant to Section 12 of the Exchange Act are required to file their annual reports on Form 20-F. Item 17(a) of Form 20-F requires registrants to furnish financial statements for the same fiscal years and accountants' certificates that would be required to be furnished if the registration statement were on Form 10 or the annual report on Form 10-K.

20. The registration statement on Form F-1 and annual report on Form 20-F that Client A filed with the Commission included financial statements audited by Respondent GT Australia/Audit for its four fiscal years ended June 30, 2011. As set forth above, however, at the time Client A filed its registration statement and annual reports, it did not include financial statements that had been examined by an independent accountant because Respondent's independence with regard to Client A was impaired. Therefore, Client A violated Section 13(a) of the Exchange Act and Rule 13a-1 promulgated thereunder, and GT Australia/Audit caused Client A's violations of those provisions.

21. Rule 102(e)(1)(ii) of the Commission's Rules of Practice, as codified in Section 4C(a)(2) of the Exchange Act, allows the Commission to censure a person, or deny such person, temporarily or permanently, the privilege of appearing or practicing before the Commission, if it finds that such person has engaged in "improper professional conduct." For accountants, the definition of "improper professional conduct" includes:

> 1. "Intentional or knowing conduct, including reckless conduct, that results in a violation of applicable professional standards." Exchange Act Section 4C(b)(1), Rule 102(e)(1)(iv)(A); or
>
> 2. Either of the following two types of negligent conduct:
>
> (A) A single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which an accountant knows, or should know, that heightened scrutiny is warranted; or
>
> (B) 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.[9]

[9] In October 1998, the Commission amended its definition of "improper professional conduct" to include these two negligence standards, noting that "a negligent auditor can do just as much harm to the Commission's processes as one who acts with an improper motive." *See*, *Amendment to Rule 102(e) of the Commission's Rules of Practice,* 63 Fed. Reg. 57,164, 57,167 (October 26, 1998)(codified at 17 C.F.R. Part 201).

Exchange Act Section 4C(b)(2).

The Commission has defined the "highly unreasonable" standard as:

> an intermediate standard, higher than ordinary negligence but lower than the traditional definition of recklessness used in cases brought under Section 10(b) of the Exchange Act and Rule 10b-5 thereunder. The highly unreasonable standard is an objective standard. The conduct at issue is measured by the degree of the departure from professional standards and not the intent of the accountant.

See, *Amendment to Rule 102(e) of the Commission's Rules of Practice*, 63 Fed. Reg. 57,164, 57,168 (October 26, 1998)(codified at 17 C.F.R. Part 201). In addition, the standard does not depend on the impact on financial statements; rather, the "proper focus should be on the conduct itself, rather than on the risk of harm." *Amendment to Rule 102(e)*, 63 Fed. Reg. 57,168. Thus, the Commission has found negligent conduct where an auditor, when it knew or should have known that independence was implicated, failed to gather all the salient relevant facts pertinent to the independence determination. *KPMG Peat Marwick LLP*, Lit. Release. No. 34-43862, 74 SEC Docket 357, 377-79 (January 19, 2001).

22. Importantly, in determining what constitutes "highly unreasonable conduct," the Commission has specifically addressed auditor independence issues, noting, "[b]ecause of the importance of an accountant's independence to the integrity of the financial reporting system, the Commission has concluded that circumstances that raise questions about an accountant's independence always merit heightened scrutiny. Therefore, if an accountant acts highly unreasonably with respect to an independence issue, that accountant has engaged in "improper professional conduct." *See*, *Amendment to Rule 102(e) of the Commission's Rules of Practice,* 63 Fed. Reg. 57,164, 57,168 (October 26, 1998)(codified at 17 C.F.R. Part 201).

23. In issuing its multiple audit reports on Client A's financial statements, Respondent GT Australia/Audit represented that "[w]e conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States)." However, GT Australia/Audit was not independent of Client A at the time it issued its audit reports. As a result, GT Australia/Audit's conduct constituted a single instance of highly unreasonable conduct and/or multiple instances of highly unreasonable conduct and violated the applicable professional standards as defined by Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice.

F. RESPONDENT'S REMEDIAL EFFORTS

24. In determining to accept Respondent's Offer, the Commission has considered remedial acts undertaken by Respondent GT Australia/Audit and the cooperation the Respondent afforded the Commission staff in the investigation, including by promptly self-reporting the violations. Since these matters arose, Respondent GT Australia/Audit has undertaken firm-specific actions to implement GT International's revised compliance requirements. Respondent, among other things, has imposed training requirements for their firm members. Respondent has reviewed all former and present audit clients that were Commission registrants and has taken steps to detect possible future violations. Respondent has also implemented an audit tool

designed to ensure compliance with U.S. audit rules. Finally, Respondent now requires positive annual independence confirmations to cover the international operations of all public interest entities, not just Commission registrants.

G. FINDINGS

25. Based on the foregoing, the Commission finds that Respondent: (a) violated Rule 2-02(b)(1) of Regulation S-X; (b) caused violations of Exchange Act Section 13(a) and Exchange Act Rule 13a-1 by Client A; and (c) engaged in improper professional conduct pursuant to Exchange Act Section 4C(a)(2) and Rule 102(e)(1)(ii) 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's Offer.

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

A. Respondent shall cease and desist from committing or causing any violations and any future violations of Rule 2-02(b)(1) of Regulation S-X, Section 13(a) of the Exchange Act, and Rule 13a-1 promulgated thereunder.

B. Respondent is hereby censured.

C. Respondent shall, within ten (10) days of the issuance of this Order, pay disgorgement of $88,683 in audit fees, prejudgment interest of $13,520, and a civil money penalty in the amount of $75,000, for a total of $177,203, to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury in accordance with Exchange Act Section 21F(g)(3). If timely payment is not made on the disgorgement and prejudgment interest, additional interest shall accrue pursuant to Commission Rule of Practice 600. If timely payment is not made on the civil money penalties, 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 Commission 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 GT Australia/Audit 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 simultaneously sent to Gerald W. Hodgkins, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., N.E., Washington, DC 20549.

To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it 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 Respondent 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.

Brent J. Fields
Secretary