

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10861 / September 29, 2020

SECURITIES EXCHANGE ACT OF 1934
Release No. 90043 / September 29, 2020

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4178 / September 29, 2020

ADMINISTRATIVE PROCEEDING
File No. 3-20100

In the Matter of

ANDREW ROOKE,

Respondent.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 8A OF THE SECURITIES ACT
OF 1933, 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”) deems it appropriate that public administrative and cease-and-desist proceedings be, and hereby are, instituted against Andrew Rooke (“Rooke” or “Respondent”) pursuant to Section 8A of the Securities Act of 1933

(“Securities Act”), Sections 4C¹ and 21C of the Securities Exchange Act of 1934 (“Exchange Act”), and Rule 102(e)(1)(iii) of the Commission’s Rules of Practice.²

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 him 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 Section 8A of the Securities Act of 1933, 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 finds³ that:

SUMMARY

1. This matter involves financial and accounting fraud by Rooke, the former Chief Operating Officer (“COO”) of Manitex International, Inc. (“Manitex”), a publicly-traded company that manufactures and distributes cranes, forklifts and other heavy equipment and machinery.

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 issued thereunder.

² Rule 102(e)(1)(iii) provides, in pertinent part, that:

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

³ 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.

During downturns in Manitex's business, Rooke, along with other senior Manitex employees, engaged in two distinct, fraudulent schemes involving the use of related party entities to engage in fraudulent accounting practices. The first fraud was perpetrated by Rooke and the former general manager of Manitex's Crane & Machinery subsidiary (the "GM"). The second fraud, which resulted in a restatement, involved Rooke, the GM and Manitex's former Controller and Chief Financial Officer (the "CFO"). As a result of the two schemes, Manitex issued materially misstated financial statements in its public filings for every period from at least the fourth quarter of 2014 through the second quarter of 2017.

2. In the first scheme, Manitex improperly accounted for and misled its outside auditor about its contributions of purported inventory from one of its subsidiaries to Lift Ventures, LLC ("Lift Ventures"), a joint venture created on December 16, 2014. Beginning in approximately January 2014, Rooke and the GM created false inventory lists and shipping documents which were provided to Manitex's outside auditor to cover up a \$1.39 million inventory shortfall at one of Manitex's subsidiaries. Subsequently, at Rooke's direction, Manitex purportedly contributed the \$1.39 million in nonexistent inventory to Lift Ventures, a joint venture Rooke and Manitex created with three foreign partners, and it was recorded on Manitex's books as a non-marketable equity investment. As a result, Manitex overstated its 2014 operating income by approximately 11% and pre-tax income by approximately 15%. Manitex continued to list its contribution to Lift Ventures at or close to its full value in its periodic filings with the Commission until September 2016.

3. In the second scheme, Manitex improperly recognized revenue on and misled its auditor about approximately \$12 million in purported "bill and hold" sales of cranes to S.V.W. Crane Equipment Company ("SVW"). In March 2016, Manitex approached SVW to enter into an agreement to purchase Manitex cranes and rent them to third parties. SVW had no operations, revenue, or significant assets, and did not have the financial ability to obtain financing or otherwise pay for or store the cranes purchased from Manitex. At Rooke's direction, the GM took charge of the SVW relationship, secured the financing for SVW's crane purchases, and, on behalf of Manitex, guaranteed the financing for the cranes. The GM, in consultation with Rooke, then created a purported financing subsidiary for SVW called Rental Consulting Services Company ("RCSC"), to conceal the fact that Manitex was making the financing payments. In order to make the payments, the GM created a series of fraudulent invoices on RCSC letterhead for fictitious services that RCSC purportedly provided to Manitex. The CFO approved the payments although he knew that the RCSC invoices were not genuine. Manitex should not have recognized revenue on the purported sales. As a result of the fraud, Manitex overstated its 2016 net revenues by over 6.9% and its 2016 gross profits by approximately 8.2%. On April 3, 2018, Manitex issued restated financial statements for 2016 and the first two quarters of 2017.⁴

4. As a result of his conduct, Rooke willfully violated Section 17(a) of the Securities Act, and Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13b2-1 and 13b2-2 promulgated thereunder. Rooke also willfully aided and abetted and caused Manitex's violations

⁴ In addition to the adjustments for the second fraud, Manitex also made other unrelated adjustments to its previously issued financial statements.

of Exchange Act Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B), and Rules 12b-20, 13a-1 and 13a-13 promulgated thereunder.

RESPONDENT

5. **Andrew Rooke**, 62 years old, is a resident of Bloomfield Hills, Michigan. Rooke was Manitex's President and COO from at least May 2008 until December 2016. As COO, Rooke was Manitex's second-highest ranking officer, and reported directly to the Chief Executive Officer ("CEO"). Rooke's responsibilities included overseeing and assisting the CFO with financial forecasting, investor relations, and forward-looking business transactions. He also oversaw Manitex's operating segment general managers and reviewed and commented on Manitex's quarterly and annual reports. Rooke left Manitex for a position at another company in December 2016. From 1986 to 2020, Rooke was a member of the Institute of Chartered Accountants of England and Wales, a professional credential corresponding to that of a certified public accountant in the United States.

OTHER RELEVANT ENTITIES

6. **Manitex International, Inc.**, is a Michigan corporation headquartered in Bridgeview, Illinois, that manufactures and distributes cranes, forklifts and heavy equipment. Manitex operates through several subsidiaries both in the United States and Europe, including Crane & Machinery which also was headquartered in Bridgeview, Illinois. Manitex and its predecessors have been in business since 1993. Manitex has a class of securities registered under Section 12(b) of the Exchange Act and its shares trade on the NASDAQ as "MNTX." During the relevant period, Manitex sold securities to the public pursuant to several Form S-3 registration statements filed with the Commission. A broad range of investors purchased Manitex stock in these offerings. During the relevant period, the Form S-3 registration statements incorporated by reference the company's public filings with the Commission.

7. **S.V.W. Crane Equipment Company** is a Texas corporation established in 1996, with its office in Pearland, Texas. Prior to the start of its relationship with Manitex in 2016, SVW had no operations, revenues, or significant assets.

8. **Rental Consulting Services Company** is a Texas corporation established in June 2016, as a subsidiary of SVW. RCSC was created and controlled by the GM on Manitex's behalf.

FACTS

9. Manitex manufactures and distributes cranes, forklifts and heavy equipment. Historically, many of Manitex's largest customers purchased its equipment for use in support of the oil and gas industry. As a result, Manitex's business generally experienced a downturn in periods when the price of oil diminished substantially.

The Lift Ventures Inventory Fraud

10. In January 2014, during a downturn in Manitex's business, Manitex's Load King subsidiary in Elk Point, South Dakota reported to Manitex's headquarters that it had found a shortfall of approximately \$1.4 million while conducting its year-end 2013 physical inventory count. After learning about the shortfall, Rooke asked the GM to travel to South Dakota to meet with Load King's general manager and controller to address the inventory shortfall.

11. ASC 330 ("Inventory") is the relevant accounting standard for inventory issued by the Financial Accounting Standards Board ("FASB"). ASC 330-10 sets forth guidance concerning the subsequent measurement of inventory, including the recording of inventory values at the lower of cost or market value. For entities employing First-In-First-Out inventory measurement, as was the case with Manitex, ASC-330-10-35-1B specifically states that when "evidence exists that the net realizable value of inventory is lower than its cost, the difference shall be recognized as a loss in earnings in the period in which it occurs."

12. At Rooke's instruction, the GM directed Load King's general manager and controller to override the physical inventory count and add the missing inventory back onto Load King's books and records so that Load King would not have to write off the missing inventory and recognize a loss in earnings. When the general manager asked Rooke for further information, Rooke told him to follow the GM's instructions. The GM provided Load King's general manager and controller with lists purporting to show the missing inventory and told them that the inventory was physically located at Manitex's Crane & Machinery subsidiary in Manitex's headquarters in Illinois. In reality, however, the inventory did not exist and should have been written off.

13. At Rooke's direction, the GM also provided Crane & Machinery's controller with fictitious journal entries memorializing the inventory transfer and instructed the controller to record the transfer in Crane & Machinery's books and records. In May 2014, Crane & Machinery's controller transmitted a list of the fake inventory to Manitex's external auditor as support for the inventory transfer. No one at Manitex informed the external auditor that the inventory list was fake and could not be relied upon.

14. In the fall of 2014, senior officials at Manitex, including Rooke, began discussing the creation of a joint venture with a foreign company owned by a Manitex executive. However, they decided not to proceed with the joint venture after Manitex, in consultation with its external auditor, determined that the joint venture would need to be consolidated on Manitex's books and records.

15. Manitex's CEO then tasked Rooke with forming an independent joint venture with the related foreign company and two additional foreign partners that would not need to be consolidated. The purported purpose of the new entity was to utilize inventory that Manitex no longer was using in North America to manufacture cranes and forklifts.

16. Later in 2014, at Rooke's direction, the GM created fake shipping documents to reflect the transfer of the \$1.39 million of nonexistent Load King inventory to the related foreign company's U.S. operation. The GM used the names and letterhead of real transportation

companies that did business with Manitex in creating the shipping documents to make them appear to be authentic. He and Rooke then used different colored pens to sign the documents with fake names to make it appear as if the documents had been signed by both the shipping and receiving parties. Rooke told the GM that the fake shipping documents were needed to provide Manitex's external auditor with audit evidence that the inventory had been transferred. The GM also rented storage trailers to "store" the nonexistent inventory in case Manitex's auditor asked where the inventory was located.

17. On December 16, 2014, Manitex formed Lift Ventures with the three foreign companies and agreed to contribute inventory and licenses in exchange for a 25% interest in the joint venture. Rooke signed the joint venture agreement on Manitex's behalf and chose which inventory to contribute.

18. On December 31, 2014, at Rooke's direction, Manitex contributed to Lift Ventures \$4.56 million of older inventory from a Canadian subsidiary and the \$1.39 million of nonexistent Load King inventory purportedly held at Crane & Machinery. The inventory contributions were recorded in Manitex's books and records as a non-marketable equity investment.

19. In January 2015, with Rooke's knowledge, Crane & Machinery's controller provided the fake shipping documents that Rooke and the GM had created to Manitex's external auditor to substantiate the Load King inventory contributions. No one at Manitex informed the external auditor that the documents were fake or could not be relied upon.

20. In reality, the \$1.39 million Load King inventory contribution did not exist and never was transferred to Lift Ventures.

21. As a result of the fraudulent conduct above, Manitex overstated its 2014 operating income by approximately 11% and its pre-tax income by approximately 15%. These amounts were material to Manitex's financial statements.

22. Despite his knowledge of the fraud, Rooke signed management representation letters to Manitex's external auditor between 2014 and the third quarter of 2016 denying any knowledge of fraud.

23. Manitex continued to list its equity investment in Lift Ventures at close to its original value in its Forms 10-Q and 10-K until the third quarter of 2016 when Manitex determined its investment was fully impaired and wrote off its entire remaining investment of approximately \$5.65 million in Lift Ventures.

The SVW Revenue Recognition Fraud

24. After another downturn in the oil and gas services industry in late 2015 impacted the demand by many of Manitex's customers, Manitex began seeking new purchasers for its cranes. Manitex decided to expand its small rental business, and the GM was charged with developing a rental business plan.

25. In March 2016, Manitex entered into an agreement with SVW, a dormant company that never had any operations, revenue, or significant assets, to purchase Manitex cranes and rent them to third parties. As part of the agreement, between April 2016 and January 2017, Manitex paid SVW's owner a monthly fee of \$16,000 to find rental customers for Manitex and SVW. SVW did not find any rental customers for the cranes.

26. SVW did not have a storage facility or the ability to take physical delivery of the cranes. Manitex kept the cranes at an offsite storage yard it leased in Texas and recorded the sales in its books and records as "bill and hold" transactions.

27. In April 2016, Rooke asked the GM to take charge of the SVW relationship.

28. Because SVW did not have the financial ability to obtain financing or otherwise pay for the cranes it was purchasing from Manitex, the GM negotiated with various financing companies and prepared financing documents for SVW's owner to sign. In consultation with Rooke, the GM also prepared "remarketing agreements" which obligated Manitex to guarantee that payments would be made to fulfill SVW's financing obligations. The GM also orally told the financing companies that Manitex would buy back any cranes from SVW upon default.

29. In order to conceal the fact that Manitex was paying for SVW's financing obligations, the GM proposed the idea of creating a purported financing subsidiary for SVW. Rooke sarcastically suggested the possibility of calling the purported subsidiary "Vandalay Industries," the name of a fake company repeatedly referenced in the *Seinfeld* television show. The GM named the subsidiary RCSC, created RCSC as a corporate entity, and listed SVW's owner as its president. The GM also opened a bank account for RCSC and listed himself and SVW's owner as co-signers. In reality, RCSC was controlled by the GM and Rooke, and SVW's owner was unaware of the RCSC bank account and had no control over RCSC.

30. The GM directed SVW's owner to send him all of the invoices for the SVW crane financing loans. Then, in order to make the financing payments through Crane & Machinery, the GM created a series of fraudulent invoices on RCSC letterhead primarily for "consulting" and other fictitious services that RCSC purportedly provided to Manitex. In reality, none of the RCSC invoices were legitimate and they instead contained fictitious descriptions for amounts necessary to fund the monthly payments that SVW was required to make to the financing companies for the cranes it purchased from Manitex.

31. The GM submitted the fake invoices to Crane & Machinery's controller for entry into Crane & Machinery's payment system. The GM then directed Crane & Machinery's controller to submit the fake invoices to the CFO, who at the time, was Manitex's controller, for approval.

32. The CFO knew that the RCSC invoices were not genuine and, on at least two occasions, changed the invoice descriptions to reflect another purpose in order to make them more believable. The CFO also knew that the purpose of the invoices was to make SVW's financing payments for its purported purchases of cranes from Manitex. Rooke also knew that the invoices

were fictitious and were designed to conceal Manitex's payments of SVW's financing obligations. Despite this knowledge, Rooke instructed the CFO to pay the invoices when the GM brought them to the CFO.

33. Based on the RCSC invoices prepared by the GM, and upon the CFO's approval, Manitex made payments through Crane & Machinery of approximately \$1.3 million to RCSC in 2016 and approximately \$600,000 during 2017 to cover SVW's financing obligations in connection with SVW's "purchase" of the cranes from Manitex.

34. Pursuant to its agreement with Manitex, SVW "purchased" 39 cranes from Manitex for a combined cost of \$15 million throughout 2016, including: approximately \$9.7 million during the first quarter of 2016, approximately \$2.9 million during the second quarter of 2016, approximately \$1.7 million during the third quarter of 2016, and approximately \$538,000 during the fourth quarter of 2016. SVW later returned 10 of the 39 cranes to Manitex during the third and fourth quarters of 2016. As a result, Manitex recorded revenue of approximately \$12 million from the remaining 29 cranes purportedly sold to SVW during 2016.

35. When its business started to improve in late 2016, Manitex began "purchasing" the cranes back from SVW and reselling them to third-party customers.

36. Despite his knowledge discussed above, Rooke signed quarterly management representation letters to Manitex's external auditor denying any knowledge of fraud during the first three quarters of 2016 before he left his employment at Manitex.

37. In October 2017, Manitex's auditor began asking questions about the accounting for the crane sales to SVW after discovering a lease agreement listing Manitex as the debt-holder for certain of the cranes. In the course of the inquiry, the external auditor also discovered certain of the facts discussed above.

38. Shortly after the external auditor began its inquiry, Manitex engaged an outside law firm to conduct an investigation. Based on the investigation's findings, Manitex terminated the GM's and the CFO's employment. Rooke was no longer at the company, having previously left his employment at Manitex in December 2016.

39. After consulting with the external auditor, Manitex determined that it should not have recognized revenue on the crane sales to SVW. On November 6, 2017, Manitex announced that its quarterly and annual financial statements for 2016 and the first two quarters of 2017 should not be relied upon and that a restatement was possible.

40. On April 3, 2018, Manitex filed an amended Form 10-K for 2016 and amended Forms 10-Q for the first two quarters of 2017 restating its financial results. The restated financial statements indicated that, as a result of the SVW transactions, Manitex had overstated its 2016 net revenues by approximately \$12 million and its 2016 gross profits by approximately \$2.45 million, representing material overstatements of 6.91% and 8.19%, respectively. The financial statements for the affected periods included the following material misstatements attributable to SVW:

Impact of SVW Transactions on Net Revenue

Reporting Period	1Q 2016	2Q 2016	3Q 2016	YE 2016	1Q2017	2Q2017
Originally Reported Net Revenues	102,361*	96,277	74,131	288,959	67,852	51,592
SVW Transactions	(9,688)	(2,940)	(495)	(11,961)	836	459
Other Adjustments**	(45,443)	(47,592)	(34,505)	(103,801)	(28,569)	-
Net Adjustments	(55,131)	(50,532)	(35,000)	(115,762)	(27,733)	459
Restated Net Revenues	47,230	45,745	39,131	173,197	40,119	52,051
Impact of SVW Transactions as Percentage of Restated Net Revenues	-20.5%	-6.4%	-1.3%	-6.9%	+2.1%	+0.9%

Impact of SVW Transactions on Gross Profit

Reporting Period	1Q 2016	2Q 2016	3Q 2016	YE 2016	1Q2017	2Q2017
Originally Reported Gross Profit	18,445	16,845	11,655	48,584	11,793	9,429
SVW Transactions	(2,048)	(334)	(353)	(2,452)	219	182
Other Adjustments**	(7,652)	(8,350)	(4,760)	(16,195)	(4,620)	(207)
Net Adjustments	(9,700)	(8,684)	(5,113)	(18,647)	(4,401)	(25)
Restated Gross Profit	8,745	8,161	6,542	29,937	7,392	9,404
Impact of SVW Transactions as Percentage of Restated Gross Profit	-23.4%	-4.1%	-5.4%	-8.2%	+3.0%	+1.9%

*All Dollar Amounts in Thousands.

** The other adjustments primarily were associated with retroactive presentation of discontinued operations under ASC 205-20.

VIOLATIONS

41. As a result of the conduct described above, Rooke willfully violated Section 17(a) of the Securities Act which prohibits fraudulent conduct in connection with the offer or sale of securities, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

42. As a result of the conduct described above, Rooke willfully violated Section 13(b)(5) of the Exchange Act which prohibits anyone from knowingly circumventing or knowingly failing to implement a system of internal accounting controls, or knowingly falsifying any book, record or account. Also, Rooke willfully violated Exchange Act Rule 13b2-1, which prohibits any person from, directly or indirectly, falsifying or causing to be falsified, any book, record or account subject to Exchange Act Section 13(b)(2).

43. As a result of the conduct described above, Rooke willfully violated Exchange Act Rule 13b2-2, which prohibits any director or officer of an issuer from, directly or indirectly: (a) making or causing to be made a materially false or misleading statement; or (b) omitting or causing another person to omit to state a material fact necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading, to an accountant in connection with financial statement audits, reviews, or examinations or the preparation or filing of any document or report required to be filed with the Commission.

44. As a result of the conduct described above, Rooke willfully aided and abetted and caused Manitex's violations of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, and 13a-13 promulgated thereunder which require issuers of securities registered pursuant to Section 12 of the Exchange Act to file periodic and other reports with the Commission, including annual, quarterly and current reports, on the appropriate forms and within the period specified on the form that must contain any material information necessary to make the required statements made in the report not misleading.

45. As a result of the conduct described above, Rooke willfully aided and abetted and caused Manitex's violations of Section 13(b)(2)(A) of the Exchange Act which requires issuers of securities registered pursuant to Section 12 of the Exchange Act to make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect their transactions and dispositions of assets.

46. As a result of the conduct described above, Rooke willfully aided and abetted and caused Manitex's violations of Section 13(b)(2)(B) of the Exchange Act which requires issuers of securities registered pursuant to Section 12 of the Exchange Act to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to, among other things, permit preparation of financial statements in accordance with Generally Accepted Accounting Principles.

IV.

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

Accordingly, pursuant to Section 8A of the Securities Act, Sections 4C and 21C of the Exchange Act, and Rule 102(e) of the Commission's Rules of Practice, it is hereby ORDERED that:

A. Respondent Rooke shall cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act, Sections 10(b), 13(a), 13(b)(2)(A), 13(b)(2)(B) and 13(b)(5) of the Exchange Act and Rules 10b-5, 12b-20, 13a-1, 13a-13, 13b2-1 and 13b2-2 promulgated thereunder.

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

C. Respondent Rooke is prohibited, pursuant to Section 21C(f) of the Exchange Act, from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or that is required to file reports pursuant to Section 15(d) of the Exchange Act.

D. Respondent Rooke shall pay a civil money penalty in the amount of \$80,000.00 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). Payment shall be made in the following installments: (1) \$16,000.00, within ten days of entry of this Order; (2) \$16,000.00, within 90 days of entry of this Order; (3) \$16,000.00, within 180 of days of entry of this Order; (4) \$16,000.00, within 270 days of entry of this Order; and (5) \$16,000.00, within 360 of days of entry of this Order. Payments shall be applied first to post order interest, which accrues pursuant to 31 U.S.C. 3717. Prior to making the final payment set forth herein, Respondent shall contact the staff of the Commission for the amount due. If Respondent fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

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 Andrew Rooke 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 Anne C. McKinley, Assistant Director, Securities and Exchange Commission, Chicago Regional Office, 175 West Jackson Boulevard, Suite 1450, Chicago, Illinois 60604.

D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he 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 he 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.

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 this 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.

Vanessa A. Countryman
Secretary