

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 83168 / May 4, 2018

INVESTMENT ADVISERS ACT OF 1940
Release No. 4906 / May 4, 2018

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3939 / May 4, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18466

In the Matter of

**Winter, Kloman, Moter &
Repp, S.C.,
Curtis W. Disrud, CPA,
and Paul R. Sehmer, CPA,**

Respondents.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 203(k) OF THE INVESTMENT
ADVISERS ACT OF 1940, 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 Winter, Kloman, Moter & Repp, S.C., Curtis W. Disrud, CPA, and Paul R. Sehmer, CPA (collectively “Respondents”) pursuant to Section 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”), Sections 4C¹ and 21C of the Securities Exchange Act of 1934

¹ Section 4C provides, in pertinent 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.

(“Exchange Act”) and Rule 102(e)(1)(ii) and 102(e)(1)(iii) of the Commission’s Rules of Practice.²

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”) 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 Section 203(k) of the Investment Advisers Act of 1940, 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:

SUMMARY

1. This matter involves misconduct by Respondents in completing audits pursuant to Section 206(4) of the Advisers Act and Rule 206(4)-2 thereunder (the “Custody Rule”). For 2014 and 2015, Winter, Kloman, Moter & Repp, S.C. (“WKMR”) was engaged by Voit Fund GP, LLC (“Voit Fund GP”), an affiliate of Voit & Company, LLC (“Voit”), an SEC-registered investment adviser, to audit the financial statements in accordance with generally accepted accounting principles (“GAAP”) of six pooled investment vehicles (the “Funds”) that Voit advised. Voit Fund GP also engaged WKMR to audit the Funds. Voit and Voit Fund GP took these steps to in an effort to enable Voit to comply with the Custody Rule because Voit had custody of client assets invested in the Funds.

² Rule 102(e)(1)(ii) 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 engaged in unethical or improper professional conduct.

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.

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.

2. Unbeknownst to Voit, WKMR, and two partners on the engagements, Curtis W. Disrud (“Disrud”) and Paul R. Sehmer, CPA (“Sehmer”), failed to meet the requirements of the Custody Rule in conduct their audits of the Funds. First, WKMR, Disrud, and Sehmer were not independent accountants because: (1) they prepared the Funds’ 2014 and 2015 Financial Statements which they audited; and (2) WKMR had a direct business relationship with Voit because a WKMR affiliate, WKMR Financial Group, LLC (“WKMR Financial”) referred advisory clients to Voit in return for a fee. Second, WKMR was not subject to regular inspection by the Public Company Accounting Oversight Board (the “PCAOB”) at the time of the audits. As a result, Respondents WKMR and Disrud caused and willfully aided and abetted Voit’s 2014 and 2015 violations of the Custody Rule within the meaning of Section 4C of the Exchange Act and Rule 102(e)(1)(iii) of the Commission’s Rules of Practice, and Respondent Sehmer caused Voit’s 2015 violations of the Custody Rule.

3. In addition, the Respondents engaged in improper professional conduct within the meaning of Section 4C of the Exchange Act and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice by: WKMR and Disrud failing to design and implement an appropriate response to the risk of material misstatement and failing to obtain sufficient appropriate audit evidence; WKMR failing to ensure that the engagement team had adequate technical training and proficiency and failing to establish sufficient quality control standards; WKMR and Sehmer failing to conduct the necessary engagement quality reviews and receive concurring approvals; and WKMR, Disrud and Sehmer failing to exercise due professional care.

RESPONDENTS

4. **Winter, Kloman, Moter & Repp, S.C.**, is a Wisconsin service corporation headquartered in Brookfield, Wisconsin. WKMR is a certified public accounting firm offering audit, accounting, tax and business consulting services to closely held enterprises. During the period in question, WKMR had eight shareholders, including Disrud and Sehmer. WKMR registered with the PCAOB in May 2015 but was not subject to regular inspection until January 4, 2016.

5. **Curtis W. Disrud**, age 54, of Oconomowoc, Wisconsin, has been employed at WKMR since 1988, and has been a shareholder since 1999. Disrud has been WKMR Financial Group, LLC’s Manager since January 2016. Disrud has been a licensed CPA in North Dakota since 1986, in Wisconsin since 1988, and in Illinois since 2016. He holds a Series 65 license.

6. **Paul Sehmer**, age 56, of Waukesha, Wisconsin, has been employed at WKMR since 1998, and has been a shareholder since 1998. Sehmer has been a licensed CPA in Wisconsin since 1987 and in Washington D.C. since 2009.

OTHER RELEVANT PARTIES

7. **Voit & Company, LLC**, (SEC File No. 801-60937) is a Wisconsin limited liability company headquartered in Brookfield, Wisconsin. It has been registered as an investment adviser with the Commission since 2002. Voit provides discretionary and non-discretionary investment management services, consulting services, and non-managed account services, and is the investment manager for Voit Fund GP, a Voit affiliate which offers limited partnership interests in the Funds. Voit is the investment adviser to the Funds. Voit's assets under management ("AUM") were \$196.9 million as of September 28, 2017. Voit is owned by Todd K. Voit ("T. Voit").

8. **Voit Fund GP, LLC**, a Delaware limited liability company formed in December 2013 and headquartered in Brookfield, Wisconsin, is the general partner of the Funds. Voit Fund GP is owned by T. Voit.

9. **WKMR Financial Group, LLC**, is a Wisconsin limited liability company headquartered in Brookfield, Wisconsin. It has been registered as an investment adviser with the State of Wisconsin since 1999, and is wholly-owned by WKMR. WKMR Financial offers personal financial planning, income tax planning, estate planning, and retirement planning. Its main advisory service involves recommending other investment management firms, including Voit, to clients as well as assisting clients in evaluating other managers.

FACTS

10. Between at least December 2013 and December 2015, Voit had custody of client assets invested in the Funds and was required to comply with the Custody Rule.

11. The Custody Rule requires, among other things, that registered investment advisers with custody of client assets maintain those funds and securities with a qualified custodian, who must provide account statements to the investors at least quarterly, and requires client assets to be verified through an annual surprise examination by an independent public accountant.

12. An adviser does not have to comply with certain Custody Rule requirements if, in connection with a limited partnership, it completes and distributes annual audited financial statements prepared in accordance with GAAP to each limited partner within 120 days of the end of the partnership's fiscal year (the "Audit Exception"). See Rule 206(4)-2(b)(4) under the Advisers Act. The financial statements must also be audited in accordance with generally accepted auditing standards for the purpose of expressing an opinion therein. The financial statements are required to be audited by an *independent* public accountant that is registered with, and *subject to regular inspection* as of the commencement of the professional engagement period, by the PCAOB (emphasis added). See Rule 206(4)-2(b)(4)(i and ii) under the Advisers Act. To be considered independent, a public accountant must meet the standards

of independence described in Rule 2-01(b) and (c) of Regulation S-X. See Rule 206(4)-2(d)(3) under the Advisers Act.

Voit Fund GP Engaged WKMR to Complete the Funds' 2014 and 2015 Audits

13. Voit Fund GP engaged WKMR to perform annual audits for the Funds for the years ended December 31, 2014 and 2015, and distributed the audited financial statements to each limited partner. The audit reports for each year stated that the audits were performed in accordance with PCAOB standards. Voit Fund GP distributed the Funds' financial statements to each limited partner within 120 days of the end of each partnership's fiscal year. WKMR knew that the Funds' audits were being performed so that Voit could comply with the Custody Rule.

14. Disrud was the WKMR engagement partner on both audits, and was thus ultimately responsible for the Funds' audit engagements and their performance, and for WKMR's audit reports.

15. Sehmer was the WKMR independent partner reviewer⁴ on both audits, and also the EQ Reviewer on the 2015 audit. As independent partner reviewer, Sehmer was responsible for reviewing the audit file and financial report for completeness, and for reviewing the financial report and statements before they were issued. As EQ Reviewer, Sehmer was responsible for meeting the requirements of PCAOB Auditing Standard 7, Engagement Quality Review ("AS 7").

WKMR was not Independent because it both Prepared and Audited the Funds' 2014 and 2015 Financial Statements

16. WKMR was not independent because it prepared the Funds' 2014 and 2015 financial statements and notes to the financial statements, which it then audited.

17. Each year, Voit provided WKMR with accounting records, including excel files and brokerage account statements, partnership agreements, and other information. WKMR performed audit procedures to test the financial data contained in these documents, and then used the information to create the financial statements and the accompanying notes. The engagement team used an example financial statements and notes provided in the American Institute of Certified Public Accountants ("AICPA") Audit and Accounting Guide, Investment Companies as a template to prepare the Funds' financial statements and notes.

18. After the engagement team drafted the financial statements and notes, it provided T. Voit with drafts, so that he could review, suggest changes, and approve them.

⁴ An "independent partner reviewer" was a quality control policy established by WKMR for all audits, and is not required under PCAOB standards.

19. Under Rule 2-01(c)(4)(i) of Regulation S-X, an accountant is not independent if he provides certain bookkeeping or other services, related to the accounting records or financial statements unless it is reasonable to conclude that the results of those services will not be subject to audit procedures during an audit of the audit client's financial statements.

20. The financial statements and accompanying notes that WKMR prepared were subject to the audit procedures that WKMR performed during its audits of the Funds. The WKMR engagement team analyzed whether WKMR's preparation of the financial statements and notes impaired WKMR's independence. The WKMR engagement team erroneously concluded that independence was not impaired. Although this conclusion was documented in WKMR's workpapers, WKMR included no analysis to support the conclusion.

WKMR was not Independent because it had a Direct Business Relationship with its Audit Client

21. WKMR was not independent because WKMR Financial had a direct business relationship with Voit.

22. During the relevant period, WKMR Financial and Voit had a referral fee arrangement. The main advisory service of WKMR Financial involved recommending other investment management firms, including Voit, to its clients. In exchange, WKMR Financial received a percentage of the annual fee that the investment adviser receives from those referred clients. WKMR Financial did not receive any referral fees from Voit if the client did not become an investment management client, nor did it receive any referral fees for referring clients who invested in the Voit Funds.

23. Disrud and Sehmer, as WKMR partners, are indirect owners of WKMR Financial, meaning that they receive a portion of the income that WKMR Financial generates. Disrud has also been WKMR Financial's Manager since January 2016, but Sehmer has no other involvement with WKMR Financial.

24. Under Rule 2-01(c)(3) of Regulation S-X, an accountant is not independent if it has a direct business relationship with an audit client. Under Rules 2-01(f)(1) and 2-01(f)(2) of Regulation S-X, the term "accountant" includes both the registered public accounting firm, such as WKMR, and its subsidiaries, such as WKMR Financial. Under Rules 2-01(f)(6) and Rule 2-06(f)(4) of Regulation S-X, the term "audit client" includes all entities under the common control of the audit client. Voit Fund GP and Voit were both under the control of T. Voit. As such, Voit was an affiliate of Voit Fund GP.

25. WKMR had a direct business relationship with Voit because WKMR Financial, an affiliate of WKMR, provided advisory services and recommended Voit to its clients and, in exchange, received a fee from Voit. For 2014 and 2015, all of WKMR Financial's income came from Voit, and WKMR Financial's net income for 2014 and 2015 was approximately \$217,000 and \$233,000, respectively. The WKMR engagement team did

not analyze whether WKMR was considered to have a direct business relationship with its audit client.

**WKMR was not Subject to Regular PCAOB Inspection
as of the Beginning of the Audit Engagement Periods**

26. WKMR was not subject to regular PCAOB inspection as of the beginning of the 2014 and 2015 Funds' engagement periods. WKMR has never issued audit reports for an issuer.

27. WKMR's first broker-dealer audit ("Broker-Dealer Audit") was concurrent with the 2015 Funds' audits. The engagement period for the 2015 Funds' audits began the date of the engagement letter, December 29, 2015. WKMR's engagement period for the Broker-Dealer Audit began afterwards, on January 4, 2016, the date of the engagement letter. Therefore, WKMR became subject to regular PCAOB inspection as of January 4, 2016.

28. In order to be subject to regular PCAOB inspection, a PCAOB registered public accountant must have issued an audit report with respect to at least one issuer during any of the three prior calendar years, or be engaged to audit the financial statements of a broker or dealer. See PCAOB Rule 4003, Frequency of Inspections; PCAOB Rule 4020T, Interim Inspection Program Related to Audits of Brokers and Dealers.

29. Under Regulation S-X, the professional "engagement period" begins the earlier of when the accountant signs an initial engagement letter (or other agreement to review of audit a client's financial statements) or begins audit, review, or attest procedures. See Rule 2-01(f)(5) of Regulation S-X. 17 C.F.R. § 210.2-01(f)(5).

30. Because WKMR had neither issued an audit report as to an issuer nor been engaged to audit a broker or dealer as of the beginnings of the 2014 and 2015 audit engagement periods for Voit, it was not subject to PCAOB inspection at those times.

31. As a result of the conduct described in paragraphs 16 through 30 above, Voit was not in compliance with the Custody Rule and did not qualify for the audit exception to the Custody Rule.

**The 2014 and 2015 Funds' Audits
Were Not Conducted in Accordance with
Certain Applicable Professional Standards**

32. WKMR's audit reports for the 2014 and 2015 Funds' audits state that the audits were performed in accordance with PCAOB standards. However, in connection with the audits of the Funds, WKMR and Disrud, for 2014 and 2015, and Sehmer, for 2015, failed to adhere to certain professional auditing standards, and WKMR for 2014 and 2015 failed to adhere to certain professional quality control standards as described in paragraphs 33 through 64 below.

Failure to Design and Implement an Appropriate Response to the Risk of Material Misstatement

33. WKMR and Disrud failed to design and implement an appropriate audit response that resulted in it obtaining reliable evidence that verified the existence and completeness of Voit Funds' investments.

34. The WKMR engagement team performed a risk assessment during the planning of the 2014 and 2015 audits, memorializing in the workpapers that the largest audit risk for both years was that the "investor's money is not invested properly or not invested at all."

35. WKMR's audit reports for the Funds' financial reports in 2014 and 2015 both stated "Our procedures included confirmation of securities owned...by correspondence with the custodian and broker."

36. The WKMR engagement team, however, did not obtain confirmations from a third party, and there is no evidence of any correspondence with the custodian or broker-dealer to confirm securities owned by the Funds. Instead, each year, a WKMR staff accountant watched a Voit employee download and print the Funds' year end account statements from the purported website of Custodian A, the Funds' custodian and broker.

37. The downloaded account statements were not reliable evidence because WKMR did not maintain control over the process and communicate with a third party – the information was obtained by a Voit employee from a website that was under the control of Voit.

38. WKMR's appropriate audit response required WKMR to send Custodian A a confirmation request, in accordance with AU 330, to verify that the Funds' assets were not materially misstated. Because neither WKMR nor Disrud did so, they violated AS 13.

39. In connection with the 2014 audits, Sehmer suggested that "in future audits, we may want to consider having Schwab send us their certified investment statements directly." There is no evidence that Disrud instructed the engagement team to request confirmations directly from Custodian A in connection with the 2015 audits.

40. PCAOB Auditing Standard No. 13, The Auditor's Response to the Risks of Material Misstatement ("AS 13") establishes requirements regarding designing and implementing appropriate responses to the risks of material misstatement identified by the auditor. See AS 13 ¶ 1. Auditors identify and assess risks in accordance with PCAOB Auditing Standard No. 12, Identifying and Assessing Risks of Material Misstatement ("AS 12"). For significant risks, the auditor should perform substantive procedures that are specifically responsive to the assessed risks. See AS 12 ¶ 11. Substantive procedures

generally provide persuasive evidence when they are designed and performed to obtain evidence that is relevant and reliable. See AS 12 ¶ 39.

41. PCAOB AU Section 330, The Confirmation Process (“AU 330”) provides guidance about the audit confirmation process, including the relationship of confirmation procedures to the assessment of audit risk and performing alternative procedures when responses to confirmation requests are not received. Confirmation is the process of obtaining and evaluating a direct communication from a third party in response to a request for information about a particular item affecting financial statement assertions, including those relating to existence and completeness. See AU 330 at .04 and .11. An auditor should maintain control over confirmation requests and responses, which means establishing direct communication between intended recipient and the auditor to minimize the possibility that the results will be biased because of interception and alteration. See AU 330 at .28. WKMR failed to adhere to this guidance.

Failure to Obtain Sufficient Appropriate Audit Evidence

42. By failing to obtain third-party confirmation, WKMR and Disrud failed to obtain sufficient appropriate audit evidence to support WKMR’s statement in the audit reports that its procedures included confirmation of securities, in accordance with PCAOB Auditing Standard No. 15, Audit Evidence (“AS 15”).

43. AS 15 explains what constitutes audit evidence, and establishes the requirement to plan and perform audit procedures to obtain sufficient appropriate audit evidence to support the opinion in the auditor’s report. See AS 15 ¶ 1 and ¶ 3. To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor’s opinion is based. See AS 15 ¶ 6. The reliability of evidence depends on its nature and source, and the circumstances under which it is obtained. Evidence obtained directly by the auditor and from an independent third party is more reliable than evidence obtained directly from the company. See AS 15 ¶ 8. A confirmation response represents a specific form of audit evidence obtained by an auditor from a *third party* in accordance with AU 330 (emphasis added). See AS 15 ¶ 18. WKMR failed to adhere to this guidance in its confirmation of securities.

Failure to Have Adequate Technical Training and Proficiency

44. WKMR failed to ensure that the engagement team had adequate knowledge and understanding of, and training and proficiency in, the Custody Rule, the PCAOB standards, and the applicable SEC independence rules, in accordance with PCAOB AU Section 210, Training and Proficiency of the Independent Auditor (“AU 210”).

45. The WKMR engagement team conducted the Funds’ audits without any prior experience with SEC-registered clients or clients affiliated with an SEC registrant. Voit Fund GP was WKMR’s first client affiliated with an SEC-registered investment adviser.

46. The WKMR engagement team also conducted the Funds' audits without proper training in PCAOB standards and SEC independence rules. WKMR conducted no relevant firm-wide training prior to, or in conjunction with, the Funds' audits. WKMR's workpapers for the Funds' audits do not document that any member of the engagement team reviewed the PCAOB standards, which they claimed to have applied, or the SEC independence rules. During the relevant time, there was also no reference in the workpapers to the SEC's independence standards in the firm's quality control policies and procedures. Disrud's only PCAOB training in conjunction with the Funds' audits was in March 2015, when he viewed a webinar regarding the results of PCAOB inspections.

47. PCAOB Quality Control Standards require an auditing firm to establish policies and procedures which provide the firm with reasonable assurance that work is assigned to personnel having the degree of technical training and proficiency required in the circumstances. See PCAOB Quality Control standard 20, System of Quality Control for a CPA Firm's Accounting and Auditing Practice, at .13 and PCAOB Quality Control standard 40, The Personnel Management Element of a Firm's System of Quality Control-Competencies Required by a Practitioner-in-Charge of an Attest Engagement, at .02. These standards also require the firm to establish policies specifically designed to address the competencies of audit partners, including a requirement that practitioners-in-charge of the applicable auditing standards and standards directly related to the industry in which a client operates. See QC 40.08.

48. AU 210 requires that the audit be performed by a person or persons having adequate technical training and proficiency as an auditor. See AU 210 at .01. Likewise, PCAOB Quality Control standards require that "[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm's standards of quality." QC 20.17. Firm policies and procedures should also provide reasonable assurance that the policies and procedures established for the elements of quality controls described in the standard are "suitably designed and are being effectively applied." QC 20.20; see also AU 161.

Failure to Obtain the Necessary Engagement Quality Reviews and Concurring Approvals

49. WKMR, for 2014 and 2015, and Sehmer, for 2015, failed to conduct the necessary engagement quality reviews ("EQRs") and concurring approvals, in accordance with PCAOB AS No. 7, Engagement Quality Review ("AS 7").

50. WKMR failed to designate an EQ Reviewer and obtain an EQR and concurring approval in connection with the 2014 Funds audits. Sehmer acted only as the "independent partner reviewer" for these audits, and only consulted on certain issues, and reviewed the financial report and the audit file for completeness. He did none of the work described in AS 7.

51. Although Sehmer was EQ Reviewer and performed an EQR for the 2015 Funds' audits, he failed to perform his duties in accordance with AS 7. His only involvement in the planning and risk assessment process was that he made himself available to answer engagement team questions. He did not review any of the risk assessment audit programs or the "Audit Strategy Memo," which included the engagement team's risk assessment and the audit procedures planned to respond to the risks identified. The two major issues that Sehmer consulted on - independence and sending confirmations - were not performed in accordance with PCAOB standards. Sehmer also did not provide concurring approval for the 2015 Funds' audits.

52. An EQR and concurring approval of issuance are required for audit engagements conducted pursuant to the PCAOB standards. See AS 7 ¶ 1.

53. AS 7 requires that the EQ Reviewer possess the level of knowledge and competence related to accounting, auditing, and financial reporting required to serve as the engagement partner on the engagement under review. See AS 7 ¶ 5. The EQ Reviewer should:

- a) Evaluate significant judgments made by engagement team and the related conclusions reached. To do so, the EQ Reviewer should hold discussions with the partner and team, and review documentation. See AS 7 ¶ 9.
- b) Evaluate the engagement team's assessment of, and audit responses to, significant risks identified by the engagement team. See AS 7 ¶ 10b.
- c) Review the engagement team's evaluation of the firm's independence in relation to the engagement. See AS 7 ¶ 10d.
- d) Evaluate whether the engagement documentation indicates that the engagement team responded appropriately to significant risks, and supports the conclusions reached by engagement team. See AS 7 ¶ 11.

54. The EQ Reviewer may also provide concurring approval if, after performing with due professional care, he or she is not aware of a significant engagement deficiency. See AS 7 ¶ 12. A significant engagement deficiency in an audit exists when the engagement team failed to obtain sufficient appropriate evidence in accordance with PCAOB standards or the firm is not independent of its client. See AS 7 ¶ 12.

Failure to Exercise Due Professional Care

55. WKMR and Disrud, for 2014 and 2015, and Sehmer, for 2015, failed to exercise due professional care in planning and performing the Funds' audits, in accordance with PCAOB Standard AU Section 230, Due Professional Care in the Performance of Work ("AU 230").

56. WKMR was not independent when it performed the 2014 and 2015 Funds' audits and failed to have adequate training and proficiency. WKMR and Disrud failed to design and implement an appropriate audit response to provide reasonable assurance of detecting material errors in the financial statements, and failed to obtain sufficient competent evidence. Furthermore, WKMR and Disrud failed to exercise professional skepticism when they obtained audit evidence, relating to the largest identified risk, from a website that was under the control of management during the Funds' audits. WKMR also violated AS 7.

57. For the 2015 Funds' audits, neither Disrud nor Sehmer signed off on the workpaper that documented the engagement team's independence conclusions. They only signed off on the underlying "supporting" workpapers, which did not include any detailed analysis. In reality, some of the workpapers simply contained copies of the supporting documentation from the 2014 Funds' audits. There is no documentation in the workpapers that Sehmer reviewed the SEC independence standards. Sehmer also violated AS 7.

58. AU 230 requires auditors to exercise due professional care in the planning and performance of the audit and the preparation of the report. See AU 230 at .01. The engagement partner should know, at a minimum, the relevant professional accounting and auditing standards and should be knowledgeable about the client. See AU 230 at .06.

59. Due professional care requires that the auditor exercise professional skepticism. Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence. See AU 230 at .07. In exercising professional skepticism, the auditor should not be satisfied with less than persuasive evidence because of a belief that management is honest. See AU 230 at .09.

Failure to Adhere to the Quality Control Standards

60. Although the relevant audit reports stated that the 2014 and 2015 audits were performed in accordance with PCAOB standards, WKMR failed to establish sufficient quality control standards in accordance with PCAOB Quality Control standard 20 and PCAOB Quality Control standard 40.

61. WKMR failed to establish policies to ensure that it and its personnel were independent and maintained their independence when it accepted Voit Fund GP as a client. See QC 20 at .09 and .14. WKMR's quality control manual stated that the engagement partner decides whether to accept or reject the prospective client and documents that conclusion on the "engagement acceptance form." It was then in the engagement partner's discretion whether he routed the form to a second partner. There was no check on the engagement partner to ensure that the partner appropriately evaluated independence conflicts.

62. WKMR failed to satisfy the requirements of QC 20 and QC 40. The engagement team did not have the adequate training or experience in PCAOB standards or SEC independence rules. Disrud did not have the technical training and proficiency required.

63. WKMR's failure to establish adequate quality control policies was reflected in WKMR's failure to identify any of the independence, audit procedures or EQ Reviewer deficiencies in the Funds' audits described above, even after WKMR selected the Funds' audits for inspection as part of its internal inspection program.

64. PCAOB Quality Control standard 20 requires that a system of quality control be established and maintained. See QC 20 at .01. One of the elements of a system of quality control is personnel management. See QC 40 at .01. The objective of the firm is to establish and maintain a system of quality control to provide it with reasonable assurance that the firm and its personnel comply with the professional standards. See QC 20 at .03.

Respondents Misconduct Under Section 4C of the Exchange Act and Rule 102(e)

65. Rule 102(e)(1) of the Commission's Rules of Practice and Section 4C of the Exchange Act allows the Commission to censure a person, or deny the person, either permanently or temporarily, from appearing or practicing before the Commission if the Commission finds the person to be lacking in character or integrity or to have engaged in unethical or improper professional conduct or to have willfully aided and abetted the violation of any provision of the federal securities laws or the rules and regulations thereunder. Section 4C(a)(2) and (3) of the Exchange Act and Rule 102(e)(1)(ii) and (iii) of the Commission's Rules of Practice.

WKMR, Disrud and Sehmer's Improper Professional Conduct

66. WKMR and Disrud (for the 2014 and 2015 Funds' audits) and Sehmer (for the 2015 Funds' audits) engaged in improper professional conduct within the meaning of Rule 102(e)(1)(ii) of the Commission's Rules of Practice by engaging in reckless conduct resulting in a violation of the applicable professional standards, by negligently engaging in highly unreasonable conduct that resulted in a violation of applicable professional standards in circumstances for which heightened scrutiny is warranted, or by negligently engaging in repeated instances of unreasonable conduct, each resulting in a violation of the applicable professional standards.

67. WKMR and Disrud failed to comply with the SEC and PCAOB independence standards, for which heightened scrutiny was warranted. Although the WKMR engagement team unreasonably concluded that it was independent from Voit Fund GP, WKMR failed to consider whether WKMR was independent from Voit.

68. WKMR and Disrud also failed to design and implement an appropriate audit response to provide reasonable assurance of detecting material errors in the financial

statements, failed to obtain sufficient competent evidence, and failed to have adequate training and proficiency prior to conducting the audits.

69. In addition, WKMR and Disrud failed to exercise due professional care in connection with the 2014 and 2015 Funds' audits because: (1) they violated independence standards; (2) they violated PCAOB audit standards; and (3) they failed to exercise professional skepticism when they obtained confirmations from a website that was under the control of management. WKMR failed to designate an EQ Reviewer and obtain the necessary EQR for 2014, and concurring approvals for the 2014 and 2015 Funds' audits.

70. WKMR and Sehmer failed to exercise due professional care in connection with the 2015 Voit Funds' audits because Sehmer failed to comply with AS 7 in his role as the EQ Reviewer.

71. Furthermore, WKMR failed to adhere to the quality control standards because it failed to establish policies to ensure that WKMR was competent to perform the 2014 Funds' audits or policies to ensure that WKMR and its personnel were independent and maintained its independence when it accepted Voit Fund GP as a client.

**WKMR and Disrud Willfully Aided and Abetted
And Caused Voit's 2014 and 2015 Custody Rule Violations
and Sehmer Caused Voit's 2015 Custody Rule Violations**

72. WKMR and Disrud willfully⁵ aided and abetted and caused Voit's 2014 and 2015 violations of Section 206(4) of the Advisers Act and Rule 206(4)-2 thereunder and Sehmer also caused Voit's 2015 violations of Section 206(4) of the Advisers Act and Rule 206(4)-2 thereunder.

73. WKMR knew that Voit Fund GP needed the Funds' audits to comply with the Custody Rule. Disrud, as the engagement partner for both audit periods, was ultimately responsible for ensuring that the Funds' audits complied with applicable PCAOB standards and the Custody Rule's requirements, including that WKMR was an independent accountant and subject to regular PCAOB inspection.

74. Despite this, WKMR and Disrud failed to have adequate knowledge or understanding of the Custody Rule and the applicable SEC independence requirements. The WKMR engagement team conducted the Funds' audits without any prior experience with SEC or PCAOB registered clients, or clients affiliated with such clients. Disrud had no prior experience or training regarding the Custody Rule, and he failed to determine or consider the requirements for the Audit Exception. WKMR or Disrud did not understand that Voit, in

⁵ A willful violation of the securities laws means merely "that the person charged with the duty knows what he is doing." *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).

addition to Voit Fund GP, was considered WKMR's client. At the time of the Funds' audits, WKMR and Disrud did not know that the SEC independence standards applied to the audits.

75. As a result, Disrud approved WKMR's issuance of Voit Funds' 2014 and 2015 audit reports despite the fact that WKMR's independence was impaired, and despite the fact that WKMR was not subject to regular PCAOB inspection.

76. Sehmer also caused Voit's 2015 violations of Section 206(4) of the Advisers Act and Rule 206(4)-2 promulgated thereunder because Sehmer was the EQ Reviewer on the 2015 Funds' audits, reviewed the workpapers for the audits, and failed to reasonably ensure that his work was performed in accordance with AS7. Sehmer also failed to act reasonably when he did not know the requirements of the Custody Rule and the steps necessary to ensure Voit complied with the Custody Rule. He also failed to understand that WKMR was required to be subject to regular PCAOB inspection but in fact was not, and that the WKMR Financial and Voit referral fee arrangement impaired WKMR's independence.

Findings

77. As a result of the conduct described above, WKMR and Disrud caused, and willfully aided and abetted within the meaning of Section 4C of the Exchange Act and Rule 102(e)(1)(iii) of the Commission's Rules of Practice, Voit's 2014 and 2015 violations of Section 206(4) of the Advisers Act and Rule 206(4)-2 promulgated thereunder.

78. As a result of the conduct described above, Sehmer caused Voit's 2015 violations of Section 206(4) of the Advisers Act and Rule 206(4)-2 promulgated thereunder.

79. As a result of the conduct described above, in 2014 and 2015 WKMR, Disrud and Sehmer engaged in improper professional conduct within the meaning of Section 4C of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice.

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:

A. Respondents WKMR, Disrud and Sehmer cease and desist from committing or causing any violations and any future violations of Section 206(4) of the Advisers Act and Rule 206(4)-2 promulgated thereunder.

WKMR

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

C. After one year from the date of this order, WKMR may request that the Commission consider its 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 (other than as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Exchange Act. Such an application must satisfy the Commission that WKMR's work in its practice before the Commission as an accountant will be reviewed either by the independent audit committee of the public company for which it works or in some other acceptable manner, as long as it practices before the Commission in this capacity; and/or
2. an independent accountant. Such an application must satisfy the Commission that:
 - (a) WKMR is registered with the PCAOB in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;
 - (b) Respondent WKMR hired an independent CPA consultant ("consultant"), who is not unacceptable to the staff of the Commission and is affiliated with a public accounting firm registered with the PCAOB, that has conducted a review of WKMR's quality control system and submitted to the staff of the Commission a report that describes the review conducted and procedures performed, and represents that the review did not identify any criticisms of or potential defects in the firm's quality control system that would indicate that any of WKMR's employees will not receive appropriate supervision. WKMR agrees to require the consultant, if and when retained, to enter into an agreement that provides that for the period of review and for a period of two years from completion of the review, the consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with WKMR, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the consultant will require that any firm with which he/she is affiliated or of which

he/she is a member, and any person engaged to assist the consultant in performance of his/her duties under this Order shall not, without prior written consent of the staff, enter into any employment, consultant, attorney-client, auditing or other professional relationship with WKMR, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of the review and for a period of two years after the review;

- (c) WKMR has resolved all disciplinary issues with the PCAOB, and has complied with all terms and conditions of any sanctions imposed by the PCAOB (other than reinstatement by the Commission); and
- (d) WKMR acknowledges its responsibility, as long as it appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the PCAOB, 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 WKMR to resume appearing or practicing before the Commission provided that its state CPA license is current and it 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 WKMR's character, integrity, professional conduct, or qualifications to appear or practice before the Commission as an accountant. Whether an application demonstrates good cause will be considered on a facts and circumstances basis with due regard for protecting the integrity of the Commission's processes.

Disrud

E. Disrud is denied the privilege of appearing or practicing before the Commission as an accountant.

F. After 2 years from the date of this order, Disrud 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 (other than as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Securities Exchange Act of 1934). Such an application must satisfy the Commission that Disrud's work in his

practice before the Commission as an accountant 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. 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 as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Exchange Act. Such an application will be considered on a facts and circumstances basis with respect to such membership, and the applicant's burden of demonstrating good cause for reinstatement will be particularly high given the role of the audit committee in financial and accounting matters; and/or
3. an independent accountant. Such an application must satisfy the Commission that:
 - (a) Disrud, or the public accounting firm with which he is associated, is registered with the PCAOB in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;
 - (b) Disrud, or the registered public accounting firm with which he is associated, has been inspected by the PCAOB and that inspection did not identify any criticisms of or potential defects in Disrud's or the firm's quality control system that would indicate that the respondent will not receive appropriate supervision;
 - (c) Disrud has resolved all disciplinary issues with the PCAOB, and has complied with all terms and conditions of any sanctions imposed by the PCAOB (other than reinstatement by the Commission); and
 - (d) Disrud acknowledges his responsibility, as long as he appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the PCAOB, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

G. The Commission will consider an application by Disrud 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

Disrud's character, integrity, professional conduct, or qualifications to appear or practice before the Commission as an accountant. Whether an application demonstrates good cause will be considered on a facts and circumstances basis with due regard for protecting the integrity of the Commission's processes.

Sehmer

H. Sehmer is denied the privilege of appearing or practicing before the Commission as an accountant.

I. After 1 year from the date of this order, Sehmer 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 (other than as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Securities Exchange Act of 1934). Such an application must satisfy the Commission that Sehmer's work in his practice before the Commission as an accountant 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. 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 as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Exchange Act. Such an application will be considered on a facts and circumstances basis with respect to such membership, and the applicant's burden of demonstrating good cause for reinstatement will be particularly high given the role of the audit committee in financial and accounting matters; and/or
3. an independent accountant. Such an application must satisfy the Commission that:
 - (a) Sehmer, or the public accounting firm with which he is associated, is registered with the PCAOB in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;
 - (b) Sehmer, or the registered public accounting firm with which he is associated, has been inspected by the PCAOB and that inspection did not identify any criticisms of or potential defects in Sehmer's or

the firm's quality control system that would indicate that the respondent will not receive appropriate supervision;

- (c) Sehmer has resolved all disciplinary issues with the PCAOB, and has complied with all terms and conditions of any sanctions imposed by the PCAOB (other than reinstatement by the Commission); and
- (d) Sehmer acknowledges his responsibility, as long as he appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the PCAOB, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

J. The Commission will consider an application by Sehmer 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 Sehmer's character, integrity, professional conduct, or qualifications to appear or practice before the Commission as an accountant. Whether an application demonstrates good cause will be considered on a facts and circumstances basis with due regard for protecting the integrity of the Commission's processes.

K. Respondent WKMR shall, within 10 days of the entry of this Order, pay disgorgement of \$17,531 and prejudgment interest of \$1,317, and pay a civil money penalty of \$15,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 and/or 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 WKMR 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 Robert J. Burson, Senior Associate Regional Director, 175 West Jackson Boulevard, Suite 1450, Chicago, Illinois 60604.

L. Respondent Disrud shall, within 10 days of the entry of this Order, pay disgorgement of \$9,319 and prejudgment interest of \$695, and pay a civil money penalty in the amount of \$10,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 and/or 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 Disrud 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 Robert J. Burson, Senior Associate Regional Director, 175 West Jackson Boulevard, Suite 1450, Chicago, Illinois 60604.

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

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondents under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondents of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary