

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 him and the subject matter of these proceedings, and the findings contained in Section III.3 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

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

1. Ashman, age 45, is and has been a certified public accountant licensed to practice in the State of Massachusetts. He served as Chief Financial Officer of TheStreet, Inc. (“TheStreet”) from July 2006 through May 2009.

2. TheStreet was, at all relevant times, a Delaware corporation with its principal place of business in New York, New York. TheStreet is, and at all relevant times was, a digital financial media company providing users, subscribers and advertisers with a variety of content and tools through a range of online channels. At all relevant times, TheStreet’s common stock was registered with the Commission pursuant to Section 12(b) of the Securities Exchange Act of 1934 (“Exchange Act”), and traded on the NASDAQ National Market.

3. On December 21, 2012, a final judgment was entered against Ashman, permanently enjoining him from violating, directly or indirectly, Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13a-14 and 13b2-1 thereunder; and from aiding and abetting violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-13 thereunder, in the civil action entitled Securities and Exchange Commission v. Eric Ashman, Civil Action Number 12-CV-9189, in the United States District Court for the Southern District of New York. Ashman was also ordered to pay a \$125,000 civil money penalty, ordered to reimburse TheStreet \$34,149 pursuant to Section 304 of the Sarbanes Oxley Act of 2002, and prohibited for 3 years from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or that is required to file reports pursuant to Section 15(d) of the Exchange Act.

4. The Commission’s complaint alleged, among other things, that Ashman aided and abetted a fraud resulting in TheStreet filing materially false and misleading financial statements in the company’s annual report on Form 10-K for the fiscal year ended December 31, 2008, and in the company’s quarterly reports on Form 10-Q for the first three quarters of fiscal year 2008. The Complaint alleged that Ashman engaged in a number of improper accounting practices that materially increased TheStreet’s operating income, or decreased its operating loss, in a departure from generally accepted accounting principles (“GAAP”). These practices included,

among other things: (1) recognizing revenue based on purported contracts for services when Ashman knew or recklessly disregarded that TheStreet had not performed the related services and/or had no basis to believe that such services had been performed; and (2) prematurely recognizing revenue based on services contracts. In addition, the complaint alleged that Ashman made a false statement regarding revenue growth at a subsidiary of TheStreet when he knew or recklessly disregarded that such revenue only increased as a result of accounting improprieties.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanction agreed to in Respondent Ashman's Offer.

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

A. Ashman is suspended from appearing or practicing before the Commission as an accountant.

B. After three years from the date of this order, Respondent 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 Respondent's work in his/her 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) Respondent, 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) Respondent, 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 the respondent's or the firm's quality control system that would indicate that the respondent will not receive appropriate supervision;

(c) Respondent 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) Respondent acknowledges his responsibility, as long as Respondent 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.

C. The Commission will consider an application by Respondent 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 Respondent's character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

By the Commission.

Elizabeth M. Murphy
Secretary