UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 80749 / May 23, 2017

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3870 / May 23, 2017

ADMINISTRATIVE PROCEEDING
File No. 3-17996

In the Matter of **DANIEL MILLMANN, CPA,** **Respondent.**	**ORDER INSTITUTING PUBLIC ADMINISTRATIVE PROCEEDINGS, PURSUANT TO SECTION 4C OF THE SECURITIES EXCHANGE ACT OF 1934 AND RULE 102(e) OF THE COMMISSION'S RULES OF PRACTICE, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS.**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that public administrative proceedings be, and hereby are, instituted against Daniel Millmann ("Millmann" or "Respondent") pursuant to Section 4C[1] of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 102(e)(1)(ii) of the Commission's Rules of Practice.[2]

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[1] 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.

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

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 Respondent and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Public Administrative Proceedings, Pursuant to Section 4C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds[3] that

Summary

1. This matter involves improper professional conduct by RSM US LLP ("RSM") engagement partner Millmann, while performing the 2011 audit of Madison Capital Energy Income Fund I LP ("Fund I"), a fund formed for the general purpose of acquiring oil and gas royalty interests to generate a return for its investors. During the course of the Fund I engagement, Millmann repeatedly violated professional standards, including by failing to conduct the 2011 Fund I audit (hereinafter "Fund I audit") in conformity with Generally Accepted Auditing Standards ("GAAS").

2. For example, Millmann failed to adequately plan and assess the risk of the Fund I audit before audit field work commenced. Also, Millmann, who had never worked on an oil and gas audit, was not approved to work on the Fund I audit before the work began. In addition, the Fund I financial statements failed to separately report the fair value of the investment in each oil and gas royalty interest held by Fund I, as required by Generally Accepted Accounting Principles ("GAAP"). Lisa Hanmer ("Hanmer"), RSM engagement manager for the Fund I audit, knew that adequate procedures had not been performed in auditing the fair value of the investment in the underlying royalty interests and took steps to conceal this fact from RSM personnel, including Millmann. Millmann also failed to complete the RSM required engagement report release workpaper, which, in relevant part, mandated that Millmann satisfy himself that all review comments for the audit were satisfactorily resolved before the audit report was released. Finally,

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> 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.

[3] The findings herein are made pursuant to Respondent's Offer and are not binding on any other person or entity in this or any other proceeding.

Millmann also neglected to review many of the audit workpapers, and in essence improperly delegated most of his engagement partner responsibilities to an engagement manager, Hanmer.

Respondent

3. **Daniel Millmann ("Millmann")**, age 54, currently resides in Madison, Wisconsin and is a certified public accountant licensed to practice in Wisconsin. Millmann has worked at RSM since 1990 and became a partner in 2005. Millmann served as the RSM engagement partner for the Fund I audit.

Other Relevant Parties

4. **RSM US LLP,** a limited liability partnership with its headquarters in Chicago, Illinois, is a public accounting firm registered with the Public Company Accounting Oversight Board ("PCAOB"). Founded in 1926, RSM has about 80 offices in the United States with annual revenue totaling approximately $1.4 billion. Fund I engaged RSM, through its Madison, Wisconsin office, to "perform an audit of [Fund I's] statement of net assets, including the schedules of investments as of December 31, 2011 and a review of the related statements of operations, changes in partners' capital and cash flows for the year then ended . . . in accordance with auditing standards generally accepted in the United States of America" in May 2012.

5. **Lisa Hanmer**, age 44, currently resides in Oregon, Wisconsin and is a certified public accountant licensed to practice in Wisconsin. Hanmer began working at RSM in 1996, became a partner in 2013, and resigned from the firm, effective March 31, 2015. Hanmer served as the RSM manager for the Fund I audit and held the title of director at the time.

6. **Derik J. Todd ("Todd")**, age 51, currently resides in Madison, Wisconsin. Since 2007, Todd has served as the President of Madison Capital Investments LLC ("MCI"). Todd has organized private placements of equity interests in oil and gas limited partnerships through MCI and other entities. Todd, on behalf of Fund I, retained RSM to perform the Fund I audit and served as RSM's primary contact with Fund I.

7. **Madison Capital Investments LLC ("MCI")** is a Wisconsin limited liability company, controlled by Todd, based in Madison, Wisconsin. MCI organized a number of private placements of equity interests in oil and gas limited partnerships since 2009, including Fund I. These private placements were marketed to accredited investors under Regulation D Rule 506 through separate broker-dealers and investment advisers.

8. **Madison Capital Energy Income Fund I LP ("Fund I")** is a Delaware limited partnership, controlled by Todd, based in Madison, Wisconsin. Fund I was formed for the general purpose of acquiring oil and gas royalty interests to generate a return for its investors. Fund I raised almost $3 million from approximately 50 investors.

Background

Fund I Audit

9. MCI pitched its funds to broker-dealers and investments advisers, and they in turn introduced these funds to prospective investors. These broker-dealers and investment advisers generally required certain information before they agreed to place these funds on their platforms, including audited financial statements. Thus, MCI engaged RSM on May 16, 2012 to perform an audit of Fund I's statement of net assets as of December 31, 2011 and a review of the related statements of operations, changes in partners' capital and cash flows for the year then ended (the "audit report").[4] RSM issued its final audit report to Fund I on May 30, 2012. This report contained an unqualified opinion on Fund I's statement of net assets and a review conclusion, made in accordance with AICPA standards, on the other financial statements issued by Fund I.

10. In the Fund I audit report, RSM opined that the Fund I statement of net assets "presents fairly, in all material respects, the financial position of [Fund I] as of December 31, 2011, in conformity with accounting principles generally accepted in the United States of America."

11. The Fund I audit report was subsequently distributed by MCI to broker-dealers and investment advisers. These broker-dealers and investment advisers reviewed the Fund I audit report in connection with their due diligence review for MCI's later funds and placed MCI's later funds on their investment platforms with the impression that RSM properly and adequately audited Fund I's statement of net assets. RSM generally understood how MCI intended to utilize the final Fund I audit report. Fund I's only material assets were interests in oil and gas royalty properties. As such, auditing the value of those assets was the primary purpose for MCI retaining RSM to conduct the Fund I statement of net assets audit.

12. Hanmer functioned in the role of engagement manager for the Fund I audit and performed the most work on the audit, including performing or overseeing the field work and testing for the audit (including its documentation in the workpapers) and drafting the Fund I audit report. At the time of the Fund I audit, Hanmer was a director at RSM whose primary experience was in auditing privately-held manufacturing companies. Fund I was the first oil and gas fund she had audited in her career.

13. Millmann was the engagement partner for the Fund I audit. At the time of the Fund I audit, Millmann's primary experience was in auditing privately-held manufacturing companies and professional service organizations. Millmann had never worked on an oil and gas fund prior to the Fund I audit.

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[4] This Order references the American Institute of Certified Public Accountants ("AICPA") standards in effect at the time of the Fund I audit. These standards are encompassed in GAAS.

14. The Fund I audit fell under the auspices of RSM's financial services group, which specializes in audits of broker-dealers, futures commodities merchants, non-registered proprietary trading firms, business development companies, commodity pools, hedge funds, mutual funds, small business investment company funds, registered investment advisers, and private equity funds (hereinafter "Financial Services Practice"). At the time of the Fund I audit, Millmann and Hanmer were not on RSM's preapproved list for Financial Services Practice audits. This list identifies competent individuals to perform audits for the Financial Services Practice, the purpose of which is to provide reasonable assurance that such audits are performed according to firm and professional standards. Because Millmann and Hanmer were not on the preapproved list for Financial Services Practice audits, the Regional Professional Practices Officer ("RPPO") for the RSM Great Lakes Region was required, according to RSM policy, to approve the staffing of Millmann and Hanmer on the engagement, which the RPPO ultimately did, but only after audit field work had been substantially completed.

Relevant RSM Quality Control Policies and Procedures

15. All RSM partners and other professionals are required to adhere to all applicable provisions of the AICPA Code of Professional Conduct, as well as applicable ethics requirements of the PCAOB and state boards of accountancy.

16. RSM's client acceptance and continuation policies and procedures require the engagement partner to carefully evaluate the prospective client prior to acceptance by: (i) evaluating the integrity and competence of top management and majority owners; (ii) evaluating the prospective client's financial condition; (iii) reviewing RSM's independence requirements to determine compliance with respect to the prospective client; (iv) ensuring that qualified professional staff and other functional and industry specialists are available; and (v) communicating directly with the predecessor auditor. Acceptance of all prospective clients must be approved by the regional assurance leader or his or her designee.

17. RSM uses the RSM Risk Assessment Model ("MRAM"), an internally developed electronic tool that assists engagement teams in performing consistent and comprehensive evaluations of risk. In arriving at an engagement risk assessment, the MRAM considers several risk-rating factors, such as industry, financial condition, governance, management, control environment, size, complexity, and international reach. In addition to providing for the approval of engagement acceptance or continuance and engagement staffing, the MRAM identifies potential risks of material misstatement, the need for the involvement of subject matter experts, matters requiring consultation, and other engagement risks, which allows RSM to plan and perform more effective and efficient risk-based audits. RSM's policies in this area are designed to provide reasonable assurance that RSM will undertake or continue relationships and engagements only where RSM: (i) has considered the integrity of the client and the risks associated with providing professional services under the circumstances; (ii) is competent to perform the engagement and has the capabilities and resources to do so; (iii) can comply with the applicable legal and ethical requirements; and (iv) can reach an understanding with the client regarding the nature, scope, and limitations of the services to be performed.

18. RSM designed its policies and procedures to provide reasonable assurance that RSM has sufficient professional personnel with the capabilities, competence, and commitment to ethical principles necessary to perform RSM's engagements in accordance with professional standards and regulatory and legal requirements and to enable RSM to issue reports that are appropriate under the circumstances. RSM's National Office of Risk Management ("NORM"), in consultation with the Regional Professional Practice Offices, approves a list of assurance partners, directors, and other professionals who have designations within RSM's quality control system. This list identifies individuals by industry and engagement risk rating who are authorized to serve as engagement partners and managers, engagement quality reviewers, industry specialists, independent report reviewers, SEC compliance reviewers, and subject matter experts. RSM assigns an individual to a specific engagement after considering the professional competence and industry experience of the individual, together with the degree of knowledge, skills, and abilities required under the circumstances. RSM's RPPO has the ability to approve RSM staff, who are not on the preapproved list, for a given audit.

19. To provide reasonable assurance that engagements are consistently performed properly, RSM develops, maintains, and provides personnel with electronic manuals, software tools, and subject matter guidance materials, which address: (i) audit methodology, (ii) engagement supervision, (iii) appropriate documentation of work performed, and (iv) identifying matters for consultation or consideration by more experienced professionals. RSM's audit methodology dictates that the engagement team plan the audit work so that an effective audit is performed, designing procedures that are responsive to the risks of material misstatement identified in the MRAM.

20. RSM has also implemented a Quality Control Inquiry Committee ("QCIC"), which is charged with reviewing engagements selected based on certain triggering events such as engagements identified in PCAOB or internal inspections.

Withdrawal of Fund I Audit Report

21. RSM informed the Commission staff in early 2015 that the Commission staff's investigation caused it to conduct its own internal review of the Fund I audit. In connection with this internal review, the RSM QCIC convened on February 7, 2015 and concluded that: Hanmer's conduct on the Fund I audit departed from professional standards and firm policies to a degree that warranted a recommendation to separate Hanmer from RSM.

22. Subsequently, Millmann, on behalf of RSM, in a February 23, 2015 letter to MCI, withdrew its Fund I audit report based on "significant concerns that certain auditing procedures [RSM] considered necessary in the circumstances existing at the time of the engagement were omitted from the audit of the statement of assets, including Fund I's schedule of investments, and [RSM's] review of the other financial statements." The Fund I audit report was withdrawn after Fund I's offering period closed and after investors had already invested.

Fund I Audit Failures

23. Millmann failed to conduct the Fund I audit in conformity with GAAS.

24. Contrary to RSM's client acceptance and engagement performance policies described above, field work for the Fund I audit had begun before (i) RSM's audit planning documents were approved and (ii) RSM had cleared the Fund I engagement through the MRAM. As a result, RSM and Millmann did not appropriately assess the risk for the Fund I engagement and effectively plan procedures for the audit that would be responsive to the risks of material misstatement identified in the MRAM, and consequently, the Fund I audit was conducted without effective audit procedures that were expected to reduce the audit risk of material misstatement.

25. In addition, contrary to RSM's engagement staffing policy described above, Millmann and Hanmer, who were not included on the preapproved list for Financial Services Practice audits, were not approved by the RPPO before they began working on the audit. Consequently, RSM had no assurance that competent personnel were staffed on the audit before substantive audit procedures were performed.

26. RSM issued an audit report containing an unqualified opinion on the Fund I statement of net assets; however, the Fund I financial statements, including the statement of net assets, were not in conformity with GAAP. Specifically, ASC 946-210-50-6 requires breaking out and reporting the value of each individual fund asset on the schedule of investments that are more than 5 percent of total net assets. Notwithstanding this GAAP disclosure requirement, the final Fund I schedule of investments only reported the combined cost and fair values of all of the royalty interests purchased by the fund. It did not report the values of Fund I's individual royalty interests. Hanmer knew that the Fund I financial statements were not in conformity with GAAP and took steps to conceal this fact from RSM personnel, including Millmann.

27. Millmann failed to complete the RSM required engagement report release workpaper, which, in relevant part, mandated that Millmann satisfy himself that all review comments for the audit were satisfactorily resolved before the audit report was released.

28. Millmann neglected to review many investment workpapers (including Fund I's valuation summary report) and did not sign off on the investment audit program, which he was required to do as engagement partner for the audit per the firm's policies. As a result, Millmann was unable to determine if the engagement team's audit procedures for Fund I's investments, which represented a significant portion of Fund I's assets, were adequate or even if they were all completed. In short, Millmann did not fulfill his supervisory responsibility for the Fund I audit.

29. The Fund I audit had other significant deficiencies. For example, the required work program for subsequent events was never completed and no tests were performed to determine whether there were unrecorded liabilities that needed to be disclosed at year end.

Violations of Professional Standards

Failure to exercise due professional care (AU § 230)

30. AU Section 230 requires that an auditor exercise due professional care in the performance of an audit and the preparation of an audit report. AU § 230.01. This standard requires the auditor to plan and perform his work with due professional care. *Id*. § 230.02. Due professional care imposes a responsibility upon each professional within an independent auditor's organization to conduct field work and reporting with reasonable care and diligence and to possess the degree of skill commonly possessed by other auditors. *Id*. §§ 230.02-.05. Auditors should be assigned to tasks and supervised commensurate with their level of knowledge, skill, and ability so that they can evaluate the audit evidence they are examining. *Id*. § 230.06. Due professional care requires the auditor to exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of audit evidence. *Id*. § 230.07.

31. As a result of the conduct described above, Respondent failed to exercise due professional care, as required by AU Section 230, when conducting the Fund I audit.

Failure to adequately plan the audit (AU § 311)

32. AICPA standards require that an auditor adequately plan field work for an audit. AU § 311.01. Audit planning involves developing an overall audit strategy for the expected conduct, organization, and staffing of the audit. *Id*. § 311.02. Obtaining an understanding of the entity and its environment, including its internal control, is an essential part of planning and performing an audit in accordance with GAAS. *Id*. § 311.03. The auditor must plan the audit so that it is responsive to the assessment of the risk of material misstatement based on the auditor's understanding of the entity and its environment, including its internal control. *Id*. The auditor must develop an audit plan in which the auditor documents the audit procedures to be used that, when performed, are expected to reduce audit risk to an acceptably low level. *Id*. § 311.19.

33. As a result of the conduct described above, Respondent failed to adequately plan the Fund I audit within the meaning of AU Section 311.

Failure to supervise the engagement team properly (AU § 311)

34. AICPA standards require that audit "assistants," or firm personnel other than the auditor with final responsibility for the audit, be properly supervised. AU §§ 311.01, .04. Elements of supervision include instructing assistants, keeping informed of significant issues encountered, reviewing the work performed, and dealing with differences of opinion among firm personnel. *Id*. § 311.28. The extent of supervision appropriate in a given instance depends on many factors, including the complexity of the subject matter and the qualifications of persons performing the work, including knowledge of the client's business and industry. *Id*.

35. As a result of the conduct described above, Respondent did not properly supervise the Fund I audit within the meaning of AU Section 311.

Failure to consider audit risk and materiality in conducting the audit (AU § 312)

36. According to AICPA standards, the auditor must consider audit risk and must determine a materiality level for the financial statements taken as a whole for the purpose of: (i) determining the extent and nature of risk assessment procedures; (ii) identifying and assessing the risks of material misstatement; (iii) determining the nature, timing, and extent of further audit procedures; and (iv) evaluating whether the financial statements taken as a whole are presented fairly, in all material respects, in conformity with GAAP. AU § 312.11. The auditor should perform risk assessment procedures to assess the risks of material misstatement both at the financial statement and the relevant assertion levels. *Id*. §312.12.

37. As a result of the conduct described above, Respondent did not properly consider audit risk, as required by AU Section 312, when planning the Fund I audit.

Failure to obtain sufficient appropriate audit evidence (AU § 326)

38. AICPA standards require that: "[t]he auditor must obtain sufficient appropriate audit evidence by performing audit procedures to afford reasonable basis for an opinion regarding the financial statements under audit." AU § 326.01. Sufficiency is the measure of the quantity of audit evidence, and appropriateness is the measure of the quality of audit evidence. *Id*. § 326.06. The quantity of audit evidence needed is affected by the risk of misstatement (the greater the risk, the more audit evidence is likely to be required) and also by the quality of such audit evidence (the higher the quality, the less the audit evidence that may be required). *Id*.

39. As a result of the conduct described above, Respondent did not obtain sufficient appropriate audit evidence for the Fund I audit within the meaning of AU Section 326.

Failure to ascertain the occurrence of subsequent events (AU § 560)

40. The independent auditor should perform other auditing procedures with respect to the period after the balance-sheet date for the purpose of ascertaining the occurrence of subsequent events that may require adjustment or disclosure essential to a fair presentation of the financial statements in conformity with GAAP. AU § 560.12. These procedures should be performed at or near the date of the auditor's report. *Id*.

41. As a result of the conduct described above, Respondent did not comply with AU Section 560.

Violations

42. Rule 102(e)(1)(ii) of the Commission's Rules of Practice provides that the Commission may deny the privilege of appearing or practicing before the Commission to any person who is found to have engaged in improper professional conduct. Respondent engaged in improper professional conduct as defined in Rule 102(e)(1)(iv)(B)(2) (*i.e.*, 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).

Findings

43. Based on the foregoing, the Commission finds that Respondent engaged in improper professional conduct within the meaning of Section 4C(a)(2) of the Exchange Act 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. Millmann is denied the privilege of appearing or practicing before the Commission as an accountant.

1. After two years from the date of this Order, Millmann 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:

a. 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 Millmann'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

b. an independent accountant. Such an application must satisfy the Commission that:

(1) Millmann, 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;

(2) Millmann, 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 his or the firm's quality control system that would indicate that Millmann will not receive appropriate supervision;

(3) Millmann, 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

(4) Millmann acknowledges his responsibility, as long as Millmann 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, engagement quality review, and quality control standards.

2. The Commission will consider an application by Millmann to resume appearing or practicing before the Commission provided that his CPA license is current and he has resolved all other disciplinary issues with the applicable boards of accountancy. However, if CPA licensure is dependent on the 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 Millmann's character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

By the Commission.

Brent J. Fields
Secretary