

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

**SECURITIES ACT OF 1933**  
**Release No. 11156 / February 14, 2023**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 96909 / February 14, 2023**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 4375 / February 14, 2023**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-21301**

**In the Matter of**

**Roadrunner Transportation  
Systems, Inc.**

**Respondent.**

**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  
REMEDIAL SANCTIONS AND 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 Roadrunner Transportation Systems, Inc. (“Roadrunner” or “Respondent”).

**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 it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this 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 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 finds<sup>1</sup> that:

1. From at least July 2013 through January 2017, Roadrunner engaged in a multi-year accounting fraud scheme by manipulating its financial reports to hit prior earnings guidance and analyst projections. Among other things, Roadrunner hid incurred expenses by improperly deferring them and spreading them over multiple quarters to minimize their impact on Roadrunner's net earnings, avoided writing down assets that were worthless and receivables that were uncollectable, and manipulated earnout liabilities related to Roadrunner's acquisitions which, in practical effect, created an income "cushion" that could be accessed in future quarters to offset expenses. Roadrunner also concealed its fraud from Roadrunner's independent auditor. As a result of this conduct, Roadrunner materially misstated its financial results in its earnings releases, earnings calls, and quarterly and annual reports from at least the second quarter of 2013 through the third quarter of 2016.

#### **Respondent**

2. Roadrunner is a shipping and logistics company incorporated in Delaware. From in or around 2010 to in or around March 2017, Roadrunner's corporate headquarters was in Cudahy, Wisconsin. From 2010 through early 2020, Roadrunner's common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and was quoted under the symbol "RRTS" on the New York Stock Exchange ("NYSE"). On April 6, 2020, Roadrunner filed a Form 25 withdrawing its common stock from listing on the NYSE and on April 17, 2020 filed a Form 15 terminating its common stock from registration under Section 12(g) of the Exchange Act.

#### **Facts**

3. Between May 2010 and January 2017, Roadrunner acquired more than twenty transportation companies. Roadrunner owned and operated those companies ("Operating Companies") and consolidated their financial results into its own public filings.

4. By no later than Q2 2013 (Roadrunner's financial quarters are referred to as "Q1" through "Q4"), Roadrunner faced several financial challenges that jeopardized its ability to meet its consensus earnings per share ("EPS") targets. Among other things, several of Roadrunner's recently acquired Operating Companies were underperforming and Respondent faced mounting expenses that weighed on net earnings.

5. From at least July 2013 through January 2017, Roadrunner engaged in a fraudulent scheme to (a) hide major expenses, (b) hide the poor performance of some of its recently acquired Operating Companies, and (c) avoid the write off of significantly overstated or impaired assets and accounts. This was done to create the illusion that Roadrunner was meeting its earnings goals when, in reality, Roadrunner was consistently underperforming expectations.

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<sup>1</sup> 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.

6. To conduct the scheme, Roadrunner used several fraudulent accounting techniques. Among other things, it (a) improperly deferred recognition of known expenses to future quarters, (b) failed to write down assets and accounts that it knew were worthless (or overvalued), and (c) manipulated contingent earnout liabilities related to Roadrunner's purchase of Operating Companies.

### **Roadrunner Improperly Deferred Expenses and Manipulated Contingent Earnout Liabilities in Q2 and Q4 2013.**

7. When Roadrunner bought an Operating Company, it typically agreed to pay the sellers an earnout that was contingent on the Operating Company's future performance. Roadrunner recorded these earnouts – reduced to present value – as “contingent purchase obligations” which appeared as liabilities on Roadrunner's balance sheet.

8. Pursuant to generally accepted accounting principles (“GAAP”), the proper accounting treatment for Roadrunner's earnouts was to accrue a liability in the amount of the earnout's fair value at the acquisition date. For Roadrunner, this fair value calculation depended on how well the Operating Company was expected to perform. Specifically, the earnout's fair value hinged on the Operating Company's “EBITDA” – i.e., its earnings before interest, taxes, depreciation, and amortization post-acquisition. In general, if the Operating Company's EBITDA fell short of the expectations on which the earnout was based, Roadrunner's fair value estimate for the earnout should have decreased.

9. GAAP required Roadrunner to remeasure the fair value of its earnouts at each reporting date. If it became clear that an Operating Company could not meet the annual EBITDA thresholds required to trigger the full earnout, Roadrunner was required to reduce the earnout liability in that quarter to the amount that the sellers were likely to receive. Reducing the earnout liability had two effects: (a) it provided a short-term boost to Roadrunner's net income and earnings per share for the period in which the adjustment was made, but (b) an earnout reduction also signaled to investors that the Operating Company was not meeting its EBITDA projections.

10. Instead of reducing contingent earnout liabilities to reflect the Operating Companies' actual performance, Roadrunner fraudulently inflated Operating Companies' EBITDA projections to support overstated earnout valuations that would help Roadrunner meet analysts' consensus EPS estimates in future periods. This allowed Roadrunner to defer recognition of income from earnout adjustments into future quarters, creating a “cushion” of potential income that Roadrunner could access in future quarters to offset expenses. Further, by not reducing earnout obligations when required, Roadrunner hid the fact that certain of its recent acquisitions were underperforming.

11. Roadrunner also improperly deferred the recognition of known expenses so Roadrunner could hit its EPS targets. GAAP requires that companies recognize expenses for liabilities when it is probable that the liability has been incurred and the amount of the liability can be reasonably estimated. To keep earnings in line with analysts' expectations, Roadrunner improperly deferred recognition of known expenses into future quarters.

12. In Q2 2013, Roadrunner should have reduced its earnout liabilities to reflect the actual performance of one Operating Company. Instead Roadrunner fraudulently adjusted the Operating Company's earnings projections upward to support an inflated earnout valuation that would help Roadrunner meet analyst EPS expectations in future periods.

13. Also in Q2 2013, Roadrunner improperly delayed the recognition of known expenses that it had already incurred and therefore should have been recognized in the second quarter.

14. As a result, Roadrunner's operating expenses in its Q2 2013 Form 10-Q were materially understated by \$2.375 million, and its disclosed contingent earnout liabilities were materially overstated by approximately \$2.689 million, and the adjustments to the earnout liabilities were understated by a corresponding amount. The combination of the improper deferral of expenses and the earnout manipulation allowed Roadrunner to hit its EPS target while hiding material expenses and concealing the underperformance of the Operating Company from the investing public. Roadrunner used the earnout cushion it created in Q2 2013 to hit its EPS targets in later quarters.

15. On August 13, 2013, Roadrunner sold common stock off of a Form S-3 shelf registration statement. The misleading Q2 2013 financial statements were incorporated into this offering. Roadrunner sold 1.5 million shares at an offering price of \$27, and raised net proceeds of \$38.4 million from the offering.

16. In Q4 2013, Roadrunner should have reduced the combined earnout liabilities for two additional Operating Companies by \$4,048,000 to reflect their actual performance. Doing so would have resulted in a \$4,048,000 increase in operating income – providing a temporary boost to earnings, but would have deprived Roadrunner of the flexibility to use those reductions in future quarters to offset expenses. The earnout manipulation also concealed underperformance of the two Operating Companies. Roadrunner used the earnout cushion it created in Q4 2014 to hit its EPS targets in later quarters.

17. As a result, Roadrunner's Q4 2013 financial statements – included in the 2013 Form 10-K – were materially misleading. Among other things, Roadrunner's disclosed contingent liabilities related to acquisitions were overstated by over \$4 million and adjustments to those liabilities were understated by a corresponding amount.

### **Roadrunner Improperly Delayed Recognition of Customer Cargo Claims from Q2 2014 through 2016.**

18. Beginning in Q2 2014, Roadrunner also failed to properly account for known claims from Roadrunner customers for damaged shipments. Roadrunner should have accounted for the claims that were probable and reasonably estimable. Instead, a Roadrunner executive improperly delayed the recognition and payment of known claims, causing a backlog of claims that were approved but not paid. The backlog was a known expense that was not properly disclosed on Roadrunner's financial statements, and it improperly reduced Roadrunner's historical losses used to estimate for future claims.

19. As a result, Roadrunner's claims reserve was understated for almost every quarter from Q2 2014 to Q3 2016 – by \$56,000 in Q2 2014, \$1,040,000 in Q3 2014, \$416,000 in Q4 2014, \$457,000 in Q1 2015, \$658,000 in Q2 2015, \$73,000 in Q3 2015, \$496,000 in Q4 2015, and \$410,000 in Q3 2016. As discussed below, these deferred claims contributed to material misstatements in Roadrunner's Forms 8-K, 10-K, and 10-Q throughout 2014, 2015 and 2016.

**Roadrunner Failed to Properly Account for Overstated Accounts at Operating Companies from Q2 2014 through Q4 2014.**

20. In several instances, Roadrunner and its Operating Companies were carrying assets on their balance sheet that either were significantly overstated or worthless. GAAP requires that – when a receivable is deemed uncollectable or an asset is otherwise overstated – that asset should be “written off,” i.e., the asset should be revalued and the portion that is deemed uncollectable or overstated should be deducted from the company's income. Roadrunner failed to take write-offs that could drag down its earnings, instead planning to delay and spread the write-offs over several quarters.

21. In May 2014, a former Roadrunner executive learned of issues on the balance sheet of Roadrunner Intermodal Services, Inc. (“RRIS”), a group of Operating Companies, with a potential exposure of nearly \$4.5 million. A review identified several misstated accounts on the RRIS balance sheet, including uncollectible receivables and other worthless assets. By September 2014, Roadrunner determined that RRIS' balance sheet included accounts that were overstated by more than \$7.5 million. Instead of correcting and disclosing these misstated accounts, former Roadrunner executives planned to arbitrarily write off \$2 million of the overvalued accounts by booking a \$166,666 expense every month in 2015. Performance concerns led Roadrunner to delay and then abandon the plan.

22. These accounts were never written off, and nearly all of the misstated accounts remained on RRIS' balance sheet until Roadrunner issued a restatement in January 2018. Roadrunner's plan to gradually write down the RRIS accounts was calibrated to conceal the write-offs from its independent auditor. Roadrunner also sent false and misleading documents to the independent auditor in an effort to hide the misstated accounts.

23. Roadrunner's Q2 2014 Form 10-Q contained material misstatements as a result of the failure to write off assets – combined with the manipulation of customer claims for the period. Among other things, Roadrunner's operating income was overstated by over \$4.5 million; net earnings for the quarter were overstated by at least \$2.8 million; and EPS was overstated by at least \$0.07 per share.

24. Roadrunner's Q3 2014 Form 10-Q also contained material misstatements due to the failure to write off the assets discussed above. By that time, Roadrunner knew that \$7.5 million should be written off. By keeping those assets on the balance sheet – and with the manipulation of customer claims for that period – Roadrunner's Q3 operating income was overstated by over \$8.5 million, its net earnings were overstated by approximately \$5.7 million, and its EPS was overstated by approximately \$0.15 per share.

25. In December 2014, Roadrunner learned of \$500,000 in uncollectible receivables at another Operating Company. Roadrunner devised a similar plan to write off the impaired receivable in the future and recognize the bad debt expense gradually rather than immediately. After delaying and then abandoning this plan, Roadrunner left \$150,000 in uncollectible receivables on the balance sheet. The fraudulent accounting entries for this impaired receivable were incorporated into Roadrunner's Q4 financial statements and 2014 Form 10-K.

26. As a result, Roadrunner's 2014 Form 10-K contained material misstatements. Among other things, the results of the refusal to write off assets described above – combined with the manipulation of customer claims for the quarter – were that Roadrunner's operating income in Q4 2014 was overstated by over \$916,000; net earnings for the quarter were overstated by \$573,000; and EPS was overstated by \$0.02 per share.

### **Roadrunner Manipulated a Contingent Earnout Liability in Q4 2015.**

27. In Q4 2015, Roadrunner did not properly reduce an Operating Company's earnout reserve, even after learning that the Operating Company lost one of its largest customers and would not collect a receivable from that customer. Roadrunner failed to write off the \$986,000 receivable and failed to reduce the earnout liability to zero, and reduced only a small portion of it, preserving the remainder to bolster its earnings numbers in future quarters. Roadrunner also hid the loss of this customer from its independent auditor.

28. As a result, Roadrunner's 2015 Form 10-K was materially misleading. Among other things, as a result of the improper deferral of expenses – combined with improper deferral of claims identified above – Roadrunner's Q4 operating expenses were understated by approximately \$1.48 million. Due to the fraudulent manipulation of earnouts, Roadrunner's disclosed contingent earnout liabilities were overstated by approximately \$1.8 million and the adjustments to those earnouts were understated by a corresponding amount. The combination of the improper deferral of expenses and the earnout manipulation meant that Roadrunner was able to hit its EPS target while hiding material expenses and concealing the underperformance of the Operating Company from the investing public. Roadrunner used the earnout cushion it created in Q4 2015 to hit its EPS targets in later quarters.

### **Roadrunner Improperly Deferred Accrued Bonuses in Q3 2016.**

29. In Q3 2016, an executive at Roadrunner altered bonus accruals in order to make sure that it did not breach its debt covenants. Roadrunner's loans required it to keep its cash flow leverage ratio below 4.0. After forecasting that Roadrunner would violate the covenant requirement, an executive instructed Operating Companies to increase their earnings calculations by reversing annual bonus accruals in Q3 and reestablishing the entire annual bonus accrual the following quarter. This reversal, in addition to others, was sufficient to bring Roadrunner in compliance with its debt covenants in Q3 2016.

30. Roadrunner's Q3 2016 Form 10-Q contained material misstatements. Among other things, as a result of the improper deferral of accrued bonuses – combined with the manipulation of customer claims for the period – Roadrunner's operating income was overstated by over

\$1,166,000; its net earnings for the quarter were overstated by \$714,000; and its EPS was overstated by \$0.02 per share.

### **Roadrunner Restated Its Financial Statements.**

31. On January 30, 2017, Roadrunner announced in a Form 8-K that it had commenced an investigation concerning potential accounting discrepancies and that its audit committee determined that certain previous financial reports had been misstated.

32. On January 31, 2018, Roadrunner announced in a Form 8-K that it had finished an internal investigation and filed a Form 10-K/A for 2015 that restated financial statements dating back to 2011, and Forms 10-Q/A for the quarterly periods ended March 31, 2016, June 30, 2016 and September 30, 2016. Roadrunner's restated financial statements reported that it overstated its net income by more than \$66 million from 2011 to Q3 2016, and a revaluation of Roadrunner's goodwill and other intangibles resulting in non-cash impairment charges of \$373.7 million. These changes reflected, among other things, the impact of the fraudulent conduct discussed above. Roadrunner announced that it had identified accounting errors that impacted substantially all financial statement line items and disclosures, and identified material weaknesses in its internal control over financial reporting. Roadrunner also announced that information was withheld from the independent directors, the Audit Committee, and independent auditor.

33. Roadrunner shared with the Commission staff the results of its internal investigation and provided facts developed during that internal investigation. Roadrunner also provided information regarding its remedial efforts, including termination of those responsible for the misconduct and enhancements to its internal controls.

34. Roadrunner has new management; strengthened its compliance organization; enacted changes to its governance and structure; enhanced its policies and procedures; and increased training of employees. Among other things, pursuant to Roadrunner's agreement with its current lender, Roadrunner has retained an outside consulting firm to provide additional financial oversight with a focus on accounts receivable and payables. Roadrunner also implemented a new compliance program that includes a whistleblower hotline, employee policy and training updates, a new bad debt review process, and monthly reconciliation of accounts receivable aging to the general ledger balance.

35. On September 26, 2019, the Federal District Court for the Eastern District of Wisconsin approved a settlement between Roadrunner and the plaintiffs who brought a class action *In re Roadrunner Transportation Systems, Inc. Securities Litigation*, Case No. 2:17-cv-00144 (E.D. Wisc. Jan. 31, 2017), alleging violations of securities laws based on the facts that gave rise to Roadrunner's restatement. Pursuant to the settlement, Roadrunner paid \$20 million, \$16,377,877.33 of which was distributed to shareholders.

### **Violations**

36. As a result of the conduct described above, Roadrunner violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit

fraudulent conduct in the offer or sale of securities and in connection with the purchase or sale of securities.

37. Also as a result of the conduct described above, Roadrunner violated Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder, which require every issuer of a security registered pursuant to Section 12 of the Exchange Act to file with the Commission information, documents, and annual, quarterly, and current reports as the Commission may require, and mandate that periodic reports contain such further material information as may be necessary to make the required statements not misleading.

38. As a result of the conduct described above, Roadrunner violated Section 13(b)(2)(A) of the Exchange Act, which requires reporting companies to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect their transactions and dispositions of their assets.

39. As a result of the conduct described above, Roadrunner violated Section 13(b)(2)(B) of the Exchange Act, which requires all reporting companies to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles.

#### **Disgorgement**

40. The disgorgement and prejudgment interest ordered, but deemed satisfied, as described in Paragraph IV.B below is consistent with equitable principles and does not exceed Roadrunner's net profits from its violations.

#### **IV.**

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

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Respondent Roadrunner 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), and 13(b)(2)(B) of the Exchange Act; and Rules 10b-5, 12b-20, 13a-1, 13a-11, and 13a-13 thereunder.



B. Respondent Roadrunner shall pay disgorgement of \$7,096,092 and prejudgment interest of \$2,539,819.71; however the disgorgement and prejudgment interest amounts shall be deemed satisfied by Respondent's payment described in Paragraph 35 above.

By the Commission.

Vanessa A. Countryman  
Secretary