

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

SECURITIES EXCHANGE ACT OF 1934
Release No. 64607 / June 6, 2011

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3288 / June 6, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-14410

In the Matter of

**LIVINGSTON & HAYNES, P.C.,
KEVIN F. HOWLEY, CPA and
WILLIAM W. WOOD, CPA,**

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 that public administrative and cease-and-desist proceedings be, and hereby are, instituted against Livingston & Haynes, P.C. (“L&H”); Kevin F. Howley, CPA; and William W. Wood, CPA (“Respondents”) pursuant to Sections 4C¹ and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and

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 thereunder.

Rule 102(e)(1)(ii) of the Commission's Rules of Practice.²

II.

In anticipation of the institution of these proceedings, the Respondents have each 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 them and the subject matter of these proceedings, which are admitted, Respondents consent 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 Respondents' Offers, the Commission finds³ that:

A. SUMMARY

1. This matter concerns violations of Section 10A of the Exchange Act by L&H, Howley and Wood in connection with L&H's 2005 and 2006 year-end audits and quarterly interim reviews of the financial statements of LocatePlus Holdings Corporation ("LocatePlus") (collectively "the Engagements"). Howley served as the Engagement Partner and Wood served as the Concurring Partner on the Engagements.

2. This matter also concerns improper professional conduct within the meaning of Rule 102(e) of the Commission's Rules of Practice by L&H, Howley and Wood in connection with the Engagements.

3. On October 14, 2010, the Commission filed a complaint against LocatePlus alleging, in part, that LocatePlus' former CEO and CFO fraudulently inflated the company's publically-reported revenue in its periodic filings with the Commission for at least fiscal years 2005 and 2006.⁴ The complaint alleges that, as part of LocatePlus' fraud, its CEO and CFO

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.

³ The findings herein are made pursuant to Respondents' Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

⁴ See SEC v. LocatePlus Holdings Corp et. al., Docket No. 1:10-cv-11751 (DPW) (D. Mass.).

created a fictitious customer called Omni Data Services, Inc. (“Omni Data”) and that LocatePlus then improperly recognized revenue from Omni Data. The improper Omni Data revenue was included in LocatePlus’ financial statements that were part of quarterly and annual reports for fiscal years 2005 and 2006 and were included in filings with the Commission. In total, LocatePlus falsely reported more than \$6 million from Omni Data for fiscal years 2005 and 2006, representing over 25% of LocatePlus’ total revenue for those two years. On November 10, 2010, the Commission amended its complaint to include charges against Jon R. Latorella, LocatePlus’ former CEO, and James C. Fields, LocatePlus’ former CFO, alleging that, among other violations, they each violated the antifraud provisions, and aided and abetted LocatePlus’ violations of the reporting provisions, of the federal securities laws. Also on November 10, 2010, an indictment was unsealed in the District of Massachusetts charging Fields and Latorella with, among other things, criminal violations of the federal securities laws stemming from the same conduct alleged in the Commission’s complaint.⁵

4. During the course of L&H’s 2005 and 2006 year-end audits of LocatePlus, L&H, Howley and Wood failed to include procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts and thus each of them violated Section 10A(a)(1) of the Exchange Act.

5. During the course of L&H’s 2005 and 2006 year-end audits of LocatePlus, L&H, Howley and Wood became aware of multiple allegations of illegal acts at LocatePlus, including allegations that the Omni Data revenue was fictitious, yet they failed to determine whether it was likely that an illegal act had occurred. Based on this conduct, each of them violated Section 10A(b)(1) of the Exchange Act.

6. During the course of L&H’s 2005 and 2006 year-end audits of LocatePlus, L&H, and Howley became aware of red flags indicating that the Omni Data revenue was fictitious yet they failed to ensure that very risk area was properly audited. Moreover, L&H and Howley failed to properly plan the audits, adequately test the Omni Data revenue, obtain sufficient competent evidential matter to serve as a basis for L&H’s audit reports, exercise due professional care, apply skepticism, and properly assess the risks of material misstatement due to fraud. Wood was also aware of the red flags indicating that the Omni Data revenue may be fictitious and that these matters were unresolved, yet he concurred with the issuance of audit reports containing unqualified opinions on LocatePlus’ 2005 and 2006 financial statements. Based on the Respondents’ highly unreasonable conduct, Respondents engaged in improper professional conduct within the meaning of Rule 102(e)(ii).

B. RESPONDENTS

7. Kevin F. Howley, age 50 and a resident of Wrentham, Massachusetts, is a Certified Public Accountant (“CPA”) licensed in Massachusetts, California and Vermont. Howley served as the engagement partner on LocatePlus’ audits and interim reviews for the years ended 2005 and

⁵ See *United States v. Latorella, et. al*, 10-CR-10388 (NRG) (D. Mass.).

2006. Howley generally serves as the engagement partner for all of L&H's public company clients. Howley is an approximately two percent shareholder in L&H.

8. William W. Wood, Jr., age 64 and a resident of Townsend, Massachusetts, is a CPA licensed in Massachusetts. Wood served as the concurring partner on the LocatePlus audits and interim reviews for the years ended 2005 and 2006. Wood also serves as L&H's technical partner and as the concurring partner for all of L&H's SEC clients. Wood is an approximately ten percent shareholder in L&H.

9. Livingston & Haynes, P.C. is an accounting and auditing firm registered with the Public Company Accounting Oversight Board (the "PCAOB") based in Wellesley, Massachusetts. The firm provides tax preparation services as well as services to public companies registered with the Commission and to private equity clients. L&H served as the auditors on LocatePlus' audits and interim reviews for the fiscal years-ended 2005 and 2006 from which L&H received approximately \$227,800 in fees.

C. OTHER RELEVANT PERSONS AND ENTITIES

10. James C. Fields, age 42, resides in Brookline, Massachusetts. During the relevant time period, Fields was a director of Paradigm Tactical Products, Inc. ("Paradigm"). Fields also held several positions with LocatePlus before resigning in early 2009, including Acting Chief Financial Officer and Chief Executive Officer. In testimony before the staff, he asserted his Fifth Amendment privilege against self incrimination to all questions.

11. Jon R. Latorella, age 47, resides in Marblehead, Massachusetts. Latorella was a founder of Paradigm and, at various times between 2002 and early 2009, held different positions with LocatePlus' including Chief Executive Officer, President and Chairman of the Board. He resigned in early 2009. In testimony before the staff, he asserted his Fifth Amendment privilege against self incrimination to all questions.

12. LocatePlus Holdings Corporation, a Delaware corporation, is located in Beverly, Massachusetts and provides online access to public record databases for investigative searches. LocatePlus' stock is registered pursuant to Section 12(g) of the Exchange Act and is currently quoted on FINRA's OTC Bulletin Board. It has a fiscal year ending on December 31.

D. FACTS

LocatePlus' Fraud

13. LocatePlus is a provider of public information made available via either a CD-ROM based product or via a proprietary internet accessible database. The LocatePlus product contains searchable information on individuals throughout the United States, including, for example, social security numbers, prior residences and real estate holdings. In addition to direct purchasers, LocatePlus sells its product through "channel partner" arrangements, by which third parties access their databases in consideration for a royalty.

14. In 2005 and 2006, LocatePlus claimed to have secured a significant “channel partner” arrangement with Omni Data, a company that purportedly conducted its business over the Internet. Under the terms of the alleged agreement, Omni Data had unlimited access to LocatePlus’ data via the Internet in exchange for a royalty fee of \$300,000 per month. The agreement also stated that LocatePlus would build and maintain a website for Omni Data in exchange for \$500,000.

15. In fact, Omni Data was a sham customer of LocatePlus created by Fields and Latorella to record false revenue. Through this fraudulent scheme, Omni Data would “buy” services from LocatePlus and make purported “payments” to LocatePlus. Fields and Latorella then caused LocatePlus to record these fictitious payments as revenue in its financial results, which were included in periodic filings with the Commission.

16. To fund these purported payments to LocatePlus, Latorella and Fields funneled approximately \$2 million in cash to Omni Data through a series of transactions which included (1) a “round trip” transaction in which LocatePlus made a \$650,000 payment to an entity controlled by Fields, who then transferred \$600,000 to Omni Data, which then paid the \$600,000 back to LocatePlus as purported payment for services; and (2) transferring at least \$250,000 of the proceeds from the unregistered sales of Paradigm stock first to Omni Data and then to LocatePlus, again as payment for purported services.

17. LocatePlus made numerous false and misleading statements regarding, among other things, its revenue in a number of periodic filings with the Commission, including in its Forms 10-KSB and 10-QSB for fiscal years 2005 and 2006. For fiscal years 2005 and 2006, LocatePlus improperly recognized \$3.6 million and \$2.7 million, respectively, in fictitious revenue from Omni Data. This caused LocatePlus to overstate its 2005 annual results by 46% and its 2005 quarterly results by 53% for the first quarter, 44% for the second quarter and 43% for the third quarter. LocatePlus overstated its 2006 annual results by 28% and its 2006 quarterly results by 41% for the first quarter, 34% for the second quarter and 36% for the third quarter.

18. L&H performed LocatePlus’ 2005 and 2006 year-end audits and quarterly reviews. The audit reports issued for both years included an explanatory paragraph stating that LocatePlus’ substantial net losses raise substantial doubt about the Company’s ability to continue as a going concern.

Events Leading Up to L&H’s Fiscal Year 2005 and 2006 Year-End Audits and Quarterly Reviews of LocatePlus

19. On December 10, 2004, LocatePlus’ former auditor, resigned. In a resignation letter addressed to LocatePlus’ Audit Committee Chairman, and filed with LocatePlus’ December 13, 2004 Form 8-K/A, LocatePlus’ former auditor cited “concerns about the timeliness of information we receive and about the reliability of certain representations of your company’s management.”

20. In January 2005, Fields contacted Howley to inquire about L&H becoming LocatePlus' new auditors.

21. On February 16, 2005, Howley and Wood visited the former auditor's offices and met with the partner formerly responsible for the LocatePlus engagement. The former auditor's audit partner detailed multiple reasons for its resignation, including: (1) difficulty getting information from management; (2) management providing contradictory explanations to its questions; (3) management providing unsigned contracts as audit evidence; and, (4) difficulty getting management to accept its proposed audit adjustments.

22. Following the February 16, 2005 meeting, LocatePlus' former auditor provided L&H with access to LocatePlus' 2003 work papers and provided a copy of a February 4, 2005 letter from the former auditor to LocatePlus' Audit Committee that described allegations by a former member of LocatePlus' management that Andover Secured Resources ("ASR"), an entity to which LocatePlus purportedly loaned \$2,000,000, was not a legitimate entity.

23. After L&H's meeting with LocatePlus' former auditor, Howley, Wood and L&H's President met and determined to accept LocatePlus as a client. Because of the concerns expressed by LocatePlus' former auditor, however, L&H determined to "use extensive care" and treat LocatePlus as a high risk audit client.

24. During the 2004 audit (which occurred from March through May 2005), L&H encountered difficulty verifying the existence and valuation of the ASR note receivable, so much so that it was ultimately fully reserved for, meaning that the ASR note was ultimately valued at \$0 on LocatePlus' balance sheet.

25. Also during the 2004 audit, L&H had difficulties getting information from LocatePlus' management about significant transactions, to the extent that, on April 11, 2005, L&H pulled out of the field because they were unable to remain productive with the amount of information they had to work with. L&H also had difficulties confirming significant balance sheet items, including the Paradigm and ASR notes receivable, which resulted in a valuation of the ASR note at \$0 on LocatePlus' balance sheet.

L&H Discovered Red Flags During the 2005 Interim Reviews

26. During the course of its 2005 interim reviews of quarterly filings, L&H became aware of multiple red flags concerning the revenue recognized from Omni Data and the resulting receivable on LocatePlus' balance sheet. In a June 1, 2005, e-mail from Howley to Fields, Howley noted that: (1) L&H was unable to find records for Omni Data on the Connecticut Secretary of State's website (i.e., the state where Omni Data was purportedly located); (2) that the alleged President of Omni Data was not listed for any of the Omni Data entities that they did find; and (3) that L&H could not locate a website for Omni Data, despite the fact that Omni Data was purportedly a business doing data sales over the Internet.

27. Howley accepted management's explanations for the inconsistencies. For example, in response to an L&H inquiry about the scarcity of information available on Omni Data, LocatePlus' in-house accountant told Howley in a June 7, 2005 e-mail that "we don't make it common practice to research companies extensively with which we do business." In addition, in a June 9, 2005 e-mail, Fields claimed that "[Omni Data] does not have a corp[sic] web site because they are trying to keep a low profile" and that Omni Data's web site was, in fact, under the name "findyourpeeps.com."

28. As of June 30, 2005, the Omni Data receivable was approximately \$1.8 million reflecting revenue of the same amount recognized in 2005. No collections had been received as of June 30, 2005 from Omni Data for revenues earned in 2005.

L&H Received Allegations of Illegal Acts Prior to and During the Course of the 2005 Audit

29. On or about August 26, 2005, Howley received a message that a former LocatePlus Board member ("the informant") wanted to speak with him. During a telephone conversation with Howley shortly thereafter, the informant made a number of allegations of wrongdoing by LocatePlus, Fields and Latorella. Among other things, the informant questioned the validity of the Omni Data transactions and indicated that the alleged President of Omni Data was a former girlfriend of Latorella. Shortly after the telephone conversation, Howley relayed the substance of the informant's allegations to Wood.

30. Between at least December 2005 and March 2006, the informant contacted Howley via telephone and e-mail on numerous occasions regarding his concerns about fraud at LocatePlus. During the course of multiple e-mail exchanges with Howley, the informant provided the following information (hereinafter the "informant's allegations"):

- a. that Omni Data revenue was phony and there was no evidence that Omni Data existed;
- b. that the Omni Data contract was signed five months before Delaware incorporation records showed that the company was incorporated;
- c. that the alleged President of Omni Data was a "stooge set up by Latorella to mask phony sales"; that she was, in fact, a ballet teacher and Latorella's former girlfriend; and, that when confronted by the informant, she admitted knowing nothing about Omni Data;
- d. that Latorella told the informant that Omni Data was a start-up that "might not be around";
- e. that LocatePlus' Audit Committee Chairman had a conflict of interest because he had pledged assets to secure a loan to Latorella;
- f. that Latorella had been buying off LocatePlus' Audit Committee Chairman through extending him high interest loans (at 30% to 40%);
- g. that Paradigm, which had a revolving line of credit with LocatePlus, and was not identified as a related party, was owned and controlled by Fields and Latorella;

31. Wood read the informant's e-mails and discussed them with Howley prior to and during the course of the 2005 year-end audit. Wood also discussed the allegations with L&H's President. Howley forwarded the e-mails from the informant to LocatePlus' Audit Committee Chairman. In e-mail correspondence Howley recommended to LocatePlus' Audit Committee Chairman that the Audit Committee Chairman should plan a meeting with the informant, the Audit Committee's legal counsel and Howley to address the informant's allegations. The meeting never occurred.

Failure to Adequately Test the Omni Data Revenue and Receivable

32. According to the AICPA Codification of Statements on Auditing Standards (as adopted and amended by the PCAOB in April 2003), the objective of the ordinary audit of financial statements by the independent auditor is the expression of an opinion on the fairness with which they present, in all material respects, financial position, results of operations, and its cash flows in conformity with GAAP. (*See PCAOB Standards and Related Rules*, AU § 110, *Responsibilities and Functions of the Independent Auditor*, at .01.)⁶ The auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud. (*See PCAOB Standards and Related Rules*, AU § 110.02.) “Sufficient competent evidential matter is to be obtained” by the auditor “to afford a reasonable basis for an opinion regarding the financial statements under audit.” (*See PCAOB Standards and Related Rules*, AU § 326, *Evidential Matter*, at .01.) PCAOB Auditing Standards state that “representations from management are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit.” (*See PCAOB Standards and Related Rules* AU §333, *Management Representations*, at .02.) When fraud risk factors are present at a client, such as they were at LocatePlus, and heighten the auditor’s concern about the risk of material misstatement, the auditor should consider this in determining the nature, timing, or extent of procedures. (*See PCAOB Standards and Related Rules* AU § 312, *Audit Risk and Materiality in Conducting an Audit*, at .16-.17.)

33. GAAP provides generally that revenue may be recognized when: 1) persuasive evidence of an arrangement exists; 2) delivery has occurred; 3) the seller’s price is fixed or determinable; and 4) collectability is reasonably assured (see: AICPA Statement of Position 97-2, *Software Revenue Recognition*; SEC Staff Accounting Bulletin (“SAB”) No. 101, *Revenue Recognition in Financial Statements* (as superseded in part by SAB No. 104, *Revenue Recognition*).

2005 Audit

34. L&H identified numerous risk factors indicating that LocatePlus had a high risk for fraud during the 2005 year-end audit (which occurred during March through May 2006). In a fraud “brainstorming” memo included in L&H’s 2005 audit work papers, L&H specifically identified “overstated and/or fictitious revenues/accounts receivable” relative to Omni Data and

⁶ All references herein to PCAOB standards are to the PCAOB standards in effect at the time of the conduct.

Paradigm as a particular risk for fraud. The memo went on to state that “L&H will approach the audit with much skepticism.”

35. Despite having identified the Omni Data transactions as a high risk area and being aware of the allegations that Omni Data was fictitious, L&H, under Howley’s direction, failed to obtain sufficient competent evidential matter that LocatePlus had delivered its product to Omni Data as required by the PCAOB standards. Although L&H tested delivery of products and services for other LocatePlus’ customers, it did not test delivery to Omni Data even though it accounted for approximately one-third of LocatePlus’ revenue. For other customers, L&H compared the amounts billed and recognized as revenue to LocatePlus’ data usage logs to ensure that the customer had agreed to purchase the product and had actually used it. However, L&H never looked at the usage logs for Omni Data. Had L&H reviewed Omni Data’s usage logs, they would have discovered that there was no activity or usage in 2005. Instead, L&H relied upon the executed agreement between LocatePlus and Omni Data and confirmation received from Omni Data regarding the monies earned and owed.

36. L&H’s concerns about the validity of the Omni Data receivable caused it to specifically require LocatePlus’ management to make representations about it in its 2005 management representation letter (dated March 22, 2006). The letter, signed by Fields and Latorella, stated, among other things, “I have no knowledge of any fraud or suspected fraud affecting the Company,” “I have no knowledge of any allegations of fraud or suspected fraud affecting the Company,” and “I did not personally benefit from the . . . Omni Data transaction[].”

37. Wood was involved in audit planning discussions for the 2005 year-end audit, including discussions about the design of testing for revenue recognition and, in particular, the testing for the Omni Data receivable.

2006 Audit

38. Questions persisted at L&H throughout the 2006 year-end audit of LocatePlus (which occurred during approximately March through May 2007) about the existence and collectability of the growing Omni Data receivable balance.⁷ As of December 31, 2006, the Omni Data receivable balance was \$5.1 million representing approximately 88% of LocatePlus’ total receivables. In a work paper included in L&H’s 2006 year-end audit work papers, L&H noted that “there is questionability regarding the Omni Data receivable and the existence of Omni Data (whether it is a viable entity).” The purported Omni Data agreement had been amended, as of October 1, 2006, to extend Omni Data’s payment terms to \$45,000 per month for the approximately \$4.2 million outstanding balance. Under the original contract terms, payments were due thirty days from the invoice date. As a result of the Amendment, LocatePlus reclassified \$3.8 million dollars of the Omni Data receivable from current accounts receivable to long-term accounts receivable. It also recorded a discount and an allowance on the receivable which was approximately \$1.9 million as of December 31, 2006.

⁷ As noted above, determining that collectability is reasonably assured is the fourth criterion of revenue recognition.

39. Again, during the 2006 year-end audit, L&H required LocatePlus' management to include in its 2006 management representation letter, dated May 1, 2007, the statements, "I have no knowledge of any fraud or suspected fraud affecting the Company," "I have no knowledge of any allegations of fraud or suspected fraud affecting the Company" and "I did not personally benefit from the . . . Omni Data transaction[]."

40. Despite these developments and the open question as to whether Omni Data was a viable entity, L&H failed to obtain sufficient competent evidential matter that the Omni Data transaction was properly stated in the financial statements.

41. An L&H document, drafted by Howley and entitled "LocatePlus Memorandum – Gallagher Allegations," summarizes the allegations made by the informant and purports to recount certain conversations Howley had with representatives at LocatePlus regarding those allegations. Among other things, Howley wrote that he had discussed the allegations with the Audit Committee Chairman and that the Audit Committee Chairman indicated he did not believe there was any basis to the allegations. Howley also wrote that he had discussed the allegations with LocatePlus' outside counsel who indicated that he had investigated the allegations, found no basis for them, and that he believed the informant's allegations were related to a personal debt between Latorella and the Informant. The document, however, is undated and was not contained in either L&H's 2005 or 2006 LocatePlus work papers.

Failure to Adequately Plan the 2005 and 2006 Year-End Audits

42. When planning an audit, "the auditor should consider, among other matters: [c]onditions that may require extension or modification of audit tests, such as the risk of material error or fraud. . ." (See *PCAOB Standards and Related Rules*, AU § 311, *Planning and Supervision*, at.03.)

43. L&H, under Howley's direction, failed to adequately plan the 2005 and 2006 year-end audits of LocatePlus by designing procedures that would account for the heightened risk of fraud and, specifically, for the possibility that the Omni Data revenue was fictitious, as had been alleged. L&H's testing procedures for the Omni Data revenue included relying on the confirmation process and the existence of an executed contract and checking cash receipts. Omni Data, however, was not paying within its contract terms and, as Wood acknowledged during October 6, 2010 testimony before the Commission, if LocatePlus "set up a dummy company," as had been alleged, then the confirmation process "would not be adequate evidence."⁸

44. Howley, as the engagement partner, was responsible for planning the 2005 and 2006 year-end audits. Wood was also involved in planning the 2005 and 2006 year-end audits.

⁸ The original Omni Data contract stated that payment was due 30 days from the invoice date. If any payment was not received within 60 days of the due date (or 90 days from the invoice date) Omni Data was required to pay a late fee. Only \$250,000 in payments from Omni Data was collected out of approximately \$3.6 in revenue recognized in 2005 despite the fact that Omni Data revenue was recognized ratably over the year 2005, including approximately \$1 million recognized in the first quarter ended March 31, 2005.

Failure to Competently Evaluate Evidence Obtained by the Confirmation Process

45. In general, it is presumed that “[a]udit evidence is more reliable when it is obtained from knowledgeable independent sources outside the entity.” (*See PCAOB Standards and Related Rules*, AU §326.21)

46. During the 2005 year-end audit, L&H failed to competently evaluate the reliability of the audit evidence obtained by the confirmation process. First, L&H initially sent its confirmation to the President of Omni Data—a person alleged by the informant to be a “stooge” of Latorella—at the address LocatePlus had provided. Moreover, the confirmation was initially returned to L&H by the U.S. Postal Service as “undeliverable.” Ultimately, a confirmation was received, signed by a person purporting to be President of Omni Data.

47. During the 2006 year-end audit, the confirmation sent to the Omni Data address that LocatePlus had provided was *again* returned as “undeliverable.” When Howley questioned LocatePlus about the confirmation, he was told that Omni Data had a new President, and that it was doing business under a completely different name: Economics Data Solutions. Howley researched the new President but was unable to confirm that he was related to Omni Data. In fact, the only research contained in L&H’s 2006 work papers regarding the alleged new President was a December 8, 2005 newspaper article describing an individual by the same name as an attendee at tryouts for the reality television show *Ultimate Fighting*. L&H ultimately received a confirmation signed by a person purporting to be the new President of Omni Data.

48. L&H, Howley and Wood had no reason to believe that the successive Presidents of Omni Data were knowledgeable (*PCAOB Standards and Related Rules*, AU § 330, *The Confirmation Process*, at.26) or, in the case of the Omni Data President alleged to be a “stooge” of Latorella, objective (*PCAOB Standards and Related Rules*, AU § 330.27).

Failure to Assess the Risk of Material Misstatement Due to the Omni Data Transaction

49. AU § 316, *Consideration of Fraud in a Financial Statement Audit*, requires the auditor to assess the risks of material misstatement due to fraud. (*See PCAOB Standards and Related Rules*, AU § 316.)

50. Although L&H became aware of the informant’s allegations prior to and during the course of the 2005 year-end audit, it took few steps to investigate the informant’s allegations during the 2005 year-end audit. Moreover, to the extent to which L&H developed any evidence regarding the informant’s allegations, the evidence corroborated many of the informant’s claims. For example, L&H searched Connecticut and Massachusetts corporate records, but found no evidence that Omni Data was incorporated. Howley attempted to contact the alleged President of Omni Data, but was initially unable to reach her as the first confirmation sent to Omni Data was returned as undeliverable. With regard to Paradigm, a company that LocatePlus had represented was independent from LocatePlus, Wood and Howley learned in September 2005 that Latorella was listed as the registrant and administrative contact for Paradigm’s web site, suggesting that Paradigm was, in fact, not independent from LocatePlus, just as the informant had alleged.

51. In addition, L&H discovered additional red flags regarding the Omni Data transaction during the 2005 interim reviews and year-end audit. For example, L&H discovered:

- a. that the Omni Data receivable comprised approximately 76% of the overall accounts receivable but LocatePlus had collected only \$250,000 in payments in 2005 from Omni Data out of approximately \$3.6 million in revenue recognized;
- b. payments totaling approximately \$10,000 from LocatePlus to the alleged President of Omni Data, and;
- c. payments totaling approximately \$325,000 to Latorella.

52. Although L&H's work papers document the informant's allegations, they do not document the procedures specifically designed to assess these risks. In fact, L&H's "Fraud Risk Assessment Form," for the 2005 year-end audit, which lays out procedures intended to facilitate compliance with AU Section 316, is blank. Moreover, an item on L&H's audit program (completed at the conclusion of the audit) specifically instructs "[i]f you believe that fraud or an illegal act may have occurred, document the circumstances identified" and "apply the procedures for potential fraud or illegal acts in additional procedures section of this audit program." The work paper states "none noted" next to the proposed procedure indicating that L&H never applied the additional procedures in its own audit program. Howley testified that he reviewed this work paper.

53. L&H's 2005 year-end work papers do not document that L&H came to *any* conclusion about the merits of the informant's allegations. Indeed, L&H's 2006 year-end work papers document that the very existence of Omni Data was still an open question through the 2006 year-end audit and that L&H did not come to a final conclusion about the informant's allegations until, at the earliest, April 2007.

54. Despite the numerous red flags and lingering questions about the existence of the Omni Data receivable, L&H's 2006 year-end work papers also do not document an assessment of the risks of material misstatement due to fraud.

55. Despite being aware of the informant's allegations of fraud (and thus the risks of material misstatement), Howley did not undertake adequate audit procedures during the 2005 or 2006 year-end audits to assess these risks.

Failure to Use Due Professional Care and Exercise Skepticism

56. An auditor must exercise due professional care in the planning and performance of the audit and the preparation of the audit report. (*See PCAOB Standards and Related Rules*, AU § 230, *Due Professional Care in the Performance of Work*, at .01.) Further, statements on auditing standards note that "[d]ue professional care requires the auditor to exercise professional skepticism," (*see PCAOB Standards and Related Rules*, AU § 230.07) and "[i]n exercising professional skepticism, the auditor should not be satisfied with less than persuasive evidence because of a belief that management is honest," (*see PCAOB Standards and Related Rules*, AU §

230.09). Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence. (*See PCAOB Standards and Related Rules*, AU § 230.07) The auditor's exercise of professional skepticism is important when considering the risk of material misstatement due to fraud. (*See PCAOB Standards and Related Rules*, AU § 316.13.)

57. L&H's 2005 year-end audit work papers document that L&H accepted management's explanations for the red flags without applying a high degree of skepticism. For example, with regard to the Omni Data receivable, Howley accepted LocatePlus' management's representation that it was collectable despite L&H's difficulties verifying its existence and Omni Data's failure to make payments under the terms of the purported contact. With regard to the Latorella payments, Howley accepted the explanation that the payments were "bonuses" approved by the Board even though the bonuses did not go through LocatePlus' payroll system. In addition, L&H did not obtain LocatePlus' Board minutes to attempt to verify the explanation. Finally, with regard to the payments to the alleged President of Omni Data, Howley accepted LocatePlus' explanation that they were "referral fees" despite allegations that the alleged President was a figurehead installed by Latorella.

58. When additional red flags arose during the 2006 year-end audit, L&H again failed to exercise due care and professional skepticism and relied heavily on management representations regarding the Omni Data receivable. For example, L&H's 2006 year-end audit work papers indicate that L&H performed research on Omni Data to confirm its existence but was unable to confirm that Omni Data was a registered business at the address that had been provided by LocatePlus.

59. In yet another red flag example, L&H's 2006 year-end audit work papers document that LocatePlus was mentioned in a September 2006 complaint by the Massachusetts Securities Division ("MSD") involving securities violations by a former LocatePlus vendor. L&H's work papers also document that Latorella was deposed during the MSD investigation and that the complaint was available on MSD's website. Howley never read the complaint publically available on MSD's web site. The MSD's complaint, dated September 6, 2006, contained allegations that, "[e]ven the most cursory review of LocatePlus' [sic] business would reveal that many aspects of its business were either highly exaggerated or fictitious" and that, "[ASR] has never been incorporated nor organized in any state and is a fictitious entity."

60. Howley, as the engagement partner, knew that the 2005 and 2006 year-end audits required a high level of skepticism, yet he did not undertake additional procedures to address the red flags indicating that the Omni Data transaction was fictitious. Wood was also aware of management's responses to the auditor's inquiries during the 2005 and 2006 year-end audits.

Failure to Issue Accurate Audit Reports

61. PCAOB standards require that the auditor's report contain an opinion on the financial statements taken as a whole and contain a clear indication of the character of the auditor's work (*See PCAOB Standards and Related Rules*, AU § 508, *Reports on Audited Financial Statements*, at.04). The auditor can determine that he is able to issue an audit report

only if he has conducted his audit in accordance with PCAOB standards and the financial statements have been prepared in conformity with GAAP (*See PCAOB Standards and Related Rules*, AU § 508.07.)

62. A concurring partner's responsibilities are outlined in the Interim Quality Control Standards adopted by the PCAOB in April 2003; specifically, AICPA SEC Practice Section ("SECPS") § 1000.08(f) and Appendix E of SECPS § 1000.39.⁹ Pursuant to the Interim Quality Control Standards, a concurring partner fulfills his or her responsibilities by (a) discussing significant matters with the engagement partner (b) discussing the audit team's identification and audit of high-risk transactions and account balances, (c) reviewing documentation of the resolution of significant matters, (d) reviewing a summary of unadjusted audit differences, (e) reading the financial statements and auditor's report, and (f) confirming with the audit partner that there are no significant unresolved matters.

63. As the Engagement Partner on L&H's 2005 and 2006 year-end audits of LocatePlus, Howley reviewed L&H's audit work papers. As described above, the work papers contained red flags requiring additional procedures to determine whether the Omni Data revenue was fictitious, yet Howley approved the issuance of the 2005 and 2006 unqualified audit reports (dated March 22, 2006 and May 1, 2007 respectively) that stated that audits had been conducted in accordance with PCAOB standards and that the financial statements had been prepared in conformity with GAAP.

64. As the Concurring Partner on the year-end 2005 and 2006 LocatePlus audits, Wood was aware of the informant's allegations and of certain red flags requiring additional procedures to determine whether the Omni-Data revenue was fictitious. He also was aware of L&H's response to the allegations and that the allegations, including the allegation that Omni Data was fictitious, were unresolved, yet he concurred in the approval of the issuance of audit reports containing unqualified opinions that stated that audits had been conducted in accordance with PCAOB standards and that the financial statements had been prepared in conformity with GAAP.

E. **VIOLATIONS**

65. As a result of the conduct described above, Respondents engaged in improper professional conduct within the meaning of Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice. Section 4C and Rule 102(e)(1)(ii) provide, in part, that the Commission may censure or deny, temporarily or permanently, the privilege of appearing or practicing before the Commission to any person who is found by the Commission to have engaged in improper professional conduct. Rule 4C(b) and Rule 102(e)(1)(iv) define improper professional conduct with respect to persons licensed to practice as accountants.

66. Under Rule 4C(b)(2) and Rule 102(e)(1)(iv)(B) the term "improper professional conduct" means, in part, "[a] single instance of highly unreasonable conduct that results in a

⁹ This references concurring partner review standards set by the AICPA which were adopted by the PCAOB following the passage of the Sarbanes-Oxley Act of 2002.

violation of applicable professional standards in circumstances in which an accountant knows, or should know, that heightened scrutiny is warranted.”

67. In light of the specific allegations that the Omni Data transaction was fictitious, L&H’s and Howley’s failure to adequately design testing procedures to address that very risk, and Wood’s concurrence in the approval of the issuance of L&H’s 2005 and 2006 audit reports when he knew that significant matters were unresolved, constituted highly unreasonable conduct that resulted in a violation of applicable professional standards in circumstances in which each knew, or should have known, that heightened scrutiny was warranted. The failure of L&H and Howley to properly plan the audits, adequately test the Omni Data revenue, obtain sufficient competent evidence to serve as a basis for L&H’s audit reports, exercise due professional care, apply skepticism, and properly assess the risks of material misstatement due to fraud, and the failure of Wood to address these deficiencies also constituted highly unreasonable conduct that resulted in a violation of applicable professional standards in circumstances in which each knew, or should have known, that heightened scrutiny was warranted.

68. As a result of the conduct alleged above, L&H, Howley and Wood violated Section 10A(a)(1) of the Exchange Act, which requires each audit to include procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts.

69. As a result of the conduct alleged above, L&H, Howley and Wood violated Section 10A(b)(1) of the Exchange Act, which requires that if, in the course of conducting an audit, the auditor becomes aware of information indicating that an illegal act “has or may have occurred,” the auditor is required to “determine whether it is likely that an illegal act has occurred” in that they each failed to determine whether it was likely that the Omni Data transaction was fictitious.

F. FINDINGS

a. Based on the foregoing, the Commission finds that L&H, Howley and Wood engaged in improper professional conduct pursuant to Rules 102(e)(1)(ii) of the Commission’s Rules of Practice and Section 4C of the Exchange Act.

b. Based on the foregoing, the Commission finds that L&H, Howley and Wood violated Section 10A(a)(1) and 10A(b)(1) of the Exchange Act.

G. UNDERTAKINGS

L&H undertakes the following:

1. Acceptance of New Public Company Audit Clients. The goal of this undertaking is to provide adequate time for L&H to implement the undertakings concerning auditing and professional development matters described below and implement such other adjustments to its audit practice required by the suspension of Wood and Howley from appearing or practicing before the Commission. L&H undertakes that, following the issuance of this Order, it will not

accept new engagements for public company audits prior to the later of one (1) year from the date of this Order, or the date that L&H certifies in writing compliance with each of the undertakings in the form described in paragraph 5, below (the “Certificate of Compliance”). A public company audit is defined as an engagement to audit the financial statements of an “issuer” as that term is defined in Section 3(a)(8) of the Securities Exchange Act of 1934.

2. Auditing Matters. The goal of this undertaking is to require L&H to engage in an internal review of its existing policies and procedures concerning compliance with the relevant professional, regulatory and firm requirements with respect to public company audit engagements. Within 90 days of this Order, L&H will evaluate its existing system of quality control in conducting an audit practice and revise, as may be necessary, and then engage in steps to implement and enforce, such policies and procedures so as to provide reasonable assurance that L&H will comply with its obligations under professional, regulatory and firm requirements with respect to public company audit engagements. L&H shall review its policies and procedures concerning:

- a. Identification and monitoring of high risk engagements, including policies covering mandatory procedures for high risk engagements. Additionally, L&H shall designate a partner, within the firm responsible for risk management, including, but not limited to, client acceptance and continuance procedures.
- b. Completion of planning prior to the commencement of audit fieldwork. Such policies and procedures shall provide reasonable assurance that, prior to the commencement of any significant audit procedures:
 - (i) Work papers identifying significant audit areas, documenting risks of material misstatements, and planned extent of testing are finalized and reviewed and approved by the engagement partner, and, when appropriate, the engagement quality reviewer; and
 - (ii) Written audit programs are tailored to address identified risks of material misstatements and specify in reasonable detail the procedures expected to be performed to accomplish the objectives of the audit.
- c. Detection and Reporting of Illegal Client Activity (Section 10A Compliance). L&H shall make such revisions as may be necessary in order to adopt, implement and enforce written policies and procedures providing reasonable assurance that L&H complies with Section 10A of the Securities Exchange Act of 1934, as amended, including without limitation, for each audit subject to Section 10A, procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts, and to comply with all requirements under the standards of the Commission, the PCAOB, and Section 10A to determine whether or not it is likely that an illegal act has occurred; and if so, determine and consider the possible effect of the illegal act on the financial statements of the issuer, including

- any contingent monetary effects, such as fines, penalties, and damages, and report suspected illegal acts.
- d. Engagement Quality Control. L&H shall undertake a review of its existing procedures to provide reasonable assurance that it complies with the PCAOB's Auditing Standard No. 7, *Engagement Quality Review*.
 - e. Documentation. L&H shall implement enhanced documentation procedures to provide reasonable assurance that L&H complies with Auditing Standard No. 3, *Audit Documentation*, on each of its public company audit engagements. Such procedures shall emphasize that documentation must be prepared in sufficient detail to provide a clear understanding of its purpose, source, and the conclusions reached and require that any additions made after the documentation date¹⁰ must identify the date the information was added, the name of the person who prepared the additional documentation, and the reason for adding it. Additionally, L&H shall adopt a policy making it mandatory that engagement partners on public company audit engagements review each audit area designated as having a significant risk of material misstatement (whether due to fraud or error) to ensure compliance with both PCAOB standards and related rules and firm policies and procedures.

3. Professional Development. The goal of this undertaking is to require L&H to establish, implement, and enforce written policies and procedures designed to provide reasonable assurance that L&H's professionals serving public company audit clients participate in professional development activities in accordance with firm guidelines, in subjects that are relevant to their responsibilities, and will contribute to their technical training and proficiency as an auditor. Within 90 days of this Order, L&H will evaluate its existing professional development policy and shall make such revisions as may be necessary in order to adopt, implement, and enforce written policies and procedures to provide that professionals serving public company audit clients participate in professional development activities in accordance with firm guidelines, in subjects that are relevant to their responsibilities, including, but not limited to, revenue recognition, and will contribute to their technical training and proficiency as an auditor. Additionally, prior to December 31, 2011, L&H will require each audit professional serving public company audit clients to undergo:

- a. A Minimum of 16 Hours of Audit-Related Training. The audit-related training requirement shall cover topics including, but not limited to: (1) assessing risks of

¹⁰ PCAOB Auditing Standard No. 3, paragraph 15, states, "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."

material misstatements and developing responsive audit plans, and (2) obtaining and evaluating sufficient competent evidential matter, including corroboration of management's representations; (3) audit documentation relating to the above. The audit-related training requirement may be fulfilled by participating in or completing course(s) conducted by or offered by the American Institute of Certified Public Accountants (AICPA) or another comparable organization.

- b. A Minimum of 8 Hours of Fraud-Detection Training. L&H shall ensure that audit professionals assigned to public company engagements undergo fraud detection training conducted by the Association of Certified Fraud Examiners or another comparable organization. The training will include techniques in detecting and responding to possible fraud by audit clients or by employees, officers or directors of audit clients.

4. Cooperation. L&H agrees that L&H (including its partners, principals, officers, agents and employees) shall cooperate fully with the Commission with respect to any matter relating to the Commission's investigation of LocatePlus or its current or former officers, directors or employees, including but not limited to any litigation or other proceeding related to or resulting from that investigation, including litigation in *SEC v. LocatePlus Holdings Corp et. al.*, Docket No. 1:10-cv-11751 (DPW) (D. Mass.). Such cooperation shall include, but is not limited to, upon reasonable notice, and without subpoena:

- a. Producing any document, record, or other tangible evidence reasonably requested by Commission staff in connection with the Commission's investigation, litigation or other proceedings;
- b. Providing all information reasonably requested by Commission staff in connection with the Commission's investigation; and
- c. Using its best efforts to secure the attendance and truthful statements or testimony of any L&H partner, principal, officer, agent, or employee, excluding any such person who is a party to litigation with the Commission, at any meeting, interview, testimony, deposition, trial, or other legal proceeding reasonably requested by the Commission staff.

5. Certification of Compliance. L&H shall 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 L&H agrees to provide such evidence. The certification and supporting material shall be submitted to LeeAnn G. Gaunt, Assistant Director, Boston Regional Office or her successor, with copies to the Office of Chief Counsel of the Enforcement Division no later than one (1) year from the date of this Order.

In determining whether to accept the Offer of L&H, the Commission has considered these undertakings.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondents' Offers.

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

L&H

A. L&H shall cease and desist from committing or causing any violations and any future violations of Section 10A(a)(1) and 10A(b)(1) of the Exchange Act.

B. L&H shall pay a civil money penalty in the amount of \$130,000 to the United States Treasury. Payment shall be made in the following installments: \$65,000 to be paid with the entry of this Order and \$65,000 to be paid within one-year from the date of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of civil penalties plus any additional interest accrued pursuant to 31 U.S.C. 3717, shall be due and payable immediately, without further application. Payments shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 100 F Street, NE, Mail Stop 6042, Washington, DC 20549; and (D) submitted under cover letter that identifies Livingston & Haynes as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to LeeAnn Gaunt, Division of Enforcement, Securities and Exchange Commission, Boston Regional Office, 33 Arch Street, Boston, 23rd Floor, Boston, MA 02110.

C. L&H is censured pursuant to Rule 102(e)(ii) of the Commission's Rules of Practice; and

D. L&H shall comply with the undertakings enumerated in Sections III.G.1-3 and Section III.G.5 above.

Howley

A. Howley shall cease and desist from committing or causing any violations and any future violations of Section 10A(a)(1) and 10A(b)(1) of the Exchange Act.

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

C. After three (3) years from the date of this order, Howley may request that the Commission consider his reinstatement by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as:

1. a preparer or reviewer, or a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission. Such an application must satisfy the Commission that Howley's work in his practice before the Commission will be reviewed either by the independent audit committee of the public company for which he works or in some other acceptable manner, as long as he practices before the Commission in this capacity; and/or

2. an independent accountant. Such an application must satisfy the Commission that:

(a) Howley, or the public accounting firm with which he is associated, is registered with the Public Company Accounting Oversight Board ("Board") in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;

(b) Howley, or the registered public accounting firm with which he is associated, has been inspected by the Board and that inspection did not identify any criticisms of or potential defects in Howley's or the firm's quality control system that would indicate that Howley will not receive appropriate supervision;

(c) Howley has resolved all disciplinary issues with the Board, and has complied with all terms and conditions of any sanctions imposed by the Board (other than reinstatement by the Commission); and

(d) Howley acknowledges his responsibility, as long as Howley appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the Board, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

D. The Commission will consider an application by Howley to resume appearing or practicing before the Commission provided that his state CPA license is current and he has resolved all other disciplinary issues with the applicable state boards of accountancy. However, if state licensure is dependent on reinstatement by the Commission, the Commission will consider an application on its other merits. The Commission's review may include consideration of, in addition to the matters referenced above, any other matters relating to Howley's character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

Wood

A. Wood shall cease and desist from committing or causing any violations and any future violations of Section 10A(a)(1) and 10A(b)(1) of the Exchange Act.

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

C. After three (3) years from the date of this order, Wood may request that the Commission consider his reinstatement by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as:

1. a preparer or reviewer, or a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission. Such an application must satisfy the Commission that Wood's work in his practice before the Commission will be reviewed either by the independent audit committee of the public company for which he works or in some other acceptable manner, as long as he practices before the Commission in this capacity; and/or

2. an independent accountant. Such an application must satisfy the Commission that:

(a) Wood, or the public accounting firm with which he is associated, is registered with the Public Company Accounting Oversight Board ("Board") in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;

(b) Wood, or the registered public accounting firm with which he is associated, has been inspected by the Board and that inspection did not identify any criticisms of or potential defects in Wood's or the firm's quality control system that would indicate that Wood will not receive appropriate supervision;

(c) Wood has resolved all disciplinary issues with the Board, and has complied with all terms and conditions of any sanctions imposed by the Board (other than reinstatement by the Commission); and

(d) Wood acknowledges his responsibility, as long as Wood appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the Board, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

D. The Commission will consider an application by Wood to resume appearing or practicing before the Commission provided that his state CPA license is current and he has resolved all other disciplinary issues with the applicable state boards of accountancy. However, if state licensure is dependent on reinstatement by the Commission, the Commission will consider an application on its other merits. The Commission's review may include consideration of, in addition to the matters referenced above, any other matters relating to Wood's character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

By the Commission.

Elizabeth M. Murphy
Secretary

Service List

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the 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"), on the Respondents and their legal agent.

The attached Order has been sent to the following parties and other persons entitled to notice:

Honorable Brenda P. Murray
Chief Administrative Law Judge
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-2557

Britt K. Collins, Esq.
Securities and Exchange Commission
Boston Regional Office
33 Arch Street, 23rd Floor
Boston, MA 02110

Mr. Kevin F. Howley
c/o Warren D. Hutchison, Esq.
LeClairRyan
One International Place
11th Floor
Boston, MA 02110

Mr. William W. Wood
c/o Warren D. Hutchison, Esq.
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Livingston & Haynes, P.C.
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(Counsel for Livingston & Haynes, PC, Kevin F. Howley and William W. Wood)