

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**

**Release No. 96127 / October 21, 2022**

**ACCOUNTING AND AUDITING ENFORCEMENT**

**Release No. 4356 / October 21, 2022**

**ADMINISTRATIVE PROCEEDING**

**File No. 3-21214**

**In the Matter of**

**Joshua Abrahams, 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  
AND NOTICE OF HEARING**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that public administrative proceedings be, and hereby are, instituted against Joshua Abrahams (“Abrahams” or “Respondent”) pursuant to Section 4C<sup>1</sup> of the Securities Exchange Act of 1934 (“Exchange Act”), and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice.<sup>2</sup>

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<sup>1</sup> Section 4C provides, in relevant part:

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.

<sup>2</sup> Rule 102(e)(1)(ii) provides, in pertinent part:

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

## II.

After an investigation, the Division of Enforcement and the Office of the Chief Accountant allege that:

### A. SUMMARY

1. In November 2019, Mattel, Inc. (“Mattel”) restated its financial statements for the third and fourth quarters of 2017 as a result of a \$109 million error in its tax-related valuation allowance. Before restatement, Mattel’s Q3 2017 and Q4 2017 net loss and net loss per share were understated by 15% and overstated by 63%, respectively. The restatement also identified two material weaknesses in internal control over financial reporting associated with the \$109 million error: a weakness in correctly calculating the valuation allowance and a weakness in assessing materiality of known errors and communicating those errors to company executives and the audit committee.

2. Joshua Abrahams (“Abrahams”), a certified public accountant (“CPA”), formerly served as the lead engagement partner for Mattel. In conducting the interim review of Mattel’s third quarter 2017 financial statements and in conducting the audit of Mattel’s fiscal year-end 2017 financial statements, Abrahams engaged in improper professional conduct within the meaning of Section 4C of the Exchange Act and Rule 102(e) of the Commission’s Rules of Practice.

3. Abrahams failed to comply with multiple PCAOB professional standards, including interim review standards, identifying and assessing risks of material misstatement, audit evidence, audit documentation, and due care in the performance of work. Among other failures, the engagement team’s workpapers were devoid of any discussion of the \$109 million error, any materiality analysis of the error, and any associated internal control deficiency analysis, and Abrahams failed to inform the audit committee of the error. Notwithstanding these failures, Abrahams approved of the Q3 2017 interim review workpapers and the issuance of the 2017 audit report and the clean opinions on internal control over financial reporting for 2017 and 2018.

4. Furthermore, throughout his time as lead engagement partner, Abrahams failed to maintain independence from his audit client by engaging in prohibited human resource services for Mattel, such as ranking candidates for management positions.

### B. RESPONDENT

5. **Joshua Abrahams (“Abrahams”)**, age 49, is a resident of Rocky Mountain, North Carolina. Abrahams worked for Mattel’s outside audit firm, PricewaterhouseCoopers LLP (“PwC”), from 2004 to 2019 and assumed the lead engagement partner role for Mattel in 2017. He resigned from PwC in 2019. Abrahams is a CPA with inactive licenses in California, Florida (null and void), New Jersey and North Carolina, and has no disciplinary record.

## **C. OTHER RELEVANT ENTITIES**

6. **Mattel, Inc.** is a Delaware corporation with its headquarters in El Segundo, California. Mattel's common stock trades on NASDAQ under the ticker symbol MAT. Mattel's securities are registered pursuant to Section 12(b) of the Exchange Act.

## **D. FACTS**

### **Mattel's Q3 2017 Valuation Allowance Calculation Error**

7. At the end of Mattel's third quarter in 2017, Mattel recorded a valuation allowance against deferred tax assets. A deferred tax asset is an asset that a company can use to reduce or eliminate a future tax liability, but if a company does not expect to generate taxable income in the future, the deferred tax assets have no value because there will be no tax liability to offset. As a result, once a company determines that it is not likely to have future taxable income, it must record a valuation allowance against the deferred tax assets and reduce their value. As part of the calculation, a corporation may lower its valuation allowance by netting out the value of certain deferred tax liabilities. Under the tax law in Q3 2017, only liabilities classified as definite-lived (i.e., related to assets which are amortized) could be used to lower the valuation allowance. If a liability had been classified as indefinite-lived, it could not reduce the valuation allowance.

8. Prior to Q3 2017, Mattel had never taken a valuation allowance. However, as of Q3 2017, Mattel had suffered three years of cumulative losses and in September 2017, Mattel's largest customer declared bankruptcy. After consulting with its national office, PwC's engagement team informed Mattel that it would need to take a valuation allowance. Mattel personnel began calculating the valuation allowance. At that time, Mattel had no internal control specifically related to calculating a valuation allowance (as Mattel disclosed in its restatement, this material weakness was not remediated until the quarter ended December 31, 2018). In mid-October 2017, days before Mattel was scheduled to report its Q3 2017 earnings, a PwC tax manager identified a \$129 million error because a deferred tax liability related to goodwill had been included in the initial calculation of the valuation allowance. Because goodwill is an indefinite-lived asset, a deferred tax liability should not have been used to lower the valuation allowance. The error in the initial valuation allowance calculation was corrected before Mattel filed its Q3 2017 Form 10-Q.

9. Abrahams knew of the \$129 million calculation error but did not verify that the engagement team documented the \$129 million error or any associated control deficiency in its Q3 2017 interim review workpapers. Nor did Abrahams communicate this error or any associated control deficiency to Mattel's audit committee.

### **Discovery of Another Error in January 2018**

10. In mid-January 2018, one of Mattel's tax directors discovered a second error in its calculation of the Q3 2017 valuation allowance. In Q3 2017, Mattel's Thomas the Tank Engine asset ("Thomas"), was classified as an indefinite-lived asset. However, Mattel's tax department mistakenly accounted for Thomas as a definite-lived asset and used a deferred tax liability to reduce the amount of the valuation allowance by \$109 million. As a result, the reported \$561.9 million valuation allowance was understated in Q3 by \$109 million.

11. This Mattel tax director discovered the error on Saturday, January 13, and informed PwC's tax partners on the engagement. PwC's senior tax partner on the engagement sent an email to the junior tax partner with three possible options to correct the \$109 million error: a tax planning strategy to sell Thomas to a high tax jurisdiction; a reclassification of Thomas from an indefinite-lived to a definite-lived asset; and moving Thomas' book basis to the UK. On Monday, January 15, this Mattel tax director informed others in Mattel's tax department. Mattel's controller's office, along with the head of tax and head of internal audit, started researching the issue and held a series of internal meetings (in December 2017, Mattel had already decided to evaluate whether Thomas should be reclassified). On January 16, the head of Mattel's tax department informed Mattel's CFO of the error, and PwC's tax partners informed Abrahams of the error. On January 17, after consulting with Abrahams and Mattel's internal accounting team, both of whom recommended that Thomas should be reclassified, Mattel's CFO decided that Mattel should reclassify Thomas. As a result, Mattel reclassified the Thomas asset as of October 1 (the start of Q4) from indefinite-lived to definite-lived. Although this error did not affect Mattel's full year financial results, Mattel's Q3 and Q4 2017 tax provisions remained understated and overstated, respectively. Mattel's CFO did not inform Mattel's CEO of the \$109 million error. Additionally, the \$109 million error exceeded PwC's overall materiality threshold of \$21 million for the audit. Nevertheless, Abrahams failed to verify that the engagement team documented the \$109 million error, any related materiality analysis, and any associated control deficiency analysis in its workpapers. There is no discussion whatsoever of the \$109 million error in the workpapers.

#### **Abrahams Fails to Inform the Audit Committee**

12. In late January, Mattel's audit committee met to discuss the year end results. Abrahams made PwC's presentation to the audit committee; in that presentation, Mattel's valuation allowance was identified as a significant risk. However, Abrahams failed to inform the audit committee of the \$109 million error in Mattel's valuation allowance for Q3 and Q4 2017 or of the associated deficiency in internal control.

#### **Abrahams Discusses with PwC's Engagement Quality Review Partner**

13. In late February, a few days before Mattel planned to file its Form 10-K, Abrahams told PwC's engagement quality review partner that the Q3 2017 valuation allowance was understated by \$109 million. The quality review partner questioned why this issue was coming up now, and Abrahams falsely told him that the error was discovered when the company was completing its internal control testing (which seemed reasonable to the quality review partner because Mattel usually performed control testing after its earnings announcement, which had been on February 1). Abrahams did not tell the quality review partner that the error was discovered in January, weeks before their discussion. Because \$109 million was a quantitatively large number, the quality review partner questioned Abrahams about the decision that it was not material. Abrahams explained that Mattel believed the error was not material and would not be important to investors because the affected items were nonrecurring, it was a non-cash error, and the error did not hit key financial metrics. Based on the incomplete information presented to him by Abrahams, the quality review partner concurred with the conclusion on materiality.

## **2019 Anonymous Whistleblower Letter and Restatement**

14. On August 8, 2019, Mattel disclosed in a Form 8-K that it was made aware of an anonymous whistleblower letter. The letter alleged accounting errors and questioned Abrahams' independence. Mattel terminated its pending \$250 million senior notes offering, and its audit committee initiated an independent internal investigation. The audit committee's investigation concluded that there were material misstatements in the tax-related valuation allowance for Q3 2017, which was understated by \$109 million, and in the tax expense for Q4 2017, which was overstated by \$109 million. The valuation allowance was understated in Q3 because Thomas was erroneously treated for purposes of the valuation allowance calculation as a definite-lived asset that should be amortized, whereas at the time it was classified as an indefinite-lived asset on Mattel's balance sheet. The audit committee also concluded (as did PwC in its own investigation) that Abrahams violated auditor independence rules.

15. On October 29, 2019, Mattel announced that it would restate its financial results for Q3 and Q4 2017. Because the Q3 understatement and Q4 overstatement self-corrected the error for the fiscal year ended December 31, 2017, the FYE 2017 financial statements did not need to be restated. Mattel's Form 10-K/A, filed on November 12, 2019, disclosed that the Q3 and Q4 financials were materially misstated. As a result of the \$109 million misstatement, Mattel's Q3 2017 provision for income taxes was understated by 14%, and net loss and net loss per share were understated by 15%. Additionally, Mattel's Q4 2017 provision for income taxes was overstated by 62%, and net loss and net loss per share were overstated by 63% for that period.

16. Mattel's Form 10-K/A also disclosed two material weaknesses in internal control over financial reporting related to the error: (1) failure to design and operate an internal control over the review of the income tax valuation allowance analysis (calculation), which was remediated by December 31, 2018; and (2) failure to design and operate internal controls to properly assess and communicate known financial statement errors and internal control deficiencies in a timely manner to those parties responsible for taking corrective action, including, for example, the CEO and board of directors, which was remediated as of December 31, 2019. In addition, Mattel disclosed that PwC had restated its report on internal control over financial reporting as of December 31, 2018, and issued an adverse opinion.

### **Abrahams' Failure to Conduct the Q3 2017 Interim Review in accordance with PCAOB Standards**

#### ***Reviews of Interim Financial Information (AS 4105)***

17. In conducting the Q3 2017 interim review, Abrahams departed from the interim standards in PCAOB Auditing Standard No. ("AS") 4105, *Reviews of Interim Financial Information*.

18. AS 4105 requires that auditors evaluate and document any issues that in the accountant's judgment are significant, for example, possible material misstatements and any associated impact on internal control over financial reporting.

19. AS 4105.26 requires “misstatements identified by the accountant or brought to the accountant's attention, including inadequate disclosure, should be evaluated individually and in the aggregate to determine whether material modification should be made to the interim financial information for it to conform with generally accepted accounting principles. The accountant should use his or her professional judgment in evaluating the materiality of any likely misstatements that the entity has not corrected. The accountant should consider matters such as (a) the nature, cause (if known), and amount of the misstatements; (b) whether the misstatements originated in the preceding year or interim periods of the current year; (c) materiality judgments made in conjunction with the current or prior year's annual audit; and (d) the potential effect of the misstatements on future interim or annual periods.”

20. AS 4105.52 explains that “documentation should include any findings or issues that in the accountant’s judgment are significant, for example, the results of review procedures that indicate that the interim financial information could be materially misstated, including actions taken to address such findings, and the basis for final conclusions reached.”

21. When evaluating management’s quarterly certifications about internal control over financial reporting, AS 4105.18.g requires the auditor to evaluate “the implications of misstatements identified by the auditor as part of the auditor’s other interim review procedures as they relate to effective internal control over financial reporting.”

22. AS 4105.33 states that the auditor “should communicate significant deficiencies or material weaknesses of which the accountant has become aware to the audit committee or those responsible for oversight of the company’s financial reporting in a timely manner and prior to the registrant filing its periodic report with the SEC.”

23. Similarly, AS 4105.09 states that “the accountant is responsible for communicating with the audit committee or others with equivalent authority or responsibility, regarding any significant deficiencies that come to his or her attention.”

24. Abrahams knew about the \$129 million error, but there is no documentation of the error in PwC’s Q3 2017 review workpapers. Abrahams also failed to verify that the engagement team documented the \$109 million error and any related materiality analysis, as there was no discussion of the \$109 million error in the workpapers. In addition, Abrahams failed to identify and document the associated material weakness in internal accounting control associated with the errors and failed to communicate the errors and material weakness to the audit committee.

### **Abrahams’ Failure to Conduct the 2017 Audit in accordance with PCAOB Standards**

25. In conducting the 2017 audit, Abrahams failed to comply with multiple PCAOB auditing standards, as discussed below.

#### ***Identifying and Assessing Risks of Material Misstatement (AS 2110)***

26. AS 2110, *Identifying and Assessing Risks of Material Misstatement*, requires the auditor to identify and assess risks of material misstatement.

27. AS 2110.74 states that “[t]he auditor’s assessment of the risks of material misstatement, including fraud risks, should continue throughout the audit. When the auditor obtains evidence during the course of the audit that contradicts the audit evidence on which the auditor originally based his or her risk assessment, the auditor should revise the risk assessment and modify planned audit procedures or perform additional procedures in response to the revised risk assessments.”

28. After learning about both the \$129 million corrected error and \$109 million uncorrected error, Abrahams should have reassessed the risk of material misstatement associated with the valuation allowance for deferred tax assets and modified PwC’s planned audit procedures and performed additional procedures to determine that any material weaknesses in Mattel’s internal controls relating to Mattel’s calculation of the valuation allowance were addressed. However, Abrahams did not do so and authorized the issuance of clean opinions by PwC on Mattel’s 2017 and 2018 internal controls.

### ***Audit Documentation (AS 1215)***

29. AS 1215, *Audit Documentation*, requires that an auditor document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions.

30. AS 1215.04 states that “[a]udit documentation should be prepared in sufficient detail to provide a clear understanding of its purpose, source, and the conclusions reached.” AS 1215.06 explains that “[a]udit documentation must clearly demonstrate that the work was in fact performed” and “must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement (a) to understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and (b) to determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review.”

31. AS 1215.12 requires the “auditor must document significant findings or issues, actions taken to address them (including additional evidence obtained) and the basis for the conclusions reached in connection with each engagement.” AS 1215.12 explains that significant findings or issues are “substantial matters that are important to the procedures performed, evidence obtained, or conclusions reached” and include, for example, “the existence of material misstatements . . . [and] the existence of significant deficiencies or material weaknesses in internal control over financial reporting,” and “evaluation of uncorrected misstatements, including the quantitative and qualitative factors the auditor considered to be relevant to the evaluation.”

32. AS 1215.13 adds that “[t]he auditor must identify all significant findings or issues in an *engagement completion document*. This document may include either all information necessary to understand the significant findings, issues or cross-references, as appropriate, to other available supporting audit documentation” and “should include documentations of significant findings or issues identified during the review of interim financial statements.”

33. Abrahams repeatedly failed to adhere to the audit documentation standards. There was no documentation in the workpapers of: (1) the \$109 million error; (2) any deficiency in internal control over financial reporting associated with the error, much less a significant deficiency or material weaknesses; and (3) any analysis of the error's materiality, including quantitative and qualitative factors.

***Audit Evidence (AS 1105)***

34. AS 1105, *Audit Evidence*, requires the auditor to obtain "sufficient appropriate" audit evidence to provide a reasonable basis for his or her opinion."

35. AS 1105.02 states that audit evidence consists of both information that supports and corroborates management's assertions regarding the financial statements or internal control over financial reporting and information that contradicts such assertions.

36. AS 1105.05 explains that sufficiency is measured by the quantity of the evidence and is affected by the risk of material misstatement or the risk associated with the control. AS 1105.05 further states that "[a]s the risk increases, the amount of evidence that the auditor should obtain also increases."

37. AS 1105.06 explains that appropriateness is measured by the quality of the evidence which "must be both relevant and reliable."

38. Despite being aware of both the \$129 million corrected error and \$109 million uncorrected error, Abrahams did not obtain sufficient appropriate evidence that there was no material weakness in Mattel's internal controls relating to the calculation of the company's valuation allowance and authorized the issuance of clean opinions by PwC on Mattel's 2017 and 2018 internal control over financial reporting.

***An Audit of Internal Control Over Financial Reporting that Is Integrated with an Audit of Financial Statements (AS 2201)***

39. AS 2201, *An Audit of Internal Control Over Financial Reporting that Is Integrated with an Audit of Financial Statements*, sets forth the requirements applicable to an audit of management's assessment of the effectiveness of internal control over financial reporting. See AS 2201.01.

40. AS 2201.20 requires that "[i]n planning the audit of internal control over financial reporting, the auditor should use the same materiality considerations he or she would use in planning the audit of the company's annual financial statements."

41. AS 2201.62 requires that the auditor "evaluate the severity of each control deficiency that comes to his or her attention to determine whether the deficiencies, individually or in combination, are material weakness as of the date management's assessment."



42. AS 2201.63 states that “the severity of a deficiency depends on...[t]he magnitude of the potential misstatement resulting from the deficiency or deficiencies.”

43. AS 2201.66 states that “[f]actors that affect the magnitude of the misstatement that might result from a deficiency or deficiencies in controls include, but are not limited to . . . [t]he financial statement amounts or total transactions exposed to the deficiency.”

44. AS 2201.78 mandates that the auditor “communicate, in writing, to management and the audit committee all material weaknesses identified during the audit.”

45. AS 2201.90 explains that “[i]f there are deficiencies that, individually or in combination, result in one or more material weaknesses, the auditor must express an adverse opinion on the company's internal control over financial reporting, unless there is a restriction on the scope of the engagement.”

46. Abrahams failed to use the same materiality considerations in planning the audit of Mattel’s internal control over financial reporting as he used in planning the audit of its financial statements. The known error, i.e., the \$109 million error, exceeded the audit plan’s overall materiality of \$21 million. Abrahams failed to identify or evaluate the severity of the deficiency in internal control over financial reporting associated with the error by considering the magnitude of potential misstatement and failed to inform the audit committee, in writing or otherwise, of this material weakness. Abrahams subsequently authorized the issuance of PwC’s reports on Mattel’s 2017 and 2018 internal control over financial reporting, which had clean opinions.

#### ***Communications with Audit Committees (AS 1301)***

47. AS 4105.34 requires the auditor to determine whether any of the matters described in AS 1301, as they relate to interim financial information, have been identified. AS 1301, *Communications with Audit Committees*, requires the auditor to discuss (or determine that management has adequately discussed) with the audit committee, the basis for any determination that the uncorrected misstatements were immaterial, including the qualitative factors considered. *See AS 1301.18.*

48. AS 1301.18 states that “[t]he auditor should provide the audit committee with the schedule of uncorrected misstatements related to accounts and disclosures that the auditor presented to management. The auditor should discuss with the audit committee, or determine that management has adequately discussed with the audit committee, the basis for the determination that the uncorrected misstatements were immaterial, including the qualitative factors considered.”

49. Even though PwC had identified the valuation allowance as a significant risk, Abrahams failed to communicate the \$109 million error or the associated deficiency in internal control to the audit committee.

### ***Due Professional Care in the Performance of Work (AS 1015)***

50. AS 1015, *Due Professional Care in the Performance of Work*, requires the auditor to exercise “due professional care” in the planning and performance of the audit, and to “plan and perform his or her work with due professional care.” AS 1015.01, 02.

51. AS 1015.07 explains that due professional care requires the auditor to exercise professional skepticism and explains that “[p]rofessional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence.”

52. AS 1015.08 states that “[g]athering and objectively evaluating audit evidence requires the auditor to consider the competency and sufficiency of the evidence. Since evidence is gathered and evaluated throughout the audit, professional skepticism should be exercised throughout the audit process.”

53. Abrahams knew that Q3 2017 was the first time that Mattel had reported a valuation allowance and knew of the uncorrected \$109 million Thomas error. Abrahams failed, however, to verify that the engagement team documented the error, any related materiality analysis, and any associated internal control deficiency analysis. The \$109 million error appears nowhere in the workpapers. Additionally, Abrahams knew that the valuation allowance was identified as one of three significant risks for the 2017 audit by PwC and was included in Abrahams’ January 2018 presentation to the audit committee. Even though Abrahams discussed the valuation allowance with the audit committee, he never told the audit committee of the \$109 million error in the calculation of the valuation allowance – a calculation that remained uncorrected.

54. The complete lack of documentation of the error and Abrahams’ failure to communicate to the audit committee demonstrate his lack of due professional care in conducting the audit.

### **Abrahams Failure to Maintain Independence from His Audit Client**

55. Throughout his time as lead engagement partner, Abrahams failed to maintain independence from his audit client by providing prohibited human resource services to Mattel.

56. In texts and emails to Mattel’s chief financial officer, Abrahams ranked candidates against each other. For example, Abrahams informed Mattel’s chief financial officer that he believed a certain candidate whose resume Abrahams had provided to Mattel was the best candidate for the senior vice president of tax position (that candidate was hired by Mattel in October 2018).

57. Abrahams also made comments recommending that Mattel not hire particular candidates after having reviewed their resumes and/or participated in the interview process.

### *Independence (AS 1005)*

58. AS 1005, *Independence*, requires the auditor to maintain an independence in mental attitude and explains that “[i]t is of the utmost importance to the profession that the general public maintain confidence in the independence of independent auditors.” See AS 1005.01, 1005.03.

59. AS 1005.01 requires the auditor to maintain “an independence in mental attitude.”

60. AS 1005.02 states that independence “recognizes an obligation for fairness not only to management and owners of a business but also to creditors and those who may otherwise rely (in part, at least) upon the independent auditor's report, as in the case of prospective owners or creditors.”

61. AS 1005.03 emphasizes that “[i]t is of the utmost importance to the profession that the general public maintain confidence in the independence of independent auditors.” AS 1005.03 explains that “[t]o be independent, the auditor must be intellectually honest; to be *recognized* as independent, he must be free from any obligation to or interest in the client, its management or its owners.” (emphasis in original). AS 1005.03 further states that “[i]ndependent auditors should not only be independent in fact; they should avoid situations that may lead outsiders to doubt their independence.”

62. AS 1005.05 explains that the SEC has “adopted requirements for independence of auditors who report on financial statements filed with it.” As set forth in Regulation S-X Rules 2-01(b) and (c)(4)(vii), “[t]he Commission will not recognize an accountant as independent, with respect to an audit client” if an accountant performs certain human resource services for a client, including “(E) Recommending, or advising the audit client to hire, a specific candidate for a specific job (except that the accounting firm may, upon request by the audit client, interview candidates and advise the audit client on the candidate’s competence for financial accounting, administrative, or control positions).”

63. The Commission has stated, “Excessive involvement in human resource selection or development places the auditor in the position of having an interest in the success of the employees that the auditor has selected, tested, or evaluated.” *Revision of the Commission’s Auditor Independence Requirements*, Exchange Act Rel. No. 43602 (Nov. 21, 2000).

64. The Commission has further stated that “[a]ssisting management in human resource selection or development places the accountant in the position of having an interest in the success of the employees that the accountant has selected, tested, or evaluated. Accordingly, observers may perceive that an accountant would be reluctant to suggest the possibility that those employees failed to perform their jobs appropriately, or at least reasonable investors might perceive the accountant to be reluctant, because doing so would require the accountant to acknowledge shortcomings in its human resource service. The accountant also might have other incentives not to report such employees' ineffectiveness, including that the accountant would identify and be identified with the recruited employees.” *Strengthening the Commission’s Requirements Regarding Auditor Independence*, Exchange Act Rel. No. 47265 (Jan. 28, 2003).

65. As described above, Abrahams advised Mattel as to which candidates should and should not be hired for specific positions. Because Abrahams was excessively involved in assisting management with its human resource selection process, by providing prohibited human resource services to Mattel, he failed to maintain his independence.

## **E. VIOLATIONS**

### ***Respondent Engaged in Improper Professional Conduct***

66. As a result of the conduct described above, Respondent engaged in improper professional conduct. Section 4C of the Exchange Act and Rule 102(e) of the Commission's Rules of Practice allows the Commission to censure a person or deny the privilege of appearing or practicing before it to any person if it finds that such person has engaged in "improper professional conduct." Exchange Act § 4C(a)(2); Rule 102(e)(1)(ii). In addition, regarding accountants, Section 4C(b) of the Exchange Act and Rule 102(e)(1)(iv)(B) provide that the following two types of negligent conduct may constitute "improper professional conduct":

- (1) A single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which an accountant knows, or should know, that heightened scrutiny is warranted, or
- (2) 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.

67. As discussed above, in the third quarter 2017 interim review and fiscal year-end 2017 audit, Abrahams engaged in repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, including his failures to recognize the complete lack of documentation of materiality analysis, to identify any deficiencies in internal control, to communicate with the audit committee, and to maintain independence.

## **III.**

In view of the allegations made by the Division of Enforcement and the Office of the Chief Accountant, the Commission deems it necessary and appropriate that public administrative proceedings be instituted to determine:

Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations; and

What, if any, remedial action is necessary and appropriate against Respondent pursuant to Section 4C of the Exchange Act and Rule 102(e) of the Commission's Rules of Practice.

## **IV.**

IT IS ORDERED that a public hearing before the Commission for the purposes of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be

fixed by further order of the Commission, pursuant to Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220(b) of the Commission's Rules of Practice, 17 C.F.R. § 201.220(b).

IT IS FURTHER ORDERED that the Division of Enforcement and Respondent shall conduct a prehearing conference pursuant to Rule 221 of the Commission's Rules of Practice, 17 C.F.R. § 201.221, within fourteen (14) days of service of the Answer. The parties may meet in person or participate by telephone or other remote means; following the conference, they shall file a statement with the Office of the Secretary advising the Commission of any agreements reached at said conference. If a prehearing conference was not held, a statement shall be filed with the Office of the Secretary advising the Commission of that fact and of the efforts made to meet and confer.

If any Respondent fail to file the directed Answer, or fails to appear at a hearing or conference after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f), and 201.310.

This Order shall be served forthwith upon Respondent by any means permitted by the Commission's Rules of Practice.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to service of paper copies, service to the Division of Enforcement of all opinions, orders, and decisions described in Rule 141, 17 C.F.R. § 201.141, and all papers described in Rule 150(a), 17 C.F.R. § 201.150(a), in these proceedings shall be by email to the attorneys who enter an appearance on behalf of the Division, and not by paper service.

Attention is called to Rule 151(a), (b) and (c) of the Commission's Rules of Practice, 17 C.F.R. § 201.151(a), (b) and (c), providing that when, as here, a proceeding is set before the Commission, all papers (including those listed in the following paragraph) shall be filed electronically in administrative proceedings using the Commission's Electronic Filings in Administrative Proceedings (eFAP) system access through the Commission's website, [www.sec.gov](http://www.sec.gov), at <http://www.sec.gov/eFAP>. Respondent also must serve and accept service of documents electronically. All motions, objections, or applications will be decided by the Commission.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that notwithstanding any contrary reference in the Rules of Practice to filing with or disposition by a hearing officer, all filings, including those under Rules 210, 221, 222, 230, 231, 232, 233, and 250 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.210, 221, 222, 230,

231, 232, 233, and 250, shall be directed to and, as appropriate, decided by the Commission. This proceeding shall be deemed to be one under the 120-day timeframe specified in Rule of Practice 360(a)(2)(i), 17 C.F.R. § 201.360(a)(2)(i), for the purposes of applying Rules of Practice 233 and 250, 17 C.F.R. §§ 201.233 and 250.

The Commission finds that it would serve the interests of justice and not result in prejudice to any party to provide, pursuant to Rule 100(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.100(c), that the Commission shall issue a decision on the basis of the record in this proceeding, which shall consist of the items listed at Rule 350(a) of the Commission's Rules of Practice, 17 C.F.R. § 201.350(a), and any other document or item filed with the Office of the Secretary and accepted into the record by the Commission. The provisions of Rule 351 of the Commission's Rules of Practice, 17 C.F.R. § 201.351, relating to preparation and certification of a record index by the Office of the Secretary or the hearing officer are not applicable to this proceeding.

The Commission will issue a final order resolving the proceeding after one of the following: (A) The completion of post-hearing briefing in a proceeding where the public hearing has been completed; (B) The completion of briefing on a motion for a ruling on the pleadings or a motion for summary disposition pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250, where the Commission has determined that no public hearing is necessary; or (C) The determination that a party is deemed to be in default under Rule 155 of the Commission's Rules of Practice, 17 C.F.R. § 201.155, and no public hearing is necessary.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Vanessa A. Countryman  
Secretary