UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10256 / November 15, 2016

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3823 / November 15, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17678

In the Matter of 　　　Christopher Egan, Respondent.	ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 ("Securities Act") against Christopher Egan ("Egan" or "Respondent").

II.

In anticipation of the institution of these proceedings, Egan has submitted an Offer of Settlement ("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 and except as provided herein in Section V., Egan consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Making Findings, and Imposing a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds[1] that:

Summary

1.   This proceeding arises out of a financial fraud at Autonomy Corporation plc ("Autonomy"), a Cambridge, England-based software company. Approximately 40 percent of Autonomy's stock was owned by U.S. investors. Over 10 consecutive quarters from the beginning of 2009, Autonomy issued materially false and misleading financial reports that overstated revenues, among other misstatements. In October 2011, Autonomy was acquired by Hewlett-Packard Company ("HP"). Autonomy executives repeatedly directed HP's due diligence team to rely on these false filings in connection with the acquisition.

2.   Autonomy's fraud was orchestrated by Autonomy's UK-based senior-most executives, who used a series of accounting schemes to meet internal sales targets and analyst revenue expectations. The primary devices used in the scheme included the acceleration of revenue through so-called value-added resellers, backdated purchase orders, and round trip transactions. As detailed below, actions taken by Christopher Egan, the Chief Executive Officer of Autonomy's U.S.-based subsidiary, contributed to the success of the scheme.

3.   In October 2011, HP acquired Autonomy for $11.1 billion in cash. Just one year later, in November 2012, HP announced that it was recording an $8.8 billion impairment charge, claiming that a majority of the charge was due to accounting improprieties, misrepresentation and disclosure failures at Autonomy. HP's stock declined by 12 percent on the day of the announcement, and the company suffered a market capitalization loss of $78 billion.

4.   This proceeding concerns the actions of Egan, who was employed at Autonomy from 2001 to November 2012. At the explicit direction of Autonomy's senior-most finance executive, Egan placed sales to particular resellers that allowed Autonomy to prematurely recognize millions of dollars of revenue in an effort to meet market expectations. Egan also aided in the execution of the scheme when, at the request of Autonomy's senior-most finance executive, he backdated paperwork for at least four transactions with various resellers that allowed Autonomy to falsely recognize revenue after the quarter had already ended. Although Egan is not an accountant, and had no responsibility for preparing Autonomy's financial statements, by virtue of his failure to exercise reasonable care, Egan violated Section 17(a)(2) and 17(a)(3) of the Securities Act of 1933 ("Securities Act").

---

[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.

Respondent

5.   **Egan**, age 48, is a resident of San Francisco, California. Egan joined Autonomy in 2001 and served as Head of Sales and CEO of Autonomy's U.S. subsidiary, Autonomy, Inc. Sales through Autonomy Inc., which Egan supervised, comprised over 70 percent of Autonomy's total revenues. Egan left the company in November 2012.

Other Relevant Entities

6.   **Hewlett-Packard Company** was a technology company headquartered in Palo Alto, California. From at least 2009 to October 2011, HP manufactured and sold computer hardware, including laptops, servers, and printers, as well as software and services supporting these products. HP acquired Autonomy in an all-cash transaction in October 2011 for $11.1 billion. In November 2015, HP split into two companies, HP Inc. and Hewlett Packard Enterprise. Both companies trade on the New York Stock Exchange under the tickers "HPQ" and "HPE," respectively.

7.   **HP Autonomy**, formerly Autonomy Corporation plc, is a software company dually headquartered in Cambridge, England and San Francisco, California. The company formerly traded on the London Stock Exchange until being acquired by HP in October 2011. From at least 2009 to October 2011, Autonomy's financial statements were prepared in accordance with International Financial Reporting Standards and were audited by Deloitte LLP in England. Following the split of HP, Autonomy's legacy products and operations were largely transferred to Hewlett Packard Enterprise.

Facts

A.   **Background**

8.   From at least 2009 to October 2011, Autonomy provided enterprise software designed to search and manage "unstructured data," or data such as emails, video, and voice messages that exists outside of databases.

9.   Autonomy promoted itself to investors and potential suitors through its reported filings and quarterly earnings releases as a high-growth, high-margin company with reported revenues that reached nearly $1 billion annually in 2010. Autonomy's executive team, including the UK-based senior executives referenced above, was intensely focused on meeting quarterly analyst consensus numbers, and Autonomy's quarterly earnings releases continually hyped the company's record revenues and profits. Over the 10-quarter period from 2009 until HP's acquisition of Autonomy in 2011, Autonomy's reported revenues were within four percent of analyst expectations in each quarter.

10.   Autonomy's financial statements were prepared according to International Financial Reporting Standards ("IFRS"). Under International Accounting Standard ("IAS") 18, Autonomy was required to meet the following five criteria in order to recognize revenue from the

sale of goods: (1) Autonomy transferred to the buyer the significant risks and rewards and ownership of the goods; (2) Autonomy retained neither continuing managerial involvement to the degree normally associated with ownership nor effective control over the goods sold; (3) Autonomy could measure reliably the amount of revenue; (4) it was probable that the economic benefits associated with the transaction would flow to Autonomy; and (5) Autonomy could measure reliably the costs to be incurred in respect of the transaction.

B.   Autonomy's Scheme to Inflate Revenues Through Resellers

11.   From the first quarter of 2009 through the second quarter of 2011, Autonomy's UK-based senior-most executives orchestrated a scheme to inflate Autonomy's revenues through more than 30 transactions totaling nearly $200 million with five U.S.-based companies that purported to act as resellers of Autonomy software to end users.

12.   Autonomy sold its software through so-called value-added resellers, or companies who acted as intermediaries between Autonomy and third parties who were the ultimate end users of the software. These resellers often provided additional services and support to the end users of the product in addition to marketing and selling Autonomy's software.

13.   Generally, the sales to the resellers at issue here occurred when Autonomy was in the process of negotiating a sale to an end user but had failed to close the sale by quarter-end. Egan, at the direction of Autonomy's senior-most finance executive, typically approached the resellers on or near the last day of the quarter and represented that the end user sale was nearly done and would close imminently. Despite the fact that the resellers had no relationship or contact with, or any purchase order from, the end users, Egan negotiated with the resellers to buy software from Autonomy through the payment of commissions amounting to 10 percent of the reseller's purchase order to Autonomy. Ostensibly, the resellers could then in turn sell to the already-identified end user, but in reality, Autonomy maintained managerial control of the deals and handled negotiations with the end user without the involvement of the resellers, even after the sales to the resellers. Based on these purported "sales" to the resellers, Autonomy improperly recorded revenue in its books and records.

14.   In fact, these transactions required the continued efforts of Autonomy to complete the sale to the end user while the reseller made no selling efforts. Indeed, the resellers' sole purpose was to allow Autonomy to create the fiction of a completed sale so that Autonomy could accelerate revenue recognition in violation of IFRS accounting standards. Egan, at Autonomy's senior-most finance executive's direction, often instructed the resellers to not get involved in the selling effort, as it would increase the risk of the end user rejecting the deal entirely.

15.   In addition, the fact that the resellers were not truly at risk of incurring any loss for the product they purchased from Autonomy was also evident. For example, the resellers generally did not return payment to Autonomy for the product purchased until after Autonomy had completed negotiations with the end user, or, as discussed below, until Autonomy management put some other mechanism into place if the end user sale collapsed. The resellers usually did not download the software they were purportedly purchasing from Autonomy, and in some cases did

not record the transactions on their books. And the resellers were always dependent on Autonomy for information regarding the status of a particular deal they were purporting to sell on to the end users.

16.   As a result of these "sales," Autonomy's revenues were materially inflated, in some periods by as much as 15 percent. These "sales" were also critical to Autonomy, as they provided the last dollars of revenue necessary to enable it to report financial results at or near analyst expectations. In many cases, Autonomy accelerated revenue recognition as it was ultimately able to close deals directly with the end user after the purported sale to the reseller; however, in some cases, the revenue was completely fabricated as Autonomy was not successful in executing the end user deal.

17.   These transactions violated several revenue recognition criteria under IFRS. First, Autonomy never truly passed the risks and rewards of ownership to the resellers, nor was it probable that the economic benefits would flow to Autonomy, as payment was contingent upon sell-through or via a mechanism to get funds to the reseller to pay Autonomy. Further, Autonomy's ongoing efforts to sell to end users even after the software had been sold to resellers constituted continuing managerial involvement.

18.   Autonomy's senior-most finance executive deployed Egan as the intermediary with the resellers willing to take these deals. These relationships with resellers allowed Autonomy to carry out its scheme to accelerate revenue. Autonomy's senior-most finance executive referred to the transactions as "acceleration deals." He instructed Egan on precisely which deals to place through resellers and chose the particular reseller based on the size of the underlying deal Autonomy was negotiating with the end user, the revenue needed in the quarter, and the reseller's then-outstanding balance with Autonomy.

19.   Although Egan was acting at the direction of Autonomy's highest-ranking accountant, Egan nevertheless took actions that contributed to the success of Autonomy's revenue recognition scheme. In particular, Egan knew, or should have known, that the purpose of the reseller deals was to allow Autonomy to accelerate revenue. And as the primary point of contact with the five U.S.-based resellers in question, Egan knew, or should have known, that Autonomy was using the resellers as an artificial means to accelerate revenue, as he directly communicated to the resellers to not interfere with Autonomy's selling efforts with the end users.

C.   **Autonomy Backdated At Least Five Reseller Transactions to Hit Revenues**

20.   In addition to improperly recognizing revenue on purported sales through resellers, Autonomy executives also backdated purchase orders and agreements from the resellers to allow Autonomy to prematurely recognize revenue in an effort to hit quarterly revenue targets.

21.   On at least five occasions, spread across four different quarters from 2009 to 2011, Autonomy's senior-most finance executive obtained, or directed Egan to obtain, backdated purchase orders from the resellers after quarter-end. Some of the transactions constituted the last dollars of revenue Autonomy needed to hit its expected target.

22.   Acting at the executive's direction, Egan obtained four of the five backdated agreements, thereby allowing Autonomy to recognize revenue it was not entitled to record. On those occasions, Egan contacted representatives at each of the resellers after quarter-end, asked if the reseller would take the deal, and caused certain documents that reflected an agreement date prior to quarter-end to be issued to the reseller and requested that the reseller execute such documents. In some cases, as instructed by his superior, Egan directed a reseller to backdate a purchase order so as to falsely reflect an agreement date prior to quarter-end.

23.   The backdating of purchase orders violated multiple revenue recognition criteria under IFRS. First, as of quarter-end, Autonomy had not transferred to the buyer the significant risk and rewards of ownership to the software despite what was reflected under the terms of the backdated purchase order. Second, as of quarter-end, it was not probable that any economic benefits associated with the transaction would flow to Autonomy, despite what was reflected in the backdated purchase order.

24.   Egan knew, or should have known, that the actual agreement date was not the date set forth in the executed purchase orders and agreements. Further, Egan knew, or should have known, that Autonomy was using the backdated agreements with the resellers to prematurely recognize revenue.

D.   Autonomy Engaged In Round-Trip Transactions to Enable the Resellers to Pay Autonomy

25.   Although Autonomy was sometimes able to finalize sales directly to end users (after it had already recognized revenue via a "sale" to a reseller), it was unsuccessful in other deals, leading to the resellers' increasing debt to Autonomy. Because the purchase orders between Autonomy and the resellers did not truly reflect the understood arrangement between Autonomy and the resellers, Autonomy needed to get funds to the resellers, for two reasons. First, such payments allowed the resellers to pay Autonomy. Second, the payments by the resellers to Autonomy created financial records Autonomy could use in subsequent transactions in later periods to demonstrate to Autonomy's auditors that the resellers had the ability to pay for the software they had supposedly purchased.

26.   The primary mechanism Autonomy used to send cash to the resellers was to enter into round-trip transactions or reciprocal deals with the resellers, whereby Autonomy purchased unwanted, unused, or overpriced products from the resellers. In some cases, these purchases were explicitly linked in communications by Autonomy's UK-based senior-most executives to the reseller paying down debt on a previously-recognized transaction, and in all cases resulted in near-instantaneous payment by the reseller back to Autonomy to pay down outstanding debt.

27.   These mechanisms were devised by Autonomy's senior-most finance executive and known within Autonomy as "fixes." During the relevant period, Autonomy engaged in at least $45 million of fixes to create the façade that the resellers had a standalone ability to pay, and had actually paid, Autonomy.

28.   Acting at the executive's direction, Egan was involved in some of the round-trip transactions by serving as the conduit between Autonomy and the resellers. Egan knew, or should have known, that the transactions were not legitimate purchases by Autonomy, as he knew Autonomy did not price the cost of such purchases with other vendors of the products in question, and did not negotiate with the reseller on the price or any other term of the agreement, as was otherwise expected.

E.   Autonomy's Sale to HP and Subsequent Writedown

29.   On August 18, 2011, after the conclusion of a financial due diligence process based on Autonomy's published financial statements, HP announced its intention to acquire Autonomy for $11.1 billion, a 64 percent premium over Autonomy's stock price at the time. In its Form 8-K announcing the acquisition, HP emphasized the strong financial results that based on its due diligence process, HP believed, Autonomy had achieved to date, stating, "Autonomy has a consistent track record of double-digit revenue growth, with 87 percent gross margins and 43 percent operating margins in calendar year 2010."

30.   In connection with the acquisition, which closed on October 3, 2011, the company automatically liquidated the stock options that Egan received as part of his compensation at Autonomy. Just over $800,000 of the money Egan received is tied to his role on Autonomy's reseller transactions discussed above.

31.   On November 20, 2012, HP announced a non-cash impairment charge of $8.8 billion, the majority of which it claimed was due to "serious accounting improprieties, misrepresentation and disclosure failures" due to Autonomy's accounting practices prior to the acquisition.

Violations

32.   Section 17(a)(2) of the Securities Act prohibits, by the use of any means or instruments of interstate commerce, obtaining money or property in the offer or sale of any security by means of any untrue statement of material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading. As a result of his failure to exercise reasonable care, as described above, Respondent violated Section 17(a)(2) of the Securities Act.

33.   Section 17(a)(3) of the Securities Act prohibits any transaction, practice, or course of business that operates as a fraud or deceit upon the purchaser of a security. As a result of his failure to exercise reasonable care, as described above, Respondent violated Section 17(a)(3) of the Securities Act.

IV.

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

Accordingly, it is hereby ORDERED that:

A.   Pursuant to Section 8A of the Securities Act, Respondent Egan shall cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and (3) of the Securities Act.

B.   Respondent shall, within thirty (30) days of the entry of this Order, pay disgorgement of $800,669 and prejudgment interest of $122,722 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Securities Exchange Act of 1934 Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600.

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 Christopher Egan 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 Erin Schneider, Associate Regional Director, Division of Enforcement, Securities and Exchange Commission, 44 Montgomery Street, Suite 2800, San Francisco, CA 94104.

C.   Respondent acknowledges that the Commission is not imposing a civil penalty based upon his cooperation in a Commission investigation and/or related enforcement action. If at any time following the entry of the Order, the Division of Enforcement ("Division") obtains

information indicating that Respondent knowingly provided materially false or misleading information or materials to the Commission or in a related proceeding, the Division may, at its sole discretion and with prior notice to the Respondent, petition the Commission to reopen this matter and seek an order directing that the Respondent pay a civil money penalty. Respondent may contest by way of defense in any resulting administrative proceeding whether he knowingly provided materially false or misleading information, but may not: (1) contest the findings in the Order; or (2) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the findings in the Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

By the Commission.

Brent J. Fields
Secretary