

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10925 / February 2, 2021

SECURITIES EXCHANGE ACT OF 1934
Release No. 91042 / February 2, 2021

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4202 / February 2, 2021

ADMINISTRATIVE PROCEEDING
File No. 3-20217

In the Matter of

**Joseph JACKSON and Colm
CALLAN,**

Respondents.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 8A OF THE SECURITIES ACT
OF 1933 AND SECTION 21C OF THE
SECURITIES EXCHANGE ACT OF 1934,
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”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Joseph Jackson (“Jackson”) and Colm Callan (“Callan”) (each, a “Respondent”).

II.

In anticipation of the institution of these proceedings, each Respondent 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 them and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, each Respondent consents to the entry of this (“Order”), as set forth below.

III.

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

Summary

1. These proceedings concern false and misleading statements made by former WageWorks, Inc. ("WageWorks") CFO Colm Callan and CEO Joseph Jackson and the false financial reporting that resulted from those statements. Over the course of 2016 and 2017, Callan made false and misleading statements to both WageWorks's internal accountants and the company's independent auditor related to a significant contract between the company and a large public-sector client ("Client A"). During the same period, Jackson also made misleading statements related to this contract to WageWorks's auditor. As a result of these false and misleading statements, WageWorks improperly recognized \$3.6 million worth of revenue in 2016 from Client A that was not realizable and for which collectability was not reasonably assured. Callan and Jackson both earned incentive-based compensation based on WageWorks's 2016 financial performance, which neither executive has paid back to the company. After WageWorks's auditor discovered that Client A never intended to pay this \$3.6 million, WageWorks restated its revenues for the second and third quarters, and the fiscal year, of 2016. As a result of this conduct, Jackson and Callan violated Sections 17(a)(2) and 17(a)(3) of the Securities Act, Rules 13a-14, 13b2-1, and 13b2-2 under the Exchange Act, and Section 304 of the Sarbanes-Oxley Act of 2002. Jackson and Callan also caused WageWorks to violate Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder.

Respondents

2. **Jackson**, age 60, resides in Hillsborough, California. He was the CEO and Chairman of the board of directors of WageWorks from February 2007 to April 2018, and the Executive Chairman of WageWorks's board of directors from April 2018 to September 2018. Jackson left WageWorks as a result of the events surrounding the company's restatement.

3. **Callan**, age 51, resides in Palo Alto, California. He was the CFO of WageWorks from September 2014 to April 2018. Callan left WageWorks as a result of the events surrounding the company's restatement.

Other Relevant Entities

4. **WageWorks** is a corporation organized under the laws of the state of Delaware and headquartered in San Mateo, California. From May 10, 2012 to August 30, 2019 WageWorks's common stock was registered with the Commission pursuant to Section 12(b) of the "Exchange Act" and traded on the New York Stock Exchange under the symbol "WAGE." During that period, WageWorks filed periodic reports, including Forms 10-K and 10-Q, with the Commission pursuant to Section 13(a) of the Exchange Act and related rules thereunder. On August 30, 2019,

¹ The findings herein are made pursuant to the Respondents' Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

HealthEquity, Inc. completed an acquisition of WageWorks. WageWorks is now a wholly-owned subsidiary of HealthEquity.

A Large Public-Sector Client Disputes That It Owes WageWorks For Certain Work

5. On March 1, 2016, WageWorks entered into a contract with Client A to provide Flexible Spending Account (“FSA”) benefits servicing to certain public-sector employees. FSAs are accounts funded through voluntary salary reductions which can be used to pay for certain out-of-pocket medical and dependent care expenses. No employment or federal income taxes are deducted from contributions to FSAs.

6. The contract between WageWorks and Client A (the “Contract”) provided that WageWorks would assume full responsibility for servicing FSA benefits claims by September 1, 2016. Between March 1 and September 1, which the Contract referred to as “Base Year 1,” WageWorks was required to undertake development and transition work so as to be ready to assume responsibility for processing claims on September 1.²

7. The Contract provided that Client A would pay WageWorks a fee on a per-account, per-month basis, meaning that each month WageWorks would earn an amount of revenue equal to the number of participant accounts it administered multiplied by a fixed price.

8. On March 17, 2016, a WageWorks project implementation employee emailed Client A a question regarding billing for Base Year 1. On March 29, in reply, a Client A employee indicated that Client A would not pay WageWorks for Base Year 1, and Callan shared this response with Jackson.

9. On June 10, 2016, during a telephone call between WageWorks project implementation employees and Client A employees, a Client A employee indicated that Client A would not pay for Base Year 1. A WageWorks employee told Callan about this statement in an email, and Callan forwarded the email to Jackson and another WageWorks executive.

WageWorks Overstated Revenue in Its Q2, Q3, and Year-End 2016 Financial Statements

10. Over the course of April, May, and June 2016, Callan had discussions with WageWorks’s accounting staff and WageWorks’s independent auditor (the “Audit Firm”) regarding the accounting treatment for the Contract. During a discussion on or about April 9, Callan falsely told an Audit Firm partner that Client A had agreed to pay WageWorks for the Base Year 1 period.

11. At Callan’s direction, WageWorks’s accounting staff started recognizing revenue under the Contract in June 2016 (part of Base Year 1), the month that WageWorks established a call center to address questions about the transition from the public-sector client’s existing FSA benefits provider to WageWorks. WageWorks amortized the recognition of revenue related to the first three months of Base Year 1—March, April, and May—over the period of June 2016 to August

² Another company had contracted with Client A to service FSA benefits claims through August 31, 2016.

2020. At no point prior to recognizing revenue for Base Year 1 did Callan tell WageWorks's internal accounting staff or the Audit Firm staff that Client A employees had twice indicated that Client A was not going to pay WageWorks for Base Year 1.

12. Shortly before the end of each fiscal quarter, Callan attended a "Pre-Close Meeting" with members of WageWorks's finance and accounting staff. One purpose of the meeting was to share information about complex transactions with WageWorks's accounting staff, so that they could accurately prepare the company's quarter-end and year-end financial statements.

13. On June 23, 2016, Callan attended the Pre-Close Meeting for the second quarter of 2016. Based on Callan's directions, WageWorks's accounting staff anticipated recognizing revenue related to Base Year 1 that quarter, and the meeting participants discussed the Client A Contract. However, Callan did not tell the accounting staff that Client A employees had twice indicated that Client A would not pay WageWorks for the Base Year 1 period.

14. During June and July 2016, WageWorks's accounting staff prepared a memorandum summarizing the Contract and the company's accounting treatment for it, including the decision to recognize revenue during Base Year 1. The memo stated that "[Client A] agreed to pay fees to [WageWorks] starting on March 1, 2016" and that WageWorks "was able to contract for fees during the development phase." Callan reviewed the memo, but he did not tell WageWorks's accounting staff that Client A employees had twice indicated that Client A would not pay WageWorks for the Base Year 1 period.

15. On August 9, 2016, WageWorks reported its financial results for the second quarter of 2016 in Forms 8-K and 10-Q furnished and filed with the Commission. Those results improperly recognized about \$1 million in revenue related to Base Year 1 of the Client A Contract. Callan signed the Form 10-Q, which represented that WageWorks prepared its financial statements in accordance with generally accepted accounting principles in the United States ("GAAP"). Consistent with GAAP, WageWorks stated that it recognized revenue when collectability was reasonably assured, service had been performed, persuasive evidence of an arrangement existed, and there was a fixed or determinable fee. Both Jackson and Callan, who were aware that the company was recognizing revenue related to Base Year 1, certified that, among other matters, the financial statements fairly presented WageWorks's financial condition, results of operations and cash flows.

16. On or about September 26, 2016, Callan attended the Pre-Close Meeting for the third quarter of 2016. WageWorks's accounting staff asked Callan if he knew when WageWorks was going to collect amounts due from Client A for Base Year 1, which were recorded in WageWorks's books and records as an unpaid receivable. In his response, Callan falsely said that Client A had agreed to pay WageWorks for Base Year 1. He did not disclose that Client A employees had twice indicated that Client A would not pay for Base Year 1.

17. After the third fiscal quarter of 2016 ended, the Audit Firm conducted an interim review of WageWorks's third-quarter financial results. On November 9, 2016, in connection with this review, Jackson and Callan signed a "management representation letter" addressed to the Audit Firm. Among other things, the letter represented that WageWorks's management had

continually assessed the collectability of all amounts that WageWorks said it was owed by Client A (which included amounts related to Base Year 1) and determined that those amounts were reasonably assured of collection. Neither Jackson nor Callan had disclosed to the Audit Firm that Client A had twice indicated that it would not pay WageWorks for the Base Year 1 period.

18. On November 9, 2016, WageWorks reported its financial results for the third quarter of 2016 in Forms 8-K and 10-Q furnished and filed with the Commission. Those results improperly recognized more than \$2 million in revenue related to Base Year 1 of the Client A Contract. Callan signed the Form 10-Q, which represented that WageWorks prepared its financials in accordance with GAAP. Jackson and Callan, who were both aware that the company was recognizing revenue related to Base Year 1, certified that, among other matters, the financial statements fairly presented WageWorks's financial condition, results of operations and cash flows.

19. On December 13 and 14, 2016, Jackson sold 87,749 shares of WageWorks common stock.

20. On February 23, 2017, Jackson and Callan signed another management representation letter to the Audit Firm. That letter represented that WageWorks's management had continually assessed the collectability of all amounts that WageWorks said it was owed by Client A (which included amounts related to Base Year 1) and determined that those amounts were reasonably assured of collection. Neither Jackson nor Callan had disclosed to the Audit Firm that Client A had twice indicated that it would not pay WageWorks for the Base Year 1 period.

21. On February 23, 2017, WageWorks reported its financial results for fiscal year 2016 in Forms 8-K and 10-K furnished and filed with the Commission. Those results improperly recognized more than \$3.6 million in revenue related to Base Year 1 of the Contract. Although they had each had multiple communications with the Audit Firm concerning the Base Year 1 payments, neither Jackson nor Callan had, at any point, disclosed that Client A had twice indicated that it would not pay WageWorks for the Base Year 1 period. Jackson and Callan signed the Form 10-K, which represented that WageWorks prepared its financial statements in accordance with GAAP. They also certified that, among other matters, the financial statements fairly presented WageWorks's financial condition, results of operations and cash flows.

22. Although Jackson and Callan believed that WageWorks was entitled to payment for the Base Year 1 period, WageWorks' recognition of revenue during Base Year 1 was improper under GAAP. Because Client A had indicated to WageWorks that it would not pay for Base Year 1, WageWorks's collection of Base Year 1 revenues was not realizable or reasonably assured.

23. The day after WageWorks filed its year-end 2016 financial statements, WageWorks's stock price rose above \$75 for the first time in the company's history, and it stayed above \$75 for twenty consecutive market days. On the basis of this performance, WageWorks awarded Jackson a bonus of 50,000 shares of WageWorks common stock.

24. Based on WageWorks's 2016 financial performance, Jackson and Callan both earned cash bonuses.

Callan and Jackson Failed to Disclose the Base Year 1 Dispute in 2017

25. On February 15, 2017, WageWorks sent its first invoice to Client A. The invoice showed charges for the entire period of March 1, 2016 through December 31, 2016, including charges for Base Year 1.

26. Client A rejected WageWorks's invoice on February 24, 2017. On or about March 3, 2017, Client A explained to Callan and WageWorks project implementation personnel that it had rejected the invoice because it did not believe it owed WageWorks for the Base Year 1 period.

27. Between March 3 and August 17, 2017, WageWorks and Client A officers and employees exchanged emails, letters, phone calls, and voicemails related to the Base Year 1 period. Throughout this period, Client A reiterated that it did not intend to pay WageWorks for these months. Throughout this period, Jackson and Callan were aware of Client A's position that it did not intend to pay for Base Year 1.

28. On or about March 29, 2017, WageWorks's accounting staff asked Callan if there were any updates regarding payment of the amounts that Client A purportedly owed to WageWorks for Base Year 1. In response, Callan told the accounting staff that WageWorks was talking to Client A, but he omitted that Client A had denied that it owed WageWorks for the Base Year 1 period.

29. After the first quarter ended on March 31, 2017, the Audit Firm conducted an interim review of WageWorks's first-quarter financial results. At this time, WageWorks had not received payment from Client A for Base Year 1. In connection with the interim review, an Audit Firm partner interviewed Callan and asked about the status of the amounts that Client A purportedly owed WageWorks. Callan replied that WageWorks was working on collection. Callan omitted that Client A had rejected WageWorks's invoice and that Client A had denied that it owed WageWorks for the Base Year 1 period.

30. On May 4, 2017, Jackson and Callan signed another management representation letter to the Audit Firm. That letter represented that WageWorks's management had continually assessed the collectability of all amounts that WageWorks said it was owed by Client A (which included amounts related to Base Year 1) and determined that those amounts were reasonably assured of collection. Neither Jackson nor Callan had disclosed to the Audit Firm that Client A had denied that it owed WageWorks for the Base Year 1 period or that Client A had rejected WageWorks's invoice.

31. On or about July 3, 2017, Callan attended the second quarter 2017 Pre-Close Meeting with WageWorks's finance and accounting staff. The accounting staff asked Callan whether he had any updates from Client A or if there was any uncertainty around collecting the amounts that Client A purportedly owed WageWorks. Callan stated that Client A was going to pay and that WageWorks just needed to work through Client A's processes to receive payment; he omitted that Client A had denied that it owed WageWorks for the Base Year 1 period.

32. After the second quarter ended, the Audit Firm conducted an interim review of WageWorks's second-quarter financial results. In connection with that review, Audit Firm

partners interviewed Jackson and Callan. In each interview, an Audit Firm partner asked about the status of the amounts that Client A purportedly owed WageWorks, which it still had not paid. In their respective responses, both Jackson and Callan said that Client A had rejected WageWorks's invoice because it had been submitted in the wrong format, and that WageWorks expected to be paid after it resubmitted its invoice. Jackson and Callan omitted that Client A had rejected WageWorks's invoice because Client A had denied that it owed WageWorks for the Base Year 1 period.

33. On August 1, 2017, Jackson and Callan signed another management representation letter to the Audit Firm. That letter represented that WageWorks's management had continually assessed the collectability of all amounts that WageWorks said it was owed by Client A (which included amounts related to Base Year 1) and determined that those amounts were reasonably assured of collection. Neither Jackson nor Callan had disclosed to the Audit Firm that Client A had denied that it owed WageWorks for the Base Year 1 period.

34. On August 18, 2017, WageWorks's outside counsel, with Jackson and Callan's approval, submitted a formal "certified claim" to Client A on behalf of the company requesting payment for Base Year 1 and explaining the reasons why WageWorks believed that the Contract obligated Client A to pay for Base Year 1 services. WageWorks submitted the certified claim, in part, because it was required to do so before bringing a lawsuit against Client A for the disputed Base Year 1 payment.

35. On September 26, 2017, Callan attended the third-quarter 2017 Pre-Close Meeting with WageWorks's accounting and finance staff. At the meeting, accounting staff again asked Callan about the status of the unpaid Client A receivable related to Base Year 1. Callan stated that WageWorks was in discussions with Client A. He omitted that WageWorks had submitted a certified claim to Client A and that Client A had denied that it owed WageWorks for the Base Year 1 period.

36. After the third quarter ended, the Audit Firm conducted an interim review of WageWorks's third-quarter financial results. In connection with that review, Audit Firm partners conducted interviews with Jackson and Callan. In each interview, an Audit Firm partner asked about the status of the payment that Client A purportedly owed WageWorks related to Base Year 1. In their respective responses, both Jackson and Callan said that they expected that WageWorks would be paid by the end of the year. Although they said that WageWorks was going through a process to collect the Base Year 1 fees, they omitted that WageWorks had submitted a certified claim to Client A and that Client A had denied that it owed WageWorks for the Base Year 1 period.

37. On November 8, 2017, Jackson and Callan signed another management representation letter to the Audit Firm. That letter represented that WageWorks's management had continually assessed the collectability of all amounts that WageWorks said it was owed by Client A (which included amounts related to Base Year 1) and determined that those amounts were reasonably assured of collection. Neither Jackson nor Callan had yet disclosed to the Audit Firm that Client A had denied that it owed WageWorks for the Base Year 1 period.

38. At the end of each fiscal quarter in 2017, the Audit Committee of WageWorks's Board of Directors met to discuss the company's quarter-end financial statements and related matters, including outstanding receivables. Jackson and Callan attended these meetings, but they never disclosed to the Audit Committee that Client A had specifically denied that it owed WageWorks for the Base Year 1 period.

39. On December 22, 2017, Client A notified WageWorks that it had rejected the company's certified claim requesting payment for Base Year 1.

WageWorks's Public Offering

40. On June 19, 2017, WageWorks conducted a public offering of its common stock. The offering prospectus incorporated by reference the company's year-end 2016 Form 10-K, which improperly included about \$3.6 million in revenue related to Base Year 1.

41. WageWorks sought and obtained consent from the Audit Firm to incorporate the Audit Firm's 2016 audit report into the offering prospectus. Prior to obtaining this consent, neither Jackson nor Callan disclosed to the Audit Firm that Client A had denied that it owed WageWorks for the Base Year 1 period.

42. In the offering, WageWorks sold 1,954,852 shares of its common stock and Jackson sold 495,148 shares of WageWorks common stock.

WageWorks's Restatement

43. On January 10, 2018, WageWorks's management, including Callan, told the Audit Firm and the company's internal accounting staff about WageWorks's certified claim and Client A's rejection of that claim. This was the first time that the company's executives disclosed Client A's denial that it owed WageWorks for the Base Year 1 period to either the Audit Firm or the company's accounting staff.

44. On March 1 and 2, 2018, WageWorks announced that it would be late in filing its fiscal-year 2017 Form 10-K and that it was conducting an investigation into revenue recognition related to the accounting for a government contract during fiscal 2016. WageWorks's stock price declined more than 9% on the news.

45. On March 18, 2019, WageWorks restated its year-end financial results for 2016 and its quarter-end financial results for the second and third quarters of 2016. The restated results reversed all revenue from Client A attributable to the Base Year 1 period.

46. During the 12-month periods following filings containing financial results that WageWorks was required to restate, Jackson and Callan received incentive-based compensation, and Jackson realized profits from the sale of WageWorks common stock. Neither Jackson nor Callan has, to date, reimbursed WageWorks for these amounts.

Violations

47. As a result of the conduct described above, Jackson and Callan violated Sections 17(a)(2) and 17(a)(3) of the Securities Act. Section 17(a)(2) proscribes obtaining “money or property by means of any untrue statement of a 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.” Section 17(a)(3) proscribes engaging “in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.” A violation of these provisions does not require scienter and may rest on a finding of negligence. *See Aaron v. SEC*, 446 U.S. 680, 685, 701-02 (1980).

48. As a result of the conduct described above, Jackson and Callan violated Rule 13b2-1 of the Exchange Act, which prohibits a person from, directly or indirectly, falsifying or causing to be falsified any book, record, or account subject to Section 13(b)(2)(A) of the Exchange Act.

49. As a result of the conduct described above, Jackson and Callan violated Rule 13b2-2, which prohibits any director or officer of an issuer from (a) directly or indirectly making or causing to be made a materially false or misleading statement or 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 and (b) taking any action to coerce, manipulate, mislead, or fraudulently influence any independent public or certified public accountant engaged in the performance of an audit or review of the financial statements of that issuer that are required to be filed with the Commission pursuant to this subpart or otherwise if that person knew or should have known that such action, if successful, could result in rendering the issuer's financial statements materially misleading.

50. As a result of the conduct described above, Jackson and Callan violated Rule 13a-14 of the Exchange Act, which requires an issuer's principal executive officer and principal financial officer, in each quarterly and annual report filed under Section 13(a) of the Exchange Act, to make the certifications specified in Regulation S-K Item 601(b)(31) [17 C.F.R. § 229.601(b)(31)].

51. As a result of the conduct described above, Jackson and Callan violated Section 304 of the Sarbanes-Oxley Act of 2002, which requires the chief executive officer and chief financial officer of any issuer required to prepare an accounting restatement due to material noncompliance with the securities laws as a result of misconduct to reimburse the issuer for (1) any bonus or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month period following the first public issuance or filing with the Commission of the financial document embodying such financial reporting requirement and (2) any profits realized from the sale of securities of the issuer during that 12-month period. Section 304 does not require that a chief executive officer or chief financial officer engage in misconduct to trigger the reimbursement requirement.

52. As a result of the conduct described above, Jackson and Callan caused WageWorks to violate Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder, which require issuers to file accurate annual, current, and quarterly reports, which include such further information as may be necessary to make the required statements not misleading.³

53. As a result of the conduct described above, Jackson and Callan caused WageWorks to violate Section 13(b)(2)(A) of the Exchange Act, which requires an issuer to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect the issuer's transactions and disposition of Assets.

54. As a result of the conduct described above, Jackson and Callan caused WageWorks to violate Section 13(b)(2)(B) of the Exchange Act, which requires an issuer to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that: transactions are executed in accordance with management's general and specific authorization; transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP or any other criteria applicable to such statements, and to maintain accountability for assets; access to assets is permitted only in accordance with management's general or specific authorization; and the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Jackson's Offer and Callan's Offer.

Accordingly, it is hereby ORDERED that:

- A. Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Jackson and Callan cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act, Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act, Rules 12b-20, 13a-1, 13a-11, 13a-13, 13a-14, 13b2-1, and 13b2-2 thereunder, and Section 304 of the Sarbanes-Oxley Act.
- B. Jackson shall, within 10 days of the entry of this Order, reimburse WageWorks for a total of \$1,929,740. Jackson shall simultaneously deliver proof of satisfying this reimbursement obligation to Monique C. Winkler, Associate Regional Director, Securities and Exchange Commission, 44 Montgomery Street, Suite 2800, San Francisco, CA 91404.

³ The Commission may institute cease-and-desist proceedings against any person held to be a cause of violations of the federal securities laws due to acts or omissions such person knew or should have known would contribute to the violation. See 15 U.S.C. § 78u-3(a); *Robert M. Fuller*, 56 SEC 976, 984 (2003), pet. denied, 95 F. App'x 361 (D.C. Cir. 2004).

- C. Callan shall, within 10 days of the entry of this Order, reimburse WageWorks for a total of \$157,590. Callan shall simultaneously deliver proof of satisfying this reimbursement obligation to Monique C. Winkler, Associate Regional Director, Securities and Exchange Commission, 44 Montgomery Street, Suite 2800, San Francisco, CA 91404.
- D. Jackson shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$75,000 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). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.
- E. Callan shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$100,000 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). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying payor 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 Monique C. Winkler, Associate Regional Director, Securities and Exchange Commission, 44 Montgomery Street, Suite 2800, San Francisco, CA 91404.

- F. 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, each 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 such 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, each 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 a 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 each Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by each 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 such 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