

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 97773 / June 21, 2023

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4423 / June 21, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21500

In the Matter of

MARCUM LLP

Respondent.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS, PURSUANT TO
SECTIONS 4C AND 21C OF THE
SECURITIES EXCHANGE ACT OF 1934,
AND RULE 102(e) OF THE
COMMISSION’S RULES OF PRACTICE,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted against Marcum LLP (“Respondent” or “Marcum”) pursuant to Sections 4C¹ and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice.²

¹ Section 4C provides, in relevant part, that:

The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found ... (1) not to possess the requisite qualifications to represent others; (2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or (3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations issued thereunder.

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

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.

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 Public Administrative and Cease-and-Desist Proceedings Pursuant to Sections 4C and 21C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds³ that

A. SUMMARY

1. This matter involves systemic quality control failures and violations of audit standards by Marcum from at least 2020. The violations of Public Company Accounting Oversight Board (“PCAOB”) professional standards identified in this Order were primarily in connection with audit work for special purpose acquisition companies (“SPACs”). However, the nature of these professional standard violations—including their volume and range—reflects deficiencies relevant to and impacting Marcum’s entire public company audit practice.

2. Marcum’s quality control and audit standard failures permeated most stages of engagement work—from client acceptance to risk assessments, audit committee communications, audit documentation, assembly and retention of audit documentation, engagement quality reviews, technical consultations, due professional care, and engagement partner supervision and review. At nearly every stage, Marcum lacked sufficient policies and procedures to provide reasonable assurance that engagements were conducted in accordance with professional standards. Further, Marcum did not sufficiently monitor the effectiveness of its policies and procedures and did not adequately communicate those policies and procedures to engagement teams. In sum, Marcum’s quality controls system failed and, as a result, certain audits were not conducted in compliance with PCAOB audit standards.⁴

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

⁴ Throughout this Order, unless otherwise specified, references to “audit standards” refer to audit standards promulgated by the PCAOB.

3. Investors rely on audit firms to serve a critical function regarding financial reporting. Quality controls and audit standards are necessary to maintaining this essential gatekeeping role. As described, Marcum repeatedly failed to sufficiently establish key foundational policies and procedures, leading to multiple violations of applicable professional standards and corresponding misstatements to investors that Marcum audits were conducted in compliance with those standards.

B. RESPONDENT

4. Marcum, a New York limited liability partnership headquartered in New York, New York, is a public accounting firm in the United States. As of mid-2022, Marcum had over 370 partners and 2,300 employees, with offices in more than 30 cities. Marcum has been registered with the PCAOB since October 2003.

C. OTHER RELEVANT ENTITY—MARCUM ASIA CPAs LLP

5. Marcum Asia CPAs LLP (“Marcum Asia”), a New York limited liability partnership headquartered in New York, NY, is a public accounting firm in the United States. Marcum Asia has 137 accounting personnel, with offices also in China and Singapore. Marcum Asia has been registered with the PCAOB since 2011, including, until September 2022, under the name Marcum Bernstein & Pinchuk LLP.

6. Marcum holds a 50 percent interest in Marcum Asia, and all partners of Marcum have a partnership interest in Marcum Asia. The majority of Marcum Asia partners also hold a partnership interest in Marcum. Marcum has referred prospective clients, including SPAC clients, to the entity now known as Marcum Asia.

7. Marcum Asia relies substantially upon Marcum for its quality control system. Specifically, Marcum Asia’s quality control system relies upon many of Marcum’s quality control policies, procedures, and monitoring systems. Many of Marcum Asia’s quality control functions—such as client acceptance, internal inspections, PCAOB reporting and inspections, engagement quality reviews, and audit documentation and binder monitoring—are managed in parallel with Marcum’s quality control functions, by the same personnel, partners, and management.

D. FACTS

MARCUM’S SPAC PRACTICE

8. In 2020 and 2021, over 860 SPACs completed initial public offerings (“IPOs”) in the United States. Over 400 of these SPAC IPOs were audited by Marcum. In 2019, Marcum had served as the auditor for only 185 public company issuers; by 2022, Marcum was responsible for auditing *over three times* that number—a total of 575 issuers, the majority of which were SPACs. This vaulted Marcum to the fifth largest public company auditing firm, as measured by number of clients.

9. The strain of this exponential growth in Marcum’s public company practice exposed substantial, widespread, and pre-existing deficiencies in the firm’s underlying quality control policies, procedures, and monitoring. In the period immediately preceding the SPAC market’s explosion, Marcum’s annual inspections by the PCAOB had revealed an increasing number of deficiencies. Marcum was also subject to consecutive PCAOB enforcement orders—in 2019 and 2020—related to quality control failures concerning independence and client acceptance.

10. Starting at least in 2018 and continuing through 2021, Marcum’s own inspections also repeatedly revealed deficiencies, but Marcum failed to adequately remediate them. Marcum’s 2018 internal inspection, for example, found that 8 out of 13 public company audits inspected were missing documentation. The following year, in 2019, Marcum’s internal inspection report noted: “there are still too many documentation misses,” including “three engagements [which] included work papers that were signed off after the report was issued.” In 2020, Marcum’s internal inspection identified numerous documentation deficiencies, and concluded that in many instances, these deficiencies were caused by engagement partners, managers, and EQRs not spending enough time on the engagements.⁵ Despite repeated inspection findings, Marcum failed to take sufficient remediative action.

CLIENT ACCEPTANCE AND STAFFING CAPACITY

11. Marcum’s client acceptance process lacked sufficient quality control policies, procedures, and monitoring related to evaluating personnel capacity, as required by PCAOB Quality Control (“QC”) 20.15(a), as well as QC 20.03 and QC 20.20.

12. Marcum’s firm policy required that any new public company client must be accepted by its Client Acceptance Committee. Yet, Marcum’s client acceptance process, as conducted by its Client Acceptance Committee, did not evaluate the firm’s personnel capacity in connection with accepting new SPAC clients. Additionally, the engagement partners responsible for submitting prospective new SPAC clients to the Client Acceptance Committee were also not, at the time of client acceptance, adequately evaluating capacity. Engagement partners submitted SPAC clients for acceptance on the assumption that capacity and staffing could be managed at a later date, and that they would not remain obligated to serve as engagement partner. Marcum had no other policies or procedures, at the time of client acceptance, that provided “reasonable assurance” that the firm would have sufficient personnel capacity to take on a new SPAC client or clients.

13. Rather, to the extent that Marcum evaluated staffing capacity, it did so in connection with the logistics and scheduling of work to which it had already committed. Throughout 2020 and

⁵ Throughout this Order, “EQR” will be used to refer to both: (1) the audit partner (the “engagement quality reviewer”) providing concurring approval of an audit report, and (2) the review procedures (an “engagement quality review”) performed by such partner in connection with providing his or her concurring approval.

2021, Marcum continued to assume it could manage based upon some combination of triaging staffing and deadlines. This assumption became more problematic, and ultimately untenable, given the ever-escalating volume of SPAC clients accepted by the firm.

14. Marcum’s SPAC client acceptances increased dramatically. In 2020, Marcum accepted 178 new SPAC clients. In 2021, it accepted 633 new SPAC clients, including 159 accepted in March 2021 alone—a substantial increase from the 8 new SPAC clients accepted just one year prior, in March 2020. Each SPAC client also typically generated multiple audit engagements—first an IPO engagement, then an engagement in connection with periodic reporting obligations as a public company. In the first three months of 2021 alone, Marcum sent out 345 new SPAC engagement letters.

15. The impact these new clients and engagements had on Marcum’s SPAC client roster was significant. Marcum went from a total of 113 SPAC clients in September 2020 to a total of 882 SPAC clients in June 2021. The figures of 113 and 882 total SPAC clients include clients to whom Marcum had only sent out a draft engagement letter—yet such prospective clients were never subsequently turned away. Marcum also never turned away its SPAC IPO clients who, upon becoming effective public companies, needed additional audit services in connection with their periodic reporting obligations. Notably, however, in connection with SPAC clients, fulfilling periodic reporting obligations—including audits and reviews in connection with Form 10-K and Form 10-Q filings—typically required substantially more hours, and unlike IPO engagement work, was subject to specific reporting deadlines, both factors which further exacerbated strains in Marcum’s capacity at all personnel levels.

16. As a consequence of the exponential escalation in its SPAC clients and engagements, Marcum faced difficulty in staffing engagements, difficulty and delays in completing work within requisite deadlines, and non-compliance with numerous PCAOB audit standards. These difficulties were raised to firm management by Marcum personnel. At the beginning of February 2021, for example, a national office partner alerted firm leadership that managers in the SPAC practice were “working 90+ hour weeks,” noting that “I think many, many of them are at their breaking point and just simply need more help and more resources.” Nonetheless, over the course of February 2021, Marcum accepted a record 114 new SPAC clients. At the beginning of March 2021, the partner again advised firm leadership, noting the “disconnect between how the practice is running and what we are putting in place to make sure we’re in compliance with professional standards” and highlighting concerns that Marcum was “setting ourselves up to fail at our own policies.” Nonetheless, Marcum accepted another 159 new SPAC clients in March 2021.

17. During 2020 and 2021, Marcum repeatedly had difficulty obtaining staffing at all levels. Additionally, as staffing became more constrained, managers and engagement partners were assigned later in the engagement process, rather than immediately upon receipt of a client-signed engagement letter. Staffing of engagement quality reviews (“EQRs”) became especially difficult. In particular, in early 2021, a substantial portion (20%) of engagement quality reviews were reallocated—by firm leadership—to public company audit partners who did not typically perform engagement quality reviews.

18. One area in which delays and the failure to satisfy audit standards was particularly acute was in the timely completion, assembly, and retention of audit documentation. Between October 2020 and early June 2021, the number of work paper binders that were not finalized and assembled for retention within the PCAOB-required 45-day period (measured from report release date) increased from 23 to 687. Marcum personnel repeatedly attributed these delinquencies, and the growth in delinquencies, to the overall volume of engagements and lack of personnel capacity. In particular, memos drafted by manager and staff-level personnel in connection with delinquent binder archiving repeatedly attributed the delinquencies to “time constraints associated with the volume of SPACs”; such language was used in connection with engagements dating back to July 2020, and continued to be cited in memos through August 2021.

19. The difficulties in staffing and delays in completing work within requisite deadlines, as well as non-compliance with PCAOB audit standards, reflect that Marcum could not have reasonably expected to complete all accepted SPAC engagements in accordance with professional standards.

CLIENT ACCEPTANCE AND MANAGEMENT INTEGRITY

20. Marcum’s client acceptance process lacked sufficient quality control policies, procedures, and monitoring to evaluate the management integrity of prospective clients, including insufficient documentation and communication of such policies and procedures, as required by QC 20.14, as well as QC 20.03, QC 20.20, QC 20.23, and QC 20.24.

21. Marcum’s firm policy provided that, prior to the acceptance of any new public company client, Marcum must obtain and review background reports on any key personnel, including the company’s CEO, CFO, and Audit Committee Chair. This policy required that the background reports were included among the materials sent to the Client Acceptance Committee for its review. The Client Acceptance Committee reviewed such reports in connection with its acceptance decisions.

22. For prospective SPAC clients, however, Marcum deviated from its policy and did not require receipt and review of background reports prior to client acceptance. Instead, Marcum required only that relevant client personnel submit a form authorizing a background check, and the form relied upon client personnel to self-disclose relevant facts. Marcum personnel relied on that form completed by their clients and also conducted cursory internet searches related to the relevant client personnel. The completed background reports were required to be received and reviewed prior to the effective date of the SPAC’s IPO.

23. Marcum’s SPAC-specific background report “policy” was not memorialized in any relevant policy document or form; internal communications reflect that the lack of any written policy may have resulted in this policy and corresponding procedures not being sufficiently understood and consistently applied across the SPAC practice.

24. Marcum’s SPAC-specific “policy” also lacked guidance regarding how requisite internet searches were to be conducted. As a result, searches conducted relied upon protocols that may have been insufficient to provide relevant information.

25. Marcum relied solely on engagement teams for compliance with the requirement that background reports were received and reviewed prior to IPO effectiveness. This was a contrast to the firm-wide procedure, in which the Client Acceptance Committee would both ensure reports were received prior to client acceptance, and substantively review the reports.

26. Marcum also had insufficient monitoring of compliance with the SPAC-specific “policy.” As early as August 2020 and through the fall of 2021, multiple SPAC managers and both Client Acceptance Committee co-chairs voiced the need for additional resources and processes to monitor the timely receipt of background reports. Sufficient additional resources and processes, however, were not provided.

27. The weakness of Marcum’s process was reflected in a one-time monitoring exercise, conducted in July 2021, which revealed that a substantial portion of SPAC work paper binders did not include documentation of one or more required background reports. This monitoring exercise found that, among SPAC clients that had completed the IPO process, over one-third were missing reports required under Marcum’s SPAC-specific policy.

AUDIT DOCUMENTATION

28. In documenting engagement work, Marcum lacked sufficient policies, procedures, and monitoring to provide reasonable assurance that audit documentation reflected when procedures were performed, the date work was completed, and the date of relevant reviews, as well as reflected that audit procedures were completed and sufficient evidence obtained prior to the release of the respective audit report, as required by QC 20.03, QC 20.17, and QC 20.20. In particular, Marcum lacked sufficient policies, procedures, and monitoring related to work paper sign offs, including the timing and dating thereof, as well as related to the timely assembly and retention of audit documentation, resulting in numerous engagements in violation of the underlying audit standard, AS 1215, within the SPAC practice and throughout the firm. Marcum also lacked sufficient policies, procedures, and monitoring related to the assembly and retention of audit documentation, including in connection with policies related to email retention, as well as sufficient policies, procedures, and monitoring related to audit documentation added subsequent to AS 1215.15’s 45-day documentation completion date (as specified in AS 1215.16), as required by QC 20.03, QC 20.17, QC 20.20, QC 20.23, and QC 20.24.

Work Paper Sign Offs

29. Marcum lacked sufficient policies, procedures, and monitoring related to work paper sign offs, including the timing thereof, resulting in widespread violations of the underlying audit standard, AS 1215, based on Marcum engagement partners, EQRs, managers, and staff-level

personnel performing work paper sign offs only subsequent to the release of audit reports and other issuances.

30. Prior to the release of an audit report, Marcum’s firm policy required engagement managers, engagement partners, and EQRs to sign off on a “routing slip” work paper, which represented that all requisite reviews had been performed. EQRs were also required, prior to the release of an audit report, to sign off on an “EQR memo” work paper, which provided information regarding the EQR’s review procedures. Marcum policy also required sign off on certain other work papers, but did not require that such work paper sign offs be conducted prior to the report release date; Marcum required only that these sign offs were done prior to the documentation completion date prescribed by AS 1215.15 (45 days from report release date).

31. Marcum’s written policies failed to address explicit requirements of AS 1215.06(b), including that audit documentation reflect “the date such work was completed” and “the date of such review.”

32. In early 2021, Marcum conducted post-issuance inspections of its SPAC IPO work paper binders (the “Post-Issuance IPO Review”). These inspections, conducted between one and three days after the relevant audit report was released, revealed that approximately three-fourths of work paper binders contained one or more work papers lacking both “preparer” and “reviewer” sign offs. These same inspections revealed that many work papers required to be signed off on by engagement partners and EQRs—required per Marcum’s own policy—were not yet signed off on; depending upon the work paper, across these inspections, the percentage of missing sign offs identified ranged from at least 10% to as high as 50%.

33. Also in early 2021, Marcum conducted a post-issuance inspection of 25 SPAC IPO audits whose work papers binders had already been archived. Of these 25 binders, only 8 were in compliance with Marcum’s documentation and sign off policies.

34. Additionally, a sampling review of 28 SPAC audit binders conducted by SEC staff in the Division of Enforcement (the “SEC Review”) revealed that over 25% of Marcum-required engagement partner sign offs were either conducted post-issuance or entirely missing. Among Marcum-required EQR sign offs, approximately one-third were either conducted post-issuance or entirely missing. The SEC Review revealed post-issuance and/or missing sign offs in every one of 28 SPAC audit binders reviewed. The SEC Review also revealed that many post-issuance sign offs were conducted only in connection with binder assembly and retention (or “archiving”) procedures, frequently conducted at or around 45 days post-issuance, if not later. Indeed, among the audit binders reviewed, half were archived outside of AS 1215.15’s 45-day “documentation completion date,” and contained sign offs by the engagement partners and EQRs that were executed post-45 days. The SEC Review, and in particular the time-stamps associated with the sign offs, also revealed that sign offs were frequently conducted in quick succession. Similar findings were observed outside the SPAC practice.

“Routing Slips”

35. Marcum lacked sufficient policies, procedures, and monitoring related to sign offs on its “routing slip” work paper, including the timing and dating thereof. Marcum engagement partners, EQRs, and managers engaged in widespread violations of the underlying audit standard, AS 1215, including signing routing slips only subsequent to the release of audit reports and other issuances, often also signing routing slips using only manually input date entries.

36. Although Marcum purported to require that its “routing slips” were signed pre-issuance, at Marcum there was a long-standing and known practice of post-issuance routing slip sign offs. This included routing slips signed weeks or even 45 or more days post-issuance. In 2020 and through mid-2021, within the SPAC practice, up to 50% of routing slips were not fully signed prior to issuance.

37. Marcum’s routing slip sign offs were also frequently conducted manually, and signed with dates that did not reflect the actual date on which Marcum personnel conducted their sign offs. While firm management was aware that routing slips were often signed post-issuance, firm policy nonetheless explicitly allowed the use of manual signatures—with only manually input date entries—that often had the effect of obscuring the actual date upon which routing slips were signed by Marcum personnel.

38. A sampling review of SPAC routing slips conducted by SEC staff in the Division of Enforcement reflected this practice in connection with approximately 20% to 50% of routing slips. In these instances, the manually input date on the routing slip’s signature line corresponded to the date the audit report was released, and pre-dated the date upon which Marcum personnel actually signed the routing slip.

39. By contrast, some Marcum personnel, although signing only after the audit report’s release, signed with an electronic, time-stamped signature. Marcum policy at the time, however, did not require personnel use an electronic time stamp signature.

40. In 2021, Marcum implemented an electronic routing slip system. While this system removed the ability to manually input sign off dates, Marcum continued to lack sufficient policies, procedures, and monitoring related to routing slips. Marcum did not amend its formal policy documents regarding the timing and documentation of routing slip sign offs; while Marcum management sent an email announcing a policy revision, its 2017 policy on “routing slips” was not revised, and remained posted on Marcum’s intranet. Additionally, the timeliness of sign offs remained not subject to sufficient monitoring protocols.

Audit Documentation Assembly and Retention (Archiving)

41. Marcum lacked sufficient policies, procedures, and monitoring related to the assembly and retention (also referred to as “archiving”) of audit documentation, including its routing slip policies and procedures, its email retention policies and procedures, and policies and procedures related to assembly and retention of audit documentation in connection with departed personnel.

42. Marcum’s procedures for ensuring compliance with assembly and retention requirements—including that audit documentation was identified for retention, archived, and archived timely—were based on its routing slips. Marcum logged each routing slip, and used such logs to monitor the timely assembly and retention of work paper binders. Therefore, to the extent that a routing slip was not yet generated, Marcum was not yet monitoring whether the related audit documentation was being assembled and retained—meaning Marcum could not have reasonable assurance that audit documentation was being archived for retention, on a timely basis or at all. No routing slip was generated, however, until engagement team personnel requested a routing slip.

43. Within Marcum’s SPAC practice in 2020 and 2021, in many instances, not only was a routing slip not fully signed off prior to issuance—at times, no routing slip record had been generated at all. Instead, the routing slip record was not generated until weeks or months after the release of the audit report or other issuance. Internal communications in January through August of 2021—including communications to Marcum’s firm management—reflect that routing slip records were missing for issuances dating back as many as nine months prior. These routing slips were missing because engagement team personnel failed to request a routing slip.

44. Marcum’s procedures for ensuring compliance with assembly and retention requirements also failed to monitor the assembly and retention of documentation created in connection with engagements for which no report or other issuance was ultimately released. Marcum’s procedures were based on monitoring routing slips, yet routing slips were typically not generated prior to the day a report or issuance was to be released.

45. Within Marcum’s SPAC practice, engagement teams often performed work in connection with reports or other issuances that were not ultimately released, including when clients chose to withdraw a registration statement. The fact that not all SPAC clients would complete the IPO process was a known and foreseeable fact in the industry, yet Marcum, despite its substantial volume of SPAC clients, failed to adopt policies, procedures, and monitoring sufficient to provide reasonable assurance that such audit documentation was assembled and retained in a timely fashion, or at all. Marcum did not archive numerous work paper binders, despite the work papers reflecting that months had passed since any procedures and work had been performed on the engagement; among such binders, many lacked any indication that a routing slip had ever been generated.

46. ***Email “Auto Delete” Policy.*** Marcum’s policies and procedures were additionally insufficient to provide reasonable assurance that audit documentation for SPAC engagements was appropriately and timely retained and archived due to its email “auto delete” policy. At Marcum, audit documentation was frequently not saved into the engagement binder software until archiving procedures were conducted. In the interim, documentation was frequently maintained only within engagement team members’ email communications. In 2021, Marcum did not archive a notable number of work paper binders—SPAC binders in particular—until six months or more following the date of the report or other issuance. Notwithstanding such facts, in March 2021, Marcum

implemented a six-month “auto delete” policy on email communications for the SPAC practice.⁶ Given the facts and circumstances, Marcum’s implementation of a six-month email “auto delete” policy failed to provide reasonable assurance that audit documentation would be appropriately and timely archived for retention.

47. ***Assembly and Retention of Audit Documentation in Connection with Departed Personnel.*** At Marcum, numerous work paper binders were not archived prior to the departure of relevant engagement team personnel. Not infrequently, such binders were not archived timely, but lingered on “delinquency lists” for several months. Internal communications also reflect instances in which, upon initiation of archiving procedures, there were difficulties in locating audit documentation due to the personnel’s departure.

Timeliness of Audit Documentation Assembly and Retention (Archiving)

48. Marcum also lacked sufficient policies, procedures, and monitoring related to the timely assembly and retention of audit documentation, resulting in widespread violation of the underlying audit standard, AS 1215, particularly within the SPAC practice.

49. Particularly within the SPAC practice, Marcum frequently did not assemble a complete and final set of audit documentation for retention within the 45 days after the report release date, as required by AS 1215.15. As of early June 2021, Marcum had at least 687 SPAC work paper binders that were past the 45 day documentation completion date, and yet not archived. In total, between late 2020 and over 2021, at least 1,800 of Marcum’s SPAC work paper binders were delinquently archived, representing as much as 50% of SPAC work paper binders within this time period.

Audit Documentation Added Following the 45-Day Documentation Completion Date

50. Marcum lacked sufficient policies, procedures, and monitoring related to compliance with AS 1215.16, as well as sufficient documentation and communication of such policies. AS 1215.16 requires that no audit documentation is deleted or discarded after the “documentation completion date,” set at 45 day following the audit report release date. Yet, Marcum failed to sufficiently document or communicate this requirement in a manner that would have provided reasonable assurance that the policy would be understood and complied with. For example, the relevant section of one policy manual failed to state this requirement at all.

51. AS 1215.16 also requires that the addition of any documentation subsequent to the 45-day documentation completion date is explicitly documented, including documenting “the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it.” Yet, Marcum did not sufficiently document or communicate this requirement in a manner that would have provided reasonable assurance that the policy would be

⁶ Approximately two months later, following the initiation of Staff’s investigation, this policy was suspended.

understood and complied with. For example, one policy manual limited this requirement to those alterations that were “substantive,” which limitation is not contained in the audit standard, and not defined within Marcum’s policies. Another policy manual did state a memorandum was required to document any additions made to audit documentation, but the policy was unclear as to its application.

52. Marcum’s internal email communications reflect that Marcum did require a memorandum in connection with all delinquently archived binders, and that Marcum did require that such memoranda were signed by both the engagement partner and the EQR. Yet, Marcum failed to sufficiently document these requirements in a written policy statement—such as a statement in an official policy manual—or otherwise communicate such requirements in a manner that would have provided reasonable assurance that the policy would be understood and complied with.

53. Marcum’s failure to sufficiently document and communicate its policy led to practice inconsistency regarding the use of a memorandum in connection with delinquently archived binders. The SEC Review also indicated that engagement partners did not sign off on such memos approximately 20% of the time, and EQRs did not sign off over 40% of the time.

ENGAGEMENT QUALITY REVIEW

54. In connection with engagement quality reviews, Marcum lacked sufficient policies, procedures, and monitoring related to the documentation of engagement quality reviews, as well as related to the objectivity of such reviews, as required by QC 20.03, QC 20.17, and QC 20.20. This resulted in numerous engagements in violation of the underlying audit standard, AS 1220, which, among other things, requires that the EQR sufficiently document his or her review, including documents reviewed and the date he or she provided concurring approval of the issuance (AS 1220.19), and requires that the EQR remain objective and not assume engagement team responsibilities (AS 1220.07).

EQR Documentation

55. At Marcum, engagement quality review procedures were documented via sign offs on routing slips, EQR memos, and sign offs on individual work papers in the engagement software.

56. ***Work Paper Sign Offs.*** The SEC Review revealed that approximately 33% of Marcum’s EQR sign offs—as limited to those work papers that explicitly required sign offs, per Marcum policy—were either signed post-issuance, or were missing. Similar figures were found in Marcum’s Post-Issuance IPO Review. Separately, in connection with quarterly reviews, Marcum EQRs often did not sign off on any work papers in the engagement software. A sampling review, by SEC staff in the Division of Enforcement, of 15 quarterly review binders revealed that three of the 15 review binders contained no EQR sign offs, at all, on individual work papers via the engagement software.

57. **Routing Slips.** At Marcum, routing slips purported to serve as documentation of the EQR’s concurring approval, and the date of such approval. Yet, Marcum had a widespread practice of post-issuance sign offs on routing slips, including by EQRs. In half of 28 audit binders sampled in the SEC Review, the EQR signed the routing slip post-issuance. Such post-issuance sign offs failed to serve as an effective control to ensure that review procedures were completed and concurring approval obtained prior to issuance. Such post-issuance sign offs also failed to document the completion of review procedures and concurring approval prior to issuance.

58. **EQR Memos.** At Marcum, EQR memos purported to serve as documentation of the EQR’s review procedures. Similar to routing slips, Marcum also had a widespread practice of post-issuance sign offs on EQR memos. Marcum’s Post-Issuance IPO Review revealed that, as of one to three days following issuance, over half of work paper binders did not contain a signed EQR memo. The SEC Review reflected similar findings. Moreover, delays in EQR memo sign offs typically ran in parallel with delays in routing slip sign offs; frequently, the two documents were signed off by the EQR in parallel—and both signed off post-issuance. Indeed, the SEC Review found that in 13 of 28 sampled audit binders, the EQR signed off post-issuance on both the routing slip and the EQR memo. In such instances, neither the routing slip nor the EQR memo served as an effective control or sufficient documentation. EQR memos were also typically signed only manually, and there are indications such sign offs were also signed with only manually-input dates that did not reflect the actual date on which the Marcum EQR signed the EQR memo.

59. The above-noted deficiencies occurred against a backdrop in which Marcum was already on notice, for several years running, that the engagement quality review process was under stress. This included repeated Marcum internal inspection findings flagging concerns that EQRs were not provided sufficient time to conduct their review procedures and that engagement teams were over-reliant on EQRs to catch deficiencies and documentation issues.

EQR Objectivity

60. While Marcum EQRs often conducted required sign offs only post-issuance, at the same time, in many instances, EQRs conducted their sign offs prior to relevant engagement partner sign offs. The SEC Review revealed that at least 10% of EQR sign offs were conducted prior to the engagement partner signing off on the same work paper. Additionally, with the institution, in early 2021, of Marcum’s Post-Issuance IPO Review, internal communications repeatedly reflected that EQRs were asked to sign off on work papers, notwithstanding circumstances in which such work papers included open review notes or lacked engagement team sign offs. In certain instances, engagement partners appeared to encourage such practices, including in a training presentation in which it was stated that due to SPAC’s tight timelines, Marcum could not “wait to put everything through a serial process,” and should instead conduct contemporaneous reviews.

61. In other instances, the Marcum EQR refrained from signing off on work papers before the engagement partner, but provided direct guidance and feedback to the engagement manager—prior to engagement partner review. This included, for example, an instance in which such guidance was provided prior to the engagement partner being assigned to the engagement.

DOCUMENTATION OF WARRANT ACCOUNTING PROCEDURES

62. Among Marcum's SPAC clients, virtually all issued warrants. In connection with warrant accounting procedures, however, Marcum lacked sufficient policies, procedures, and monitoring to provide reasonable assurance that the work performed by the firm's personnel with respect to the documentation of warrant accounting procedures would meet the requirements of the underlying audit standard, AS 1215, as required by QC 20.03, QC 20.17, and QC 20.20. This resulted in numerous engagements in violation of AS 1215.

63. Marcum's memoranda documenting its warrant accounting procedures were consistently insufficient. These internally prepared memos were not dated, did not reference the memo's author, and did not reference the client's name. Such memos contained no citations or cross-references to the individual client's warrant agreement or features. Across clients, the language utilized and specific description of terms was virtually identical from memo to memo, and unchanged from the memo template, making it difficult to identify what procedures Marcum actually performed, including whether the underlying agreement was reviewed—in sufficient detail, or at all. Notably, the template upon which such memos were based provided for only one accounting conclusion (equity treatment), and provided no guidance regarding any potential alternate conclusions, and no direction regarding potentially relevant client-specific information to analyze and correspondingly reference and detail in adapting the template memo.

64. Marcum also received and purportedly reviewed client-prepared memoranda analyzing the proper accounting treatment for the client's warrants. Marcum's documentation of its warrant accounting procedures in connection with client warrant accounting memos, however, was also consistently insufficient. In almost all instances reviewed, the only comment by Marcum on the client memo was a summary comment at top, stating the date Marcum received the memo and the fact of Marcum's review. The lack of substantive auditor notations and comments make it difficult to identify what procedures Marcum actually performed in connection with its evaluation of the memo and the client's accounting conclusion.

65. Warrant accounting related work papers were also not consistently signed off on by either the engagement partner or EQR. The SEC Review found that, among 28 audit binders sampled, over 60% had no EQR sign off on Marcum's warrant accounting memo; engagement partners failed to sign off pre-issuance nearly 30% of the time. Sign offs on the client-prepared warrant accounting memos were similar.

66. Marcum's annual internal inspection, conducted in the summer of 2021, revealed similar findings regarding insufficient documentation of warrant accounting procedures. Among 38 SPAC engagements inspected, 32 were required to be re-opened to add appropriate documentation, including, primarily, documentation related to warrant analysis and/or warrant valuation. Inspector comments in connection with the internal inspection also frequently reflected that no evidence of warrant accounting procedures had been documented in relevant work papers.

COMMUNICATIONS WITH AUDIT COMMITTEES

67. In connection with audit committee communications, Marcum lacked sufficient policies, procedures, and monitoring related to compliance with the underlying audit standard, AS 1301, as required by QC 20.03, QC 20.17, and QC 20.20. This resulted in numerous engagements in violation of this audit standard, including based upon insufficient communication of changes in significant risks to the audit committee, and the failure to sufficiently and accurately document the fact, timing, and method of audit committee communications.

Timing and Mode of Audit Committee Communications

68. Marcum’s work papers for many engagements reflected insufficient audit documentation related to the timing and/or the mode of communications with audit committees. This included instances in which the only documentation of relevant communications consisted of unsigned letters, including instances in which such letters still contained “track changes.”

69. Marcum’s annual internal inspection, conducted in the summer of 2021, also revealed repeated instances in which there was insufficient documentation of audit committee communications. This included findings that 9 out of 38 SPAC engagements examined did not contain the final audit committee letter in the relevant binder.

70. Within Marcum’s SPAC practice, there was a common practice of oral, rather than written, audit committee communications. Marcum’s policies did not sufficiently address the need to document the fact and timing of oral communications; Marcum also lacked sufficient procedures and monitoring to ensure that such oral communications were sufficiently documented.

Substance of Audit Committee Communications

71. Marcum’s annual internal inspection also revealed repeated instances in which Marcum’s communications to the audit committee failed to include newly identified significant risks—5 out of 38 engagements examined—in violation of AS 1301.11. Marcum’s policies, procedures, and monitoring were insufficient to provide reasonable assurance that all requisite matters would be communicated to an issuer’s audit committee. Notably, Marcum had already been made aware, in connection with the PCAOB’s 2019 inspection, that half of audits examined did not comply with the relevant audit standard.

RISK ASSESSMENTS

72. In connection with its performance of risk assessment procedures, Marcum lacked sufficient policies, procedures, and monitoring related to compliance with the underlying audit standard, AS 2110, as required by QC 20.03, QC 20.17, and QC 20.20. This resulted in numerous SPAC engagements in violation of this audit standard, including based upon the failure to conduct risk assessments at the assertion level, and the failure to identify all relevant significant risks.

Assertion Level Risk Assessments

73. Marcum’s SPAC practice failed to conduct risk assessments at the assertion level. A review of nearly 80 SPAC audits conducted by SEC staff did not reveal a single instance, prior to 2022, in which a SPAC audit included an assertion level risk assessment. While Marcum did have a template work paper, called a “Risk Assessment Summary Form,” which outlined procedures including assertion level risk assessments, such work paper was never used in these SPAC engagements—despite the work paper being listed as a required sign off, for engagement partners and EQRs, in the relevant completion checklist.

Identification of All Significant Risks

74. Marcum’s SPAC practice also consistently failed to identify all relevant significant risks. Prior to March 2020, Marcum’s planning meeting memos did not explicitly identify any significant risks, and most memos contained no reference to the significant risk of management override of controls. Among memos dated between March 2020 and April 2021, virtually all memos identified only management override of controls as a significant risk, and up to 10% did not identify any significant risks. It was within this time period that Marcum introduced a SPAC-specific planning memo template, which identified management override—and only management override—as a significant risk.

75. Marcum appears to have identified potential SPAC risks such as complex financial instruments, related party transactions, and contingent fees only rarely, and only starting in mid-2021. The identification of significant risks also did not appear correlated to the SPAC’s lifecycle stage. Instead, the SPAC practice’s identification of significant risks correlated directly to the time period in which the memo was drafted, rather than the circumstances of individual clients.

76. Marcum’s failure to conduct adequate risk assessments and sufficiently identify all significant risks is also illustrated by its planning meeting practices. Several of Marcum’s SPAC engagement partners also followed a practice of conducting joint planning meetings, in which one planning meeting was held to discuss up to 27 separate SPAC clients, documented in one joint memo, whose discussion of significant risks was a single paragraph section designed to apply to all clients.

TECHNICAL CONSULTATIONS

77. In connection with technical consultations, also internally referred to as “national office” consultations, Marcum lacked sufficient policies, procedures, and monitoring to provide reasonable assurance that personnel obtained requisite and appropriate technical consultations, as required by QC 20.19, as well as QC 20.03, QC 20.17, and QC 20.20.

Obtaining Consultations When Appropriate

78. Marcum lacked sufficient policies, procedures, and monitoring to provide reasonable assurance that personnel obtained consultations when appropriate.

79. Marcum's written policies on technical consultations provided insufficient and inconsistent guidance regarding when a consultation should, or must, be obtained. In February 2021, Marcum released a written policy on technical consultations that listed certain "required consultations." Yet, Marcum's policy manual's statement on technical consultations continued to contain no indication regarding when consultations were required.

80. Moreover, prior to February 2021, Marcum had no policy explicitly indicating the circumstances under which technical consultations were required, noting only in its policy manual a handful of high-level scenarios that "might require consultation."

81. Outside of its written policies, Marcum lacked sufficient guidance regarding consultations; the decision to obtain a consultation was therefore left almost entirely to the engagement teams and their assigned engagement quality reviewers to determine. Marcum also lacked any firm-wide procedures to track or monitor the request for, or occurrence of, technical consultations.

82. Among the consultations explicitly required by Marcum's policy were consultations in the event of any restatement. Over the course of 2021, Marcum SPAC clients issued hundreds of restated financials, including restatements related to the accounting for warrants. Yet, Marcum's engagement teams did not request and receive a restatement consultation in connection with most SPAC restatements.

Consultant Selection

83. Marcum lacked sufficient policies, procedures, and monitoring to provide reasonable assurance that individuals consulted had appropriate levels of knowledge, competence, judgment, and authority. Marcum had insufficient policies or procedures regarding consultant selection; while a listing of "subject matter experts" was made available on the firm's intranet, the firm was not otherwise involved in an engagement team's selection of any individual consultant. Nor was the firm monitoring consultant selections, such that it could monitor whether individual consultants were appropriately qualified to consult in connection with specific engagements. Consequently, Marcum could also not effectively monitor whether it had a sufficient number of appropriately qualified experts, including on a subject-matter specific basis.

Consultation Quality

84. Marcum lacked sufficient policies, procedures, and monitoring to provide reasonable assurance regarding consultation quality, including consultation procedures and documentation. Marcum had no firm-wide policies regarding how to request a consultation, or how to conduct consultation procedures. There are indications this lack of formalities may have resulted in

miscommunications regarding the performance of technical consultations; for example, in at least one instance, an engagement partner believed she had obtained a consultation, while the “consultant” did not understand himself to have provided one.

85. Marcum’s policy manual stated that “unusual, controversial,” “complex,” and “material” consultations should be documented, but there was no further guidance, including what form such documentation should take. To the extent consultations were documented, many appear to have been documented in a cursory fashion.

86. Additionally, Marcum was not monitoring consultation quality, including the sufficiency or appropriateness of consultation procedures and documentation.

ENGAGEMENT PARTNER SUPERVISION AND REVIEW

87. In connection with engagement partner supervision and review, Marcum lacked sufficient policies and procedures related to compliance with the underlying audit standard, AS 1201, as required by QC 20.03 and QC 20.17. This resulted in numerous engagements in violation of this audit standard.

88. Within Marcum’s SPAC practice, insufficient partner supervision and review extended across many stages of engagement work. Engagement partners frequently failed to sufficiently supervise and review engagement work in connection with each of the processes discussed above, including:

89. ***Client acceptance***, including adequate personnel capacity and client timing expectations.

90. ***Client acceptance and management integrity***, including timely receipt and review of background reports from all relevant parties.

91. ***Audit documentation***, including timely work paper sign offs and compliance with AS 1215.

92. ***Engagement quality review (EQR)***, including documentation of review and concurring approval and compliance with AS 1220.

93. ***Documentation of warrant accounting procedures*** and compliance with AS 1215.

94. ***Audit committee communications***, including timely communications with all requisite disclosures, and sufficient documentation of such communications in audit work papers, in compliance with AS 1301.

95. ***Risk assessments***, including conducting procedures at the assertion level and identifying all significant risks, in compliance with AS 2110.

96. In addition to the processes discussed above, Marcum partners also frequently failed to sufficiently supervise engagement work in connection with client intake and planning, and frequently failed to provide sufficient supervision and review of staff-level work.

97. *Client intake and planning.* Marcum’s engagement partners frequently failed to sufficiently supervise client intake and initial planning. There was typically no initial conversation walking the client through the information and documents Marcum needed, resulting in the frequent receipt of late and incomplete information from clients.

98. *Oversight of staff-level work.* Marcum’s engagement partners frequently failed to sufficiently supervise engagement work conducted by staff-level personnel. At the time staff-level work was conducted, Marcum often had not yet assigned an engagement manager, and there was often no contemporaneous supervision by the engagement partner. Over time, with increased workload, Marcum increasingly assigned engagement managers later in the audit process. The impact was that Marcum often had insufficient contemporaneous oversight of staff-level work. This resulted in staff-level work quality that was repeatedly found substantially lacking, including work papers reflecting no work done at all, or work papers referencing erroneous or outdated information.

99. Marcum’s system of quality control was not sufficient to provide reasonable assurance that supervision and review of audit work performed by engagement partners would be compliant with AS 1201.

DUE PROFESSIONAL CARE

100. As a result of the conduct described above, Marcum partners frequently failed to exercise due professional care in carrying out SPAC engagement work, in violation of AS 1015.

101. Marcum’s system of quality control was not sufficient to provide reasonable assurance that SPAC engagement work would meet the requirements of AS 1015, as required by QC 20.03 and QC 20.17.

TRAINING, DOCUMENTATION, AND COMMUNICATION OF POLICIES AND PROCEDURES, AND EVALUATION OF SUFFICIENCY OF TRAINING, PRACTICE AIDS, AND GUIDANCE

102. Marcum’s evaluation and monitoring of its internal trainings related to SPAC engagements, and personnel compliance with firm-mandated training requirements, was insufficient, as required by QC 20.13 and QC 20.20. There was also insufficient documentation and communication of SPAC policies and procedures, as required by QC 20.23 and QC 20.24. Relatedly, Marcum’s evaluation of the appropriateness of its training, guidance materials, and practice aids—which could serve to document and communicate such requirements—was also insufficient, as required by QC 20.20. Marcum’s failure to adequately document and communicate policies and procedures related not only to SPAC-specific requirements, but also policies and procedures relevant to the firm’s public company practice generally.

103. The composition and size of Marcum’s SPAC practice changed dramatically between mid-2020 and mid-2021. As late as September 2020, two engagement partners conducted virtually all SPAC IPO audit work. Working alongside them were only nine managers, with two managers responsible for over half of such engagements. Beginning in late 2020, dozens of Marcum partners, managers and staff who did not have previous SPAC experience were brought in to assist on engagements. By mid-2021, at least 43 engagement partners and 75 managers were staffed on SPAC engagements. Staff level personnel increased from 30 in mid-2020 to 80 by 2022.

104. The influx of new personnel into Marcum’s SPAC practice—including many personnel who worked on only a handful of SPACs—elevated the importance of training activities, elevated the importance of formalizing and memorializing relevant policies and practices, and elevated the importance of evaluating and monitoring the sufficiency of relevance practice aids and guidance.

105. Instead, the influx of new personnel exposed pre-existing deficiencies in Marcum’s practices related to training, documentation, and communication of policies and procedures. While some of these deficiencies might have been partially ameliorated by sufficient partner supervision and review, based upon the conduct discussed above, Marcum lacked sufficient guidance, supervision, and review at the engagement partner level as well.

Training

106. Marcum conducted a training related to SPAC engagements, and purported to make the training mandatory for any manager or partner-level personnel, prior to conducting any SPAC engagement work. Many SPAC planning memos also explicitly promised to assign to the engagement staff with “adequate SPAC industry experience” as a necessary step to address significant risks. Marcum deemed attendance at its SPAC training sufficient to meet the “adequate SPAC industry experience” requirement.

107. Yet, Marcum did not sufficiently monitor and enforce training attendance, and numerous personnel appear to have conducted SPAC engagement work prior to attending the relevant training.

108. Marcum’s SPAC training also did not sufficiently address all relevant SPAC policies and procedures.

Communication and Documentation of Policies and Procedures, and Evaluation of Practice Aids and Guidance

109. Marcum did not memorialize its SPAC policies and procedures in any consistent fashion or centralized location. In certain instances, Marcum’s SPAC practice appeared to deviate from standard documentation requirements without memorializing such practice deviations in any formal policy. In lieu of any formal policy or centralized guidance document, the SPAC practice

typically relied upon email communications, which piecemeal guidance was not centralized and evolved over time.

110. Marcum’s failure to memorialize relevant requirements in a consistent fashion and centralized location contributed to many of the audit standard and quality control violations described above and below.

111. For example, internal communications among Marcum’s SPAC practice personnel repeatedly reflected questions and confusion regarding relevant policies and procedures, including on the part of national office personnel and other partners. Some communications reflected that Marcum personnel did not know whether certain documentation was required, or how to comply with requirements. Other communications reflected that personnel were not aware of sign off requirements. In certain instances, communications reflected that personnel were not aware of which audit program or completion checklist to use, whether there even was an underlying audit program or completion checklist, or where or how to find such guidance. Many questions raised could not be answered without explicit discussion with national office partners, indicating that Marcum’s pre-existing guidance did not appear to provide clear answers.

112. Such questions and confusion also reflected Marcum’s failure to sufficiently evaluate, on an ongoing basis, the appropriateness and sufficiency of its training, guidance materials, and practice aids.

113. For example, in light of certain concerns being raised, Marcum acknowledged that the relevant completion checklist had not been appropriately maintained or updated since its creation and needed significant work and updates, including SPAC customizations.

114. Many of the questions raised, and confusion illustrated, related to Marcum’s policies and procedures relevant to public companies generally. As such, it was reflective of broad and systemic deficiencies in Marcum’s documentation and communication of public company policies and procedures generally. Notably, Marcum’s most recent annual internal inspection, conducted in the summer of 2021, not only concluded that 32 SPAC audits contained documentation deficiencies requiring the re-opening of the work paper binder—it also found that 37 non-SPAC audits also contained documentation deficiencies requiring re-opening.

115. Marcum’s failure to sufficiently document and communicate relevant policies and procedures continued even after the SPAC market’s initial “boom.” As late as August 2021, Marcum’s SPAC partners continued to flag substantial and substantive concerns, including that engagement managers failed to sufficiently understand relevant technical issues and certain audit standard requirements, and were insufficiently diligent in documenting and reviewing work papers. This included, for example, instances in which engagement partners stated managers and staff-level personnel were “copying and pasting” documentation from prior audits (including audits performed on different clients), without removing extraneous or inaccurate information, updating relevant technical references, or appropriately cross-referencing related work papers. Partners also expressed concerns that managers, as well as some partners, were creating documentation without

sufficiently understanding the underlying accounting or valuation analysis, such as guidance received from internal technical specialists.

116. Marcum relied upon an outside firm (“Firm A”) to conduct staff-level work on SPAC engagements. Marcum’s communication of relevant policies and procedures to personnel at Firm A was also insufficient. Marcum had no centralized or consistent source for guidance for Firm A personnel. Firm A instead received ad hoc guidance from up to 20 different Marcum partners, a practice risking confusion and inconsistency. Additionally, because Firm A was often conducting its work prior to a manager or partner being assigned to the engagement, in such instances there could be effectively no contemporaneous communication. Firm A personnel also did not have full access to Marcum policies, procedures, and guidance documents. Firm A personnel, while provided Marcum email addresses, were not on relevant SPAC email distribution lists, despite Marcum’s SPAC practice relying upon email as a primary mode of communication. Firm A personnel did have access to Marcum work paper templates, but lacked sufficient guidance regarding which templates were appropriate and current. Firm A personnel also did not attend relevant SPAC trainings until February 2021, and not all Firm A personnel attended.

117. The insufficiencies described above also relate back to Marcum’s failure to sufficiently evaluate, prior to client acceptance, whether the firm had sufficient capacity to complete the engagement work with professional competence, including the capacity of the firm’s overall quality control system, including processes and systems to effectively train, educate, and communication with personnel.

E. VIOLATIONS

RULE 102(e) AND SECTION 4C OF THE EXCHANGE ACT

118. Section 4C of the Exchange Act and Rule 102(e)(1)(ii) provide, in part, that the Commission may censure any person who is found by the Commission to have engaged in improper professional conduct. With respect to persons licensed to practice as accountants, “improper professional conduct” includes either of the following two types of negligent 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. Rule 102(e)(1)(iv)(B). As a result of the conduct described above, Marcum engaged in “improper professional conduct” within the meaning of Exchange Act Section 4C(a)(2) and Rule 102(e)(1)(ii).

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

119. AS 1015 requires an auditor to exercise “due professional care ... in the planning and performance of the audit and the preparation of the report.” AS 1015.01. “[D]ue professional care concerns what the independent auditor does and how well he or she does it.” AS 1015.04.

AS 1015.06 provides that “[t]he engagement partner is responsible for the assignment of tasks to, and supervision of, the members of the engagement team.”

120. As a result of Marcum’s conduct described above, Marcum violated this standard in numerous engagements.

Supervision of the Audit Engagement (AS 1201)

121. AS 1201.03 provides that “the engagement partner is responsible for proper supervision of the work of engagement team members and for compliance with PCAOB standards.” AS 1201.05(a) requires the engagement partner to “inform engagement team members of their responsibilities,” including, among other items, “the nature, timing, and extent of procedures they are to perform.” The engagement partner should also “[r]eview the work of engagement team members to evaluate whether: (1) the work was performed and documented; (2) the objectives of the procedures were achieved; and (3) the results of the work support the conclusions reached.” AS 1201.05(c). AS 1201.06 requires that the engagement partner, in determining the extent of supervision necessary, take into account, among other items, “[t]he knowledge, skill, and ability of each engagement team member.”

122. As a result of Marcum’s conduct described above, Marcum violated this standard in numerous engagements.

Audit Documentation (AS 1215)

123. AS 1215.06 requires that an “auditor must document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions. Audit documentation must clearly demonstrate that the work was in fact performed Audit documentation 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.”

124. AS 1215.15 requires that “[p]rior to the report release date, the auditor must have completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor’s report.” AS 1215.15 also requires that “[a] complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (documentation completion date). If a report is not issued in connection with an engagement, then the documentation completion date should not be more than 45 days from the date that fieldwork was substantially completed. If the auditor was unable to complete the engagement, then the documentation completion date should not be more than 45 days from the date the engagement ceased.”

125. As a result of Marcum’s conduct described above, Marcum violated this standard in numerous engagements.

Engagement Quality Review (AS 1220)

126. AS 1220.07 requires that “[t]o maintain objectivity, the engagement quality reviewer ... should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team.”

127. AS 1220.19 requires that “[d]ocumentation of an engagement quality review should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the engagement quality reviewer ... to comply with the provisions of this standard, including information that identifies,” among other items: “[t]he documents reviewed by the engagement quality reviewer,” and “[t]he date the engagement quality reviewer provided concurring approval of the issuance.”

128. As a result of Marcum’s conduct described above, Marcum violated this standard in numerous engagements.

Communications with Audit Committees (AS 1301)

129. AS 1301.11 requires that an auditor “communicate to the audit committee significant changes to the planned audit strategy or the significant risks initially identified and the reasons for such changes.”

130. AS 1301.25 requires that an auditor communicate to the audit committee the matters required under the standard, AS 1301, either orally or in writing, and that the auditor “must document the communications in the work papers, whether such communications took place orally or in writing.” AS 1301.26 requires that “[a]ll audit committee communications required by this standard should be made in a timely manner and prior to the issuance of the auditor’s report.”

131. As a result of Marcum’s conduct described above, Marcum violated this standard in numerous engagements.

Identifying and Assessing Risks of Material Misstatement (AS 2110)

132. AS 2110.59 requires that an auditor “identify and assess the risks of material misstatement at the financial statement level and the assertion level.”

133. AS 2110.59(f) requires that an auditor “[d]etermine whether any of the identified and assessed risks of material misstatement are significant risks,” based upon the factors relevant to identifying significant risks outlined at AS 2110.70-71. AS 2110.69 requires that an auditor’s identification of fraud risks includes the risk of management override of controls.

134. As a result of Marcum’s conduct described above, Marcum violated this standard in numerous engagements.

PCAOB Quality Control Standards (QC 20)

135. PCAOB Quality Control Standards, specifically QC 20.01, provides that “a CPA firm shall have a system of quality control for its accounting and auditing practice.” QC 20.03 broadly defines a system of quality control as “a process to provide the firm with reasonable assurance that its personnel comply with applicable professional standards and the firm’s standards of quality.” QC 20.04 provides that “[t]he nature, extent, and formality of a firm’s quality control policies and procedures should be appropriately comprehensive and suitably designed in relation to the firm’s size, the number of its offices, the degree of authority allowed its personnel and offices, the knowledge and experience of its personnel, the nature and complexity of the firm’s practice, and appropriate cost-benefit considerations.”

136. QC 20.13 requires a firm to have policies and procedures to provide reasonable assurance that “[w]ork is assigned to personnel having the degree of technical training and proficiency required in the circumstances,” and that “[p]ersonnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned.”

137. QC 20.14 requires a firm to establish policies and procedures related to the acceptance and continuance of clients and engagements, and that such policies and procedures are sufficient to provide the firm “reasonable assurance that the likelihood of association with a client whose management lacks integrity is minimized.”

138. QC 20.15(a) requires that a firm’s policies and procedures related to acceptance and continuance of clients and engagements are sufficient to provide reasonable assurance that the firm “undertakes only those engagements that the firm can reasonably expect to be completed with professional competence.”

139. QC 20.17 requires a firm to have policies and procedures to provide reasonable assurance that work performed by engagement personnel complies with professional standards and the firm’s own standards of quality. QC 20.18 provides that these policies and procedures should cover, among other things, “planning, performing, supervising, reviewing, documenting, and communicating the result of each engagement,” as well as engagement quality reviews.

140. QC 20.19 requires a firm to have policies and procedures sufficient to provide reasonable assurance that personnel, among other things, “consult, on a timely basis, with individuals within or outside the firm, when appropriate,” including that “[i]ndividuals consulted [] have appropriate levels of knowledge, competence, judgment, and authority.”

141. QC 20.20 also imposes requirements on firms to properly monitor whether the firm’s quality control policies and procedures are suitably designed and are being effectively applied.

142. QC 20.23 requires a firm to “communicate its quality control policies and procedures to its personnel in a manner that provides reasonable assurance that those policies and procedures are understood and complied with.” QC 20.24 provides that “[t]he size, structure, and

nature of the practice of the firm should be considered in determining whether documentation of established quality control policies and procedures is required for effective communication and, if so, the extent of such documentation,” stating that “documentation of established quality control policies and procedures would generally be expected to be more extensive in a large firm than in a small firm and in a multioffice firm than in a single-office firm.”

143. As a result of Marcum’s conduct described above, Marcum violated QC 20.

MARCUM VIOLATED RULE 2-02(b)(1) OF REGULATION S-X

144. Rule 2-02(b)(1) of Regulation S-X requires an accountant’s report to state the applicable professional standards under which the audit was conducted.

145. Through the conduct described above, Marcum violated Rule 2-02(b)(1) of Regulation S-X in connection with the issuance of numerous SPAC audit reports, all of which stated that Marcum had conducted its audit in accordance with PCAOB standards.

E. FINDINGS

146. Based on the foregoing, the Commission finds that Respondent violated Rule 2-02(b)(1) of Regulation S-X.

147. Based on the foregoing, the Commission finds that Respondent engaged in improper professional conduct pursuant to Sections 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii).

F. REMEDIAL EFFORTS

148. In connection with the conduct described above, Marcum has undertaken certain remedial steps, including revisions to certain quality control policies and procedures. Such efforts have been considered by the Commission in determining to accept Marcum’s Offer, and will be reviewed by the Independent Consultant, as described below.

G. UNDERTAKINGS

INDEPENDENT CONSULTANT

149. Respondent Marcum shall retain, within sixty (60) days after the entry of this Order, an independent consultant (“Independent Consultant”), not unacceptable to the Commission Staff in the Division of Enforcement (“Commission Staff”) and the PCAOB Staff. Marcum shall provide the Commission Staff and the PCAOB Staff with notice of possible Independent Consultant candidates no later than thirty (30) days following the entry of this Order. The Commission Staff and the PCAOB Staff shall have ten (10) business days to communicate whether the Independent Consultant candidates are not unacceptable to the Commission Staff and the PCAOB Staff. Marcum shall, upon request by the Commission Staff or the PCAOB Staff, provide

information about the Independent Consultant's work plan to the Commission Staff and the PCAOB Staff including the Independent Consultant's experience, ability to staff the engagement, and expertise in auditing and audit firm quality controls. Marcum shall provide to the Commission Staff and the PCAOB Staff a copy of the engagement letter detailing the scope of the Independent Consultant's responsibilities within three (3) months after the entry of this Order. If requested by Commission Staff or the PCAOB Staff, Marcum shall make the Independent Consultant available to Commission Staff and the PCAOB Staff to make presentations, provide updates, and explain the work, progress, and conclusions. The Independent Consultant's compensation and reasonable expenses shall be borne exclusively by Marcum.

(i). Independence

150. To ensure the independence of the Independent Consultant, Marcum: shall not have the authority to terminate the Independent Consultant or substitute another independent consultant for the initial Independent Consultant, without the prior written approval of the Commission Staff and the PCAOB Staff; and shall compensate the Independent Consultant and persons engaged to assist the Independent Consultant for services rendered pursuant to this Order at their reasonable and customary rates.

151. Marcum will require the Independent Consultant to enter into an agreement that provides that, for the period of engagement and for a period of two (2) years after the issuance of the Independent's Consultant's final report (as defined in Paragraph 159), the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with Marcum, or any of its present or former affiliates, directors, officers, partners, employees, or agents acting in their capacity as such. The agreement will also provide that the Independent Consultant will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in the performance of his/her duties under this Order shall not, without prior written consent of the Commission Staff and the PCAOB Staff, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Marcum, or any of its present or former affiliates, directors, officers, partners, employees, or agents acting in their capacity as such for the period of the engagement and for a period of two (2) years after the issuance of the Independent Consultant's final report (as defined by Paragraph 159).

152. With respect to Commission Staff and the PCAOB Staff, Marcum will not assert any legal privilege over communications with or work product prepared by the Independent Consultant.

(ii). Scope of Independent Consultant's Review

153. Within the time periods specified below, the Independent Consultant will review and evaluate Marcum's audit, review, and quality control policies and procedures as to, among other aspects, their sufficiency, adequacy, design, implementation, operation, and effectiveness,

applicable to Audit Clients⁷ regarding the subjects set forth below. The Independent Consultant's purpose for this review and evaluation will be to make recommendations for improvements to policies and procedures that:

- a. Provide reasonable assurance that personnel comply with applicable professional standards and the firm's standards of quality (*see* QC 20.03, QC 20.17, and QC 20.20) including:
 1. That due professional care is exercised in the planning and performance of the audit and the preparation of the report. *See* AS 1015.
 2. That engagement partners are properly supervising the work of engagement team members and for compliance with PCAOB standards, including reviewing the work of engagement team members to evaluate whether the work was performed and documented, the objectives of the procedures were achieved, and the results of the work support the conclusions reached. *See* AS 1201.
 3. That auditors are documenting the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions, and that audit documentation contains sufficient information for an experienced auditor, having no previous connection with the engagement to (a) 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. *See* AS 1215.06.
 4. That audit documentation and other documents, including emails that contain audit documentation, are being retained for the length of time required by PCAOB standards and Commission rules or SEC regulations, unless a longer period of time is otherwise required by law. *See* AS 1215.14.
 5. That prior to the audit report release date, the auditor completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report. *See* AS 1215.15.
 6. That a complete and final set of audit documentation is assembled for retention as of a date not more than 45 days after the report release date

⁷ An "Audit Client," for purposes of these undertakings, means any SEC registrant or any client for which the audit or review was required by the federal securities laws.

(“documentation completion date”) and that documentation requirements are also met for unfinished or incomplete engagements. *See* AS 1215.15.

7. That audit documentation is not deleted or discarded after the documentation completion date and that any information and documentation added after the documentation completion date must indicate the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it. *See* AS 1215.16.
8. That engagement quality reviewers and others who assist the reviewer should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team. *See* AS 1220.07.
9. That engagement quality review should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the engagement quality reviewer, and others who assisted the reviewer, to comply with the provisions of this standard, including information that identifies: (a) the documents reviewed by the engagement quality reviewer, and others who assisted the reviewer, and (b) the date the engagement quality reviewer provided concurring approval of issuance or, if no concurring approval of issuance was provided, the reasons for not providing the approval. *See* AS 1220.19.
10. That the auditor is communicating to the audit committee significant risks identified and any changes throughout the course of the engagement. *See* AS 1301.09 and .11.
11. That the auditor is communicating to the audit committee the matters required to be communicated by AS 1301, either orally or in writing, unless otherwise specified in AS 1301, and is documenting those communications in the work papers, including whether such communications took place orally or in writing. *See* AS 1301.25.
12. That all audit committee communications required by AS 1301 are made in a timely manner and prior to the issuance of the auditor’s report. *See* AS 1301.26.
13. That the auditor is identifying and assessing the risks of material misstatement at the financial statement level and the assertion level. *See* AS 2110.59.
14. That the auditor is identifying and assessing significant risks consistent with AS

2110.69, 70, and .71.

- b. Provide the firm with reasonable assurance that the policies and procedures established by the firm for each of the elements of quality control described in QC 20 are suitably designed and are being effectively applied, as applicable to the audit standards cited in this Order. *See* QC 20.03, QC 20.17, and QC 20.20; AS 1015; AS 1201; AS 1215.06, .14, .15, and .16; AS 1220.07 and .19; AS 1301; and AS 2110.59, .69, .70, and .71.
- c. Provide the firm with reasonable assurance that work is assigned to personnel having the degree of technical training and proficiency required in the circumstances and that personnel participate in general and industry-specific continuing professional education and other professional development activities that enable them to fulfill responsibilities assigned. *See* QC 20.13(b) and (c).
- d. Provide the firm with reasonable assurance that the likelihood of association with a client whose management lacks integrity is minimized. *See* QC 20.14.
- e. Provide the firm with reasonable assurance that the firm undertakes only those engagements that the firm can reasonably expect to be completed with professional competence, including, but not limited to policies and procedures related to the client acceptance process, the Client Acceptance Committee, and staffing capacity as related to client acceptance. *See* QC 20.15(a).
- f. Provide the firm with reasonable assurance that personnel refer to authoritative literature or other sources and consult, on a timely basis, with individuals within or outside the firm, when appropriate and that the individuals consulted should have appropriate levels of knowledge, competence, judgment, and authority. *See* QC 20.19.
- g. Provide the firm with reasonable assurance that quality control policies and procedures are being communicated to personnel and that they are understood and complied with, and that the firm has established a means of communicating its established quality control policies and procedures, and the changes thereto, to appropriate personnel on a timely basis. *See* QC 20.23; QC 20.24.

154. Marcum shall cooperate fully with the Independent Consultant and shall provide reasonable and timely access to any firm personnel, information, and records (including audit and consultation documents) as the Independent Consultant may reasonably request for the Independent Consultant's review and evaluation described in Paragraph 153 above and the reports specified in Paragraphs 155 through 162 below.

(iii). **Independent Consultant Reports and Certifications**

155. Within eight (8) months after the entry of this Order, Marcum shall require the Independent Consultant to issue a detailed written report (“**Initial Report**”) to Marcum: (i) summarizing the Independent Consultant’s review and evaluation of the areas identified in Paragraph 153 and its subsections above; and (ii) making recommendations, where appropriate, reasonably designed to ensure that audits conducted by Marcum comply with PCAOB standards and rules and any applicable federal securities laws. Marcum shall require the Independent Consultant to provide a copy of the Initial Report to the Commission Staff and the PCAOB Staff when the Initial Report is issued. Marcum shall also make the Independent Consultant available to Commission Staff and the PCAOB Staff to discuss its work both periodically and after issuance of the report.

156. Marcum will adopt and implement, as soon as practicably possible, but in any event no later than two (2) years after the entry of this Order, and in compliance with the requirements set forth in Paragraphs 157-163 below, all recommendations of the Independent Consultant in the Initial Report. Provided, however, that within thirty (30) days of issuance of the Initial Report, Marcum may advise the Independent Consultant in writing of any recommendation that it considers to be unnecessary, unjust, outside the scope of this Order, unduly burdensome, or impractical. Marcum need not adopt any such unnecessary, unjust, outside the scope of this Order, unduly burdensome, or impractical recommendation at that time, but instead may propose in writing to the Independent Consultant an alternative recommendation (an “Alternative Recommendation”) designed to achieve the same objective or purpose. Marcum will provide any such Alternative Recommendation(s) to the Commission Staff and the PCAOB Staff at the same time that Marcum submits such Alternative Recommendation(s) to the Independent Consultant. Marcum and the Independent Consultant shall engage in good faith negotiations in an effort to reach agreement on any recommendations objected to by Marcum.

157. In the event that the Independent Consultant and Marcum are unable to agree on any Alternative Recommendation(s) within sixty (60) days of the issuance of the Initial Report, Marcum shall abide by the determinations of the Independent Consultant.

158. Within sixty (60) days of issuance of the Initial Report, Marcum will certify to the Commission Staff and the PCAOB Staff in writing that (i) Marcum has adopted and has implemented or will implement all recommendations of the Independent Consultant; and (ii) the Independent Consultant agrees that Marcum has adopted, implemented, and/or has a plan for implementation (the “**Certification of Agreement to Adopt Recommendations**”). Marcum will provide a copy of the Certification of Agreement to Adopt Recommendations to the Commission Staff and the PCAOB Staff. To the extent that Marcum has not implemented all recommendations contained in the Initial Report by that time, Marcum will certify to the Commission Staff and the PCAOB Staff in writing, no later than thirty (30) days after their implementation, that (i) Marcum has adopted and has implemented all recommendations contained in the Initial Report; and (ii) the Independent Consultant agrees that the recommendations have been adequately adopted and implemented by Marcum (“**Implementation Certification**”).

159. Within six (6) months of the issuance of the Initial Report or the Implementation Certification, whichever is later, Marcum shall require the Independent Consultant to complete testing to assess (i) whether Marcum has implemented the written policies and procedures concerning the areas specified in Paragraph 153 and its subsections above and (ii) the effectiveness of the design and implementation of those policies and procedures. At least thirty (30) days prior to beginning the testing, Marcum shall provide to the Commission Staff and the PCAOB Staff a copy of the scope and parameters for testing. The Commission Staff and the PCAOB Staff shall have ten (10) days to provide comments. Within thirty (30) days of the completion of this testing, Marcum shall require the Independent Consultant to issue a written report summarizing the results of the Independent Consultant's testing and assessment, and if applicable, any recommendations ("**Final Report**") and to provide a copy of the Final Report to the Commission Staff and the PCAOB Staff. At this time, if the Independent Consultant determines that Marcum has adopted and implemented all recommendations set forth in the Initial Report and that Marcum's quality control policies addressing those recommendations and the policies specified in Paragraph 153 and its subsections are functioning effectively, Marcum shall require the Independent Consultant to certify in writing that Marcum has satisfied such undertakings ("**Independent Consultant Certification**") and provide a copy of this certification to the Commission Staff and the PCAOB Staff. In all events, Marcum must complete all undertakings concerning the implementation of the recommendations set forth in the Independent Consultant's Initial Report, and any amended recommendations, and provide the Independent Consultant Certification to the Commission Staff no later than two (2) years after the entry of this Order.

160. To the extent that the Final Report has additional recommendations that Marcum has not implemented, within thirty (30) days of issuance of the Final Report, Marcum will certify to the Commission Staff and the PCAOB Staff in writing that it has adopted and has implemented or will implement all additional recommendations of the Independent Consultant ("**Final Certification of Agreement to Adopt Recommendations**"). Marcum will provide a copy of the Final Certification of Agreement to Adopt Recommendations to the Commission Staff and the PCAOB Staff. To the extent that Marcum has not implemented all additional recommendations contained in the Final Report by that time, Marcum will certify to the Commission Staff and the PCAOB Staff in writing, by thirty (30) days after their implementation, that Marcum has adopted and has implemented all recommendations contained in the Final Report ("**Final Implementation Certification**"). In all events, Marcum must complete all undertakings concerning the implementation of the recommendations set forth in the Independent Consultant's Final Report no later than four (4) months after the issuance of the Final Report.

161. The Initial Report, Final Report, Certification of Agreement to Adopt Recommendations, Implementation Certification, Independent Consultant Certification, Final Certification of Agreement to Adopt Recommendations, and Final Implementation Certification, and any related correspondence or other documents shall be submitted to Laura B. Josephs, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 100 F Street NE, Washington DC, 20549, with a copy to the Office of Chief Counsel of the Enforcement Division, and to the PCAOB, Director of Enforcement and Investigations, 1666 K Street NW, Washington DC, 20006.

162. The Initial Report and Final Report by the Independent Consultant will likely include confidential financial, proprietary, competitive business or commercial information. Public disclosure of these reports could discourage cooperation, impede pending or potential government investigations or undermine the objectives of the reporting requirement. For these reasons, among others, these reports and the contents thereof are intended to remain and shall remain non-public, except (1) pursuant to court order, (2) as agreed to by the parties in writing, (3) to the extent that the Commission determines in its sole discretion that disclosure would be in furtherance of the Commission's discharge of its duties and responsibilities, or (4) is otherwise required by law.

163. No later than sixty (60) days from the date that Marcum signs the Final Implementation Certification, Marcum's CEO and Marcum's leader of quality control policies and procedures shall both certify, in writing, compliance with the undertakings set forth above. The certification shall identify the undertakings, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission Staff may make reasonable requests for further evidence of compliance, and Marcum agrees to provide such evidence. This certification and supporting material shall be submitted to Laura B. Josephs, Assistant Director, Division of Enforcement, Securities and Exchange Commission, 100 F Street NE, Washington DC, 20549, with a copy to the Office of Chief Counsel of the Enforcement Division, 100 F Street NE, Washington DC, 20549, and to the PCAOB, Director of Enforcement and Investigations, 1666 K Street NW, Washington DC, 20006, no later than sixty (60) days from the date of the completion of the undertakings.

164. For good cause shown, and solely at the discretion of the Commission Staff and the PCAOB Staff, the Commission Staff and PCAOB Staff may extend any of the procedural dates relating to the undertakings. Deadlines for procedural dates shall be counted in calendar days, except that if the last day falls on a weekend or federal holiday, the next business day shall be considered to be the last day.

165. If the Commission Staff believes that Marcum has not satisfied these undertakings, the Commission Staff may petition the Commission to reopen the matter to determine whether additional sanctions are appropriate.

MARCUM'S ACCEPTANCE OF NEW ISSUER AUDIT CLIENTS

166. Between the date of entry of this Order and the date on which Marcum provides a copy of the **Certification of Agreement to Adopt Recommendations** to the Commission Staff, and pursuant to the Independent Consultant's review and approval as provided in Paragraph 168, Marcum shall accept no more than three (3) new audit clients ("New Audit Clients") per quarter.⁸

⁸ A New Audit Client is defined as an entity seeking audit services from Marcum that is (a) an issuer, as that term is defined in Section 2(a)(7) of the Sarbanes-Oxley Act of 2002; or (b) is seeking audit services for the purpose of registering securities with the Commission.

Quarters shall be calculated starting with the date of entry of this Order, running in ninety (90) day increments thereafter. In the event that Marcum has attrition of non-SPAC audit clients (“Non-SPAC Audit Clients”⁹) that Marcum is serving as of the date of this Order, Marcum may accept additional New Audit Clients equal to the number of departed Non-SPAC Audit Clients, but may not in any event accept more than a total of two (2) additional New Audit Clients per quarter. To the extent that Marcum accepts fewer New Audit Clients than the maximum allowable within a quarter, the number of allowable New Audit Clients will “rollover” into subsequent quarters. The Independent Consultant shall report to the Commission Staff on a quarterly basis the New Audit Clients Marcum has accepted and will confirm that the Independent Consultant has approved acceptance of such New Audit Clients pursuant to the New Audit Client Protocol described in Paragraph 168. The Independent Consultant shall not approve any New Audit Client that meets the criteria described in Paragraph 168.

167. Between the date of entry of this Order and the date on which Marcum provides a copy of the **Certification of Agreement to Adopt Recommendations** to the Commission Staff, Marcum shall not accept any New Audit Clients that meet any of the following criteria:

- a. the new engagement would begin after September 30 of the year under audit for December 31 year-end audits, or more than nine (9) months after the prior fiscal year-end date for year-end audits of entities with fiscal year-ends other than December 31;
- b. the New Audit Client conducts the majority of its operations from outside of the United States, unless such foreign operations of the New Audit Client are audited by a PCAOB-registered firm serving as an “other auditor,” as defined by AS 2101, as amended, paragraph .A5; or for New Audit Clients that do not have operations, its principal executive offices are located outside the United States;
- c. the New Audit Client has an un-remediated material weakness in its internal controls over financial reporting (a “MWICFR”); or
- d. the New Audit Client has received an audit report containing an explanatory paragraph indicating that a substantial doubt about its ability to continue as going concern existed as of the end of the past fiscal year.

⁹ A Non-SPAC Audit Client is defined as an entity that (a) is not and was not a special purpose acquisition company (“SPAC”) and (b) is (i) an issuer, as that term is defined in Section 2(a)(7) of the Sarbanes-Oxley Act of 2002, or (iii) receiving audit services from Marcum for the purpose of registering securities with the Commission.

168. Between the date of entry of this Order and the date on which Marcum provides a copy of the **Implementation Certification** to the Commission Staff, the Independent Consultant shall review and approve any New Audit Clients, pursuant to the following:

- a. Marcum shall provide the Independent Consultant a minimum of sixty (60) days to prepare a written protocol for reviewing and approving the New Audit Clients (“**New Audit Client Protocol**”). The sixty (60) day period shall commence on the date upon which the Independent Consultant is formally retained by Marcum. Marcum shall require the Independent Consultant to provide a copy of the New Audit Client Protocol to the Commission Staff. The Commission Staff shall have ten (10) business days to communicate whether the New Audit Client Protocol is not unacceptable to the Commission Staff. The New Audit Client Protocol shall outline, at a sufficient level of detail, procedures to be performed in connection with the review of any prospective New Audit Client, including documents and information to be requested and reviewed, factors to be analyzed, and discussions, meetings, or interviews to be held, as needed. The New Audit Client Protocol shall also outline documentation to be created, in connection with the review of any prospective New Audit Client, which documentation shall memorialize, at a sufficient level of detail, procedures performed and conclusions reached in connection with the review of any prospective New Audit Client (the “**New Audit Client Acceptance Documentation**”). The New Audit Client Protocol shall also take into consideration the following factors:
 - i. whether as of the date the proposed new engagement is considered, Marcum’s policies, procedures, and quality control system, as known or observed by the Independent Consultant at the time of acceptance are sufficient for Marcum to conduct the engagement in accordance with all applicable professional standards;
 - ii. whether the proposed engagement partner, EQR, and engagement team members at the level of manager and above possess the requisite competence, experience, and technical proficiency to conduct the engagement in accordance with PCAOB auditing standards;
 - iii. whether the proposed engagement partner, EQR, and engagement team members have sufficient capacity to complete their respective responsibilities within the requisite time frame and with professional competence and in accordance with all applicable professional standards;
 - iv. whether the staffing resources proposed to be dedicated to the engagement are sufficient to conduct the engagement in accordance with applicable professional standards; and

- v. whether the New Audit Client has reported a remediated MWICFR as of the previous fiscal year-end, and its impact on the client acceptance decision.
- b. Marcum shall require the Independent Consultant to apply the New Audit Client Protocol to assess and approve any New Audit Clients. New Audit Client Acceptance Documentation must be completed, in a sufficient level of detail, in connection with the review of any prospective New Audit Client; such documentation must also be sufficient to reflect the date upon which the New Audit Client Protocol procedures were performed, and that such procedures were performed prior to any formal acceptance of the New Audit Client by Marcum. In the event the Independent Consultant does not approve the acceptance of a New Audit Client, Marcum shall not accept the client.
- c. Marcum shall maintain all New Audit Client Acceptance Documentation for a period of seven (7) years, regardless of whether a New Audit Client was accepted, and shall make such documentation available to Commission Staff upon request, within five (5) business days of any such request.

MARCUM ASIA

169. Marcum shall ensure that all Independent Consultant recommendations adopted and implemented by Marcum as described in Paragraphs 155 through 165 will also be adopted and implemented by Marcum Asia.

170. Certifications by Marcum required by Paragraphs 158 and 160 (Certification of Agreement to Adopt Recommendations; Implementation Certification; Final Certification of Agreement to Adopt Recommendations; and Final Implementation Certification) shall include parallel representations by Marcum regarding adoption and implementation for Marcum Asia.

171. From the date of entry of this Order until the date of the Implementation Certification, all **Marcum Asia New Audit Clients**¹⁰ will be reviewed and approved by the Independent Consultant pursuant to the requirements described in Paragraph 168. Except, however, the Independent Consultant will not approve any Marcum Asia New Audit Client that conducts the majority of its operations from within the United States or whose principal executive offices are in the United States.

¹⁰ A Marcum Asia New Audit Client is defined as an entity seeking audit services from Marcum Asia that is (a) an issuer as that term is defined in Section 2(a)(7) of the Sarbanes-Oxley Act of 2002; (b) registered with the Commission; or (c) for the purpose of registering securities with the Commission from the date of entry of this Order.

TRAINING AND PROFESSIONAL DEVELOPMENT

172. Marcum shall require each audit professional to undergo training, as applicable, related to changes to the firm's policies and procedures that result from the Independent Consultant's Initial Report and Final Report.

COMMUNICATION TO AUDIT PROFESSIONALS

173. Marcum shall inform its audit professionals of the terms of the Order within ten (10) days after entry of the Order.

IV.

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

Accordingly, it is hereby ORDERED, effective immediately, that:

- A. Respondent shall cease and desist from committing or causing any violations and any future violations of Rule 2-02(b)(1) of Regulation S-X.
- B. Respondent is censured.
- C. Respondent shall comply with its undertakings enumerated in Paragraphs 149-173 of Section III above.
- D. Respondent shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$10 million to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717.
- E. 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 Marcum LLP 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 Carolyn Welshhans, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

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, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary