

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 72722 / July 30, 2014**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 3572 / July 30, 2014**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15991**

**In the Matter of**

**EDWARD L. CUMMINGS, 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 Edward L. Cummings, CPA ("Respondent" or "Cummings") pursuant to Sections 4C<sup>1</sup> and 21C of the

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<sup>1</sup> 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 . . . to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations thereunder.

Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(iii) of the Commission’s Rules of Practice.<sup>2</sup>

## 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 him 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 finds<sup>3</sup> that:

### A. SUMMARY

During the 2008 and first quarter 2009 reporting periods (the “relevant period”), QSGI Inc. (“QSGI” or the “Company”) was a reseller of and maintenance services provider in relation to used computer equipment. Cummings, who served as QSGI’s Chief Financial Officer prior to becoming its Vice President of Finance and Controller in 2009, was aware during the relevant period of deficiencies in and the circumvention of internal controls relating to inventory and the resulting falsification of the Company’s books and records. He also participated in the decision, on occasion during the relevant period, to improperly accelerate by up to a week recognition on QSGI’s books and records of accounts receivable and receipt of inventory in order to increase the borrowing base available under a revolving credit facility with the Company’s chief creditor. Cummings withheld this information from the Company’s external auditors in connection with their audit of the financial statements for the fiscal year ended December 31, 2008 and review of the financial statements for the quarter ended March 31, 2009, and made affirmative

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

The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have willfully violated, or willfully aided and abetted the violation of any provision of the Federal securities laws or the rules and regulations thereunder.

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

misrepresentations and statements that were misleading as a result of his omission of information, including in management representation letters, about the design, maintenance, and operation of internal controls. Further, Cummings signed a Form 10-K for the 2008 fiscal year containing management's report on internal control over financial reporting ("ICFR"), as required by Section 404 of the Sarbanes-Oxley Act of 2002 ("Sarbanes-Oxley Act") and Exchange Act Rule 13a-15(c), which falsely represented that the Company's Chief Executive Officer had participated in assessing the effectiveness of the Company's ICFR. Cummings also signed certifications required under Section 302 of the Sarbanes-Oxley Act and Rule 13a-14 of the Exchange Act falsely representing that the other certifying officer, the CEO, and Cummings had evaluated ICFR and, based on their evaluation, disclosed all significant deficiencies to the auditors. Cummings signed the Forms 10-K and 10-Q filed with the Commission to which the certifications were attached.

## **B. RESPONDENT**

Cummings co-founded QSGI Inc. in 2001. He thereafter served as Chief Financial Officer and Treasurer until May 2009, when he became Vice President of Finance and Controller. Cummings also served as a Director from February 2004 until October 2008. He was terminated in September 2009 following the Company's filing for Chapter 11 bankruptcy in July 2009, but continued until June 2011 to work as a financial consultant to the Company while it reorganized. Cummings was licensed as a certified public accountant in the State of Pennsylvania in 1977; his license has been inactive since 1979.

## **C. FACTS**

### **1. Cummings' Awareness of Deficiencies In and Circumvention of Inventory Controls**

- a. QSGI is a Delaware corporation headquartered during the relevant period in West Palm Beach, Florida. Its common stock is registered with the Commission pursuant to Section 12(g) of the Exchange Act and is quoted on the OTC Link (formerly "Pink Sheets") operated by OTC Markets Group.
- b. From May 2004 through the time QSGI filed for bankruptcy in July 2009, QSGI maintained inventory principally at facilities in New Jersey and Minnesota. The New Jersey inventory, which comprised 50% of the Company's reported gross inventory and 55% of its reported net inventory, after reduction for reserves, as of the close of its fiscal year ended December 31, 2008, was comprised of laptops, monitors, and other consumer electronics and components. The Minnesota inventory, which comprised 40% of QSGI's reported gross inventory and 35% of its reported net inventory, after reduction for reserves, as of the close of QSGI's 2008 fiscal year, was comprised chiefly of servers, mainframes, and component parts.

- c. QSGI experienced recurring inventory control problems, particularly with its Minnesota operations. Throughout 2008 until the Company filed for bankruptcy in mid-2009: (1) certain inventory received into QSGI facilities was shipped out again without being entered into the Company's books and records; and (2) items were removed from physical inventory without being relieved from inventory on the books and records. With regard to the latter, personnel not only removed component parts from the physical inventory of component parts without relieving the items from recorded inventory, but occasionally stripped component parts from operating systems which continued to be recorded on the books and records as intact systems. These component parts were then sold by the Company or used for the Company's maintenance services.
- d. These internal control problems resulted in the falsification of QSGI's books and records relating to QSGI's inventory. *See* Accounting Standards Codification 330 - Inventory.
- e. These inventory control problems emerged at the Minnesota facility beginning in 2007 for several reasons. First, a manufacturer's policy of curtailing resellers' ability to modify machines to customers' specifications hastened QSGI's shift from selling machines to selling parts and providing repair and maintenance services. This, in turn, contributed to the problem in Minnesota of personnel removing component parts from operating systems without any corresponding adjustment to the Company's books and records. The units continued to be recorded on the books and records as intact systems. Second, key personnel, including accounting personnel, left the Minnesota operations in late 2007. Personnel designated to replace the departed accounting staff lacked an accounting background and failed to fully carry out their responsibilities. Third, while QSGI management, including Cummings, had undertaken to design, document, and implement internal controls to come into compliance with the federal securities laws, such efforts were not begun in earnest in Minnesota until late 2007, after the departure of key personnel. Prior to that point, QSGI senior management had accorded Minnesota personnel a fair amount of autonomy, including using an accounting system that differed from the one used in New Jersey.
- f. Efforts to introduce new controls to the Minnesota operations during the 2008 fiscal year largely failed. This was due to a failure to design procedures taking into account the existing control environment, including the qualifications and experience level of persons employed to handle accounting. Training, for example, either did not take place or was inadequate. Additionally, attempts to monitor compliance on an ongoing basis were inadequate. As a result, circumvention of the controls in the Minnesota operations occurred regularly.

- g. From October 2004 until he was terminated in September 2009, Cummings participated in the design and implementation of internal controls directed at bringing QSGI into compliance with the federal securities laws. Notwithstanding his and others' efforts, Cummings was aware during the relevant period of ongoing deficiencies in and circumvention of internal controls relating to inventory, particularly in the Minnesota operations.
- h. In the final days of the 2008 fiscal year, QSGI senior management, including Cummings, communicated openly amongst themselves about the failed implementation, including training in, and circumvention of controls introduced to the Minnesota office earlier in the year. They commonly agreed that corrective action was needed which, given the timing, could not be undertaken until 2009.
- i. Cummings was aware that the problems continued throughout the first quarter ended March 31, 2009.

**2. Cummings' Participation in Improper Acceleration of Recognition of Inventory and Accounts Receivable**

- a. QSGI reported net losses in each of the four fiscal years from 2005 through 2008. As a result, the external auditors issued "going concern" opinions included in the Forms 10-K for the fiscal years ended December 31, 2007 and 2008, which stated that the losses raised substantial doubts about the Company's ability to continue as a going concern. In the circumstances, QSGI's ability to procure funds was critical to its continued operation.
- b. In mid-2008, QSGI entered into a revolving credit facility with its chief creditor. QSGI's inventory and accounts receivable factored into the weekly calculation of the borrowing base under the revolving credit facility. A QSGI employee calculated the borrowing base and reported it to Cummings and another officer for their review prior to transmission to the chief creditor.
- c. On occasion during the relevant period, the weekly calculation would show that QSGI had exceeded its borrowing limit or would not be able to borrow enough to continue operations through the upcoming week. In order to increase the borrowing base, recognition of accounts receivable and/or the receipt of product into inventory were improperly accelerated on QSGI's books and records. Each time acceleration occurred it was by a matter of days up to approximately a week in advance of when all conditions for recognition would be appropriate under generally accepted

accounting principles. *See* Accounting Standards Codification 330 - Inventory and 310 - Accounts Receivable.

- d. Once the accounts receivable and/or receipt of inventory were improperly recorded on QSGI's books and records, the QSGI employee would recalculate the borrowing base using the new figures.
- e. Cummings participated in and was aware of the decision to improperly accelerate by up to a week the recognition of accounts receivable and the receipt of product into inventory for purposes of recalculating the borrowing base. He signed the borrowing base certificates reflecting the recalculated numbers. Cummings was not aware of any acceleration of accounts receivable or inventory from one public reporting period to another that would have materially affected the accuracy of the financial statements.

### **3. Cummings Misled QSGI's Auditors**

- a. Cummings acted as principal liaison between the Company and the external auditors during the relevant period. At no time did he disclose, or direct anyone else to disclose, to QSGI's external auditors the deficiencies in and circumvention of internal controls and the improper acceleration of accounts receivable and inventory recognition described above.
- b. To the contrary, he made misrepresentations, and statements that were misleading as a result of his omission of information, to the external auditors. In connection with the external auditor's audit of the financial statements included in QSGI's Form 10-K for the fiscal year ended December 31, 2008 and its review of the financial statements included in the Form 10-Q for the first quarter ended March 31, 2009, Cummings signed management representation letters. In the management representation letter relating to the 2008 Form 10-K, Cummings omitted to mention the existence of significant deficiencies in the design or operation of ICFR. Further, in connection with the auditors' testing of internal controls during the audit of the 2008 financial statements, Cummings orally represented to them that key controls were in place and that there were no significant deficiencies with QSGI's ICFR. In the management representation letter relating to the first quarter Form 10-Q, he falsely stated that he had disclosed to the auditors all significant deficiencies in the design or operation of the Company's ICFR.
- c. Had Cummings disclosed to the external auditors the deficiencies in and the circumvention of inventory controls and the improper acceleration of accounts receivable and inventory recognition described above, the auditors

would have changed the nature, timing, and extent of their procedures in conducting the audit of the financial statements for the fiscal year ended December 31, 2008 and review of the financial statements for the quarter ended March 31, 2009.

**4. Cummings' False Representations in Management's Report on ICFR**

- a. QSGI's Form 10-K for the fiscal year ended December 31, 2008 included the Company management's report on ICFR, as required by Section 404 of the Sarbanes-Oxley Act and Exchange Act Rule 13a-15(c).
- b. The management report falsely represented that QSGI's management, with the participation of QSGI's CEO and Cummings, had evaluated QSGI's ICFR as of December 31, 2008 using the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission in Internal Control – Integrated Framework. In fact, the CEO had not participated and was unfamiliar with the referenced framework.
- c. Cummings signed the Form 10-K in his capacity as CFO and Treasurer.

**5. Cummings' False Sarbanes-Oxley Act Section 302 Certifications**

- a. Pursuant to Sarbanes-Oxley Act Section 302 and Exchange Act Rule 13a-14, Cummings signed certifications which were attached to QSGI's Forms 10-K and 10-Q for the periods ended December 31, 2008 and March 31, 2009, respectively.
- b. Cummings certified in each that the other certifying officer and he had disclosed, based on their "most recent evaluation of [ICFR]," to QSGI's external auditors all significant deficiencies, "in the design or operation of [ICFR] which are reasonably likely to adversely affect [QSGI's] ability to record, process, summarize and report financial information." Improperly omitted from the certification attached to the Form 10-K, but included in the certification attached to the Form 10-Q, were Cummings' certifications to the effect that the other certifying officer and he: (1) had been responsible for establishing and maintaining ICFR and designing, or supervising others in the design of, ICFR; and (2) had designed, or caused to be designed, such ICFR.
- c. Cummings' certifications were false because: (1) the other certifying officer, the Company CEO, had not participated in designing, establishing, or maintaining ICFR, and had not evaluated ICFR; (2) Cummings and others had on occasion circumvented QSGI's internal controls in accelerating improperly by up to a week the recognition of accounts

receivable and inventory for purposes of maximizing the borrowing base under a revolving credit facility with the Company's chief creditor; and (2) the other certifying officer and Cummings had not made the referenced disclosures to the external auditors.

## 6. Violations

- a. Exchange Act Section 10(b) and Rule 10b-5 thereunder prohibit, in connection with the purchase or sale of any security, a) the use of any device, scheme, or artifice to defraud; b) the making of material misrepresentations or omissions; and c) any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person. A finding of scienter is required to establish a violation. *Aaron v. SEC*, 446 U.S. 680, 697 (1980). The three subdivisions of Rule 10b-5 should be considered mutually supportive, rather than mutually exclusive. *See Cady, Roberts & Co.*, 40 S.E.C. 907, 913 (1961) (noting that "a breach of duty of disclosure may be viewed as a device or scheme, an implied misrepresentation, and an act or practice, violative of all three subdivisions").
- b. "For purposes of Rule 10b-5, the maker of a statement is the person or entity with ultimate authority over the statement, including its content and whether and how to communicate it." *Janus Capital Group, Inc. v. First Derivatives Traders*, 131 S. Ct. 2296, 2302 (2011).
- c. Courts construe the "in connection with" requirement flexibly to effectuate its remedial purposes. *SEC v. Zandford*, 535 U.S. 813, 819 (2002). Any statement that is "reasonably calculated to influence the investing public" satisfies the "in connection with" requirement. *SEC v. Tex. Gulf Sulphur Co.*, 401 F.2d 833, 861-62 (2d. Cir. 1968). When the fraud alleged involves public dissemination in a document on which an investor would presumably rely, the "in connection with" requirement is generally met by proof of the means of dissemination and the materiality of the misrepresentation. *SEC v. Rana Research*, 8 F.3d 1358, 1362 (9th Cir. 1993)).
- d. Information is material if there is a "substantial likelihood that the disclosure of the omitted fact would have been viewed by the reasonable investor as having significantly altered the 'total mix' of information made available." *Basic Inc. v. Levinson*, 485 U.S. 224, 231-32 (1988) (quoting *TSC Industries, Inc. v. Northway, Inc.*, 426 U.S. 438, 449 (1976)). "It is well-settled that information impugning management's integrity is material to shareholders." *United States v. Hatfield*, 724 F. Supp. 2d 321, 328 (E.D.N.Y. 2010).

- e. Scienter is the “mental state embracing the intent to deceive, manipulate or defraud.” *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 n.12 (1976). Scienter can be established by showing knowing misconduct or severe recklessness, which is defined as “an extreme departure of the standards of ordinary care... which presents a danger of misleading buyers or sellers that is either known to the defendant or is so obvious that the actor must have been aware of it.” *SEC v. Carriba Air, Inc.*, 681 F.2d 1318, 1324 (11th Cir. 1982).
- f. As discussed above, Cummings made materially false and misleading statements in his certifications attached to the Forms 10-K and 10-Q for the fiscal year ended December 31, 2008 and the quarter ended March 31, 2009, respectively, to the effect that the other certifying officer and he had: (1) evaluated QSGI’s ICFR; and (2) disclosed to the external auditors all significant deficiencies which were reasonably likely to adversely affect QSGI’s ability to record, process, summarize and report financial information. Further, Cummings signed the 2008 Form 10-K in his capacity as an officer which included a management’s report on ICFR which falsely stated that QSGI’s CEO had participated with management, in assessing ICFR pursuant to a specified framework. Cummings knew, or was reckless in not knowing, that these statements were false. As a result of the foregoing, Cummings violated Section 10(b) of the Exchange Act and Rule 10b-5(a), (b), and (c) thereunder.
- g. Section 13(b)(2)(A) of the Exchange Act requires Section 12 registrants to make and keep books, records, and accounts that accurately and fairly reflect the transactions and dispositions of their assets. Section 13(b)(2)(B) of the Exchange Act requires reporting issuers to devise and maintain effective internal accounting controls. Section 13(b)(5) of the Exchange Act provides that no person shall knowingly falsify any such book, record, or account or circumvent internal controls. Rule 13b2-1 also prohibits the falsification of any book, record, or account subject to Section 13(b)(2)(A).
- h. As discussed above, deficiencies in the design and operation of internal controls, particularly relating to inventory in the Minnesota operations, had persisted at QSGI. During the relevant period, these deficiencies included: (1) certain inventory received into QSGI facilities being shipped out again without being entered into the Company’s books and records; (2) items being removed from physical inventory without being relieved from inventory on the books and records; (3) recognition of inventory and accounts receivable being improperly accelerated by up to a week; and (4) the failure to disclose significant deficiencies to the external auditors, and the provision of false management representation letters to the external auditors in connection with their audit of the 2008 fiscal year and review of

the first quarter 2009 financial statements. The deficiencies were reflective of a failure to design internal controls mindful of the control environment, including the qualifications of personnel tasked with accounting functions, and the circumvention of such controls as existed. As a result, QSGI failed to devise and maintain effective internal controls and to make and keep books, records and accounts that accurately and fairly reflected the transactions and dispositions of the Company's assets. Cummings caused these violations by failing to design effective internal controls; circumventing controls that existed; and withholding information from the external auditors and making false representations or material omissions in management representation letters. As a result of the actions described above, Cummings caused QSGI's violations of Exchange Act Sections 13(b)(2)(A) and 13(b)(2)(B), and violated Exchange Act Section 13(b)(5) and Rule 13b2-1 thereunder.

- i. Exchange Act Rule 13b2-2 prohibits any director or officer of an issuer from directly or indirectly making or causing to be made a materially false or misleading statement or omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading to an accountant in connection with financial statement audits, reviews, or examinations or the preparation or filing of any document or report required to be filed with the Commission.
- j. As discussed above, Cummings omitted from a management representation letter to the external auditors in connection with their audit of the 2008 financial statements the existence of significant deficiencies in internal controls, while orally representing to the auditors in connection with the same audit that he had disclosed all such significant deficiencies. He affirmatively misrepresented in a management representation letter relating to the external auditors' review of the first quarter 2009 financial statements that he had disclosed all significant deficiencies in internal controls. As a result of the actions described above, Cummings violated Exchange Act Rule 13b2-2.
- k. Exchange Act Rule 13a-14(a), which the Commission promulgated in response to Section 302 of the Sarbanes-Oxley Act, requires that the issuer's principal executive officer and principal financial officer certify each periodic report containing financial statements filed by an issuer pursuant to Section 13(a) of the Exchange Act. The certifications are included as exhibits to the Forms 10-K and 10-Q.
- l. Item 601(b)(31) of Regulation S-K prescribes the wording. Amongst other things, it requires the certifying officer to certify that the other certifying

officer(s) and he/she, “are responsible for establishing and maintaining . . . internal control over financial reporting . . .,” and (1) “. . . [d]esigned such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision . . . ; and (2) “. . . have disclosed, based on [their] most recent evaluation of internal control over financial reporting, to the registrant’s auditors . . . [a]ll significant deficiencies . . . in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information . . . .”

- m. Cummings falsely certified in the certifications attached to the Forms 10-K and 10-Q for the fiscal year ended December 31, 2008 and the quarter ended March 31, 2009, respectively, that the other certifying officer, the Company’s CEO, and he had: (1) evaluated QSGI’s ICFR; and (2) disclosed all significant deficiencies to the external auditors which were reasonably likely to adversely affect QSGI’s ability to record, process, summarize, and report financial information. As a result, Cummings violated Exchange Act Rule 13a-14 by signing false Section 302 certifications.
- n. Pursuant to Rule 102(e)(1)(iii) of the Commission’s Rules of Practice, Cummings willfully violated Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13a-14, 13b2-1, and 13b2-2.

## **7. Findings**

Based on the foregoing, the Commission finds that Cummings: (a) willfully violated Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13a-14, 13b2-1, and 13b2-2 promulgated thereunder; and (b) caused QSGI’s violations of 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act.

## **IV.**

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Cummings’ 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 Sections 10(b), 13(b)(5), 13(b)(2)(A), 13(b)(2)(B) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13a-14, 13b2-1 and 13b2-2 promulgated thereunder.

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

C. After five (5) 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 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, 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.

D. 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.

E. Respondent is prohibited for a period of five (5) years from the date of the Order 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.

F. Respondent shall, within ten (10) days of the entry of this Order, pay a civil money penalty in the amount of \$23,000.00 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717. 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 Cummings 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 Scott W. Friestad, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

By the Commission.

Jill M. Peterson  
Assistant Secretary