

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 95949 / September 30, 2022**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 4347 / September 30, 2022**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-21184**

**In the Matter of**

**STEVEN KIRN, CPA,  
MICHAEL PIQUEIRA, CPA,  
and  
RICHARD CONDON, CPA**

**Respondents.**

**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 Steven Kirn, CPA (“Kirn”), Michael Piqueira, CPA (“Piqueira”), and Richard Condon, CPA (“Condon”) (collectively “Respondents”) pursuant to Sections 4C<sup>1</sup> and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice.<sup>2</sup>

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<sup>1</sup> Section 4C provides, in part, that:

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

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

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

### A. SUMMARY

1. During the period 2015 to 2018, Kirn and Piqueira engaged in improper professional conduct during multiple audits of Revolution Lighting Technologies, Inc. (“Revolution”) performed by RSM US LLP (“RSM”). In addition, during 2018, Condon engaged in improper professional conduct in connection with RSM’s audit of Revolution. Kirn and Piqueira failed to properly conduct audits of Revolution’s financial statements and internal control over financial reporting. They failed to adhere to Public Company Accounting Oversight Board (“PCAOB”) auditing standards, from planning and supervision of the audit through the evaluation of the audit results and review of Revolution’s disclosures. PCAOB is an entity established by Congress to, among other things, oversee the audits of public companies in order to protect investors. Among PCAOB’s primary duties are establishing the standards that auditors and registered public accounting firms must meet when they audit public companies. During 2018, RSM’s audit team consulted Condon, who was a partner in RSM’s national office, about potential errors in Revolution’s accounting for revenue from bill and hold sales and the potential impact of any error on Revolution’s financial statements. During this work, Condon failed to adhere to PCAOB standards.

2. Revolution’s financial statements were materially misstated because they included improperly recognized revenue from “bill and hold” sales, which are generally a

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The Commission may censure a person or deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have engaged in unethical or improper professional conduct.

<sup>3</sup> 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.

type of transaction that involves a company selling a product to a customer but not delivering the product to the customer until some later date. Bill and hold sales need to satisfy several criteria in order for a company to be able to recognize them as revenue (meaning the sales get recorded as revenue in a company's books and records and reported as revenue in a company's financial statements). Audit evidence provided to RSM's audit team during the audits demonstrated that Revolution was violating U.S. Generally Accepted Accounting Principles ("GAAP") with respect to recognition of revenue in its financial statements from these bill and hold sales. Kirn and Piqueira unreasonably failed to comply with PCAOB standards by concluding that Revolution's accounting and financial statements conformed with GAAP.

3. For each audit, RSM issued two types of audit reports: (i) a report opining that Revolution's financial statements presented fairly, in all material respects, Revolution's financial position in conformity with GAAP; and (ii) a report opining that Revolution maintained, in all material respects, effective internal control over financial reporting. Both reports also stated that RSM conducted its audits in accordance with the standards of the PCAOB. As a result of Kirn and Piqueira's improper professional conduct, RSM's audit reports were inaccurate in their representations that the audits were conducted in accordance with PCAOB standards. RSM violated Rule 2-02(b) of Regulation S-X, and Kirn and Piqueira caused RSM's violation. In addition, Kirn and Piqueira caused RSM to inaccurately state in its audit reports accompanying Revolution's 2014 - 2017 Forms 10-K, filed with the Commission, that RSM had conducted each audit in accordance with PCAOB standards, thereby causing Revolution to violate Section 13(a) of the Exchange Act and Rule 13a-1 thereunder.

4. During the course of RSM's audit of Revolution's fiscal year 2017 financial statements (the "2017 Audit"; prior years' audits will be named the "201X Audit"), Kirn, Piqueira, and Condon concluded that Revolution had improperly recognized revenue in fiscal year 2017 due to Revolution's failure to adhere to fixed delivery dates for its bill and hold sales, and presumed that this issue also impacted revenue recognition in each of the preceding three years. Kirn, Piqueira, and Condon then concluded that Revolution's revenue misstatements were immaterial and concurred with Revolution that Revolution did not need to restate its financial statements. Their conclusion was unreasonable because it was based on faulty estimates, and it rested upon Kirn, Piqueira, and Condon's determination that qualitative factors outweighed the fact that, even under the faulty estimates, Revolution's misstatements of revenue significantly exceeded the quantitative audit materiality level that RSM had identified for several of the periods in question. In reaching the decision that qualitative factors rendered immaterial the fact that revenue figures for multiple years were misstated, Kirn, Piqueira, and Condon effectively abandoned the audit team's own prior determination, in each of the years in question, that reported revenue was a key metric of interest to shareholders of Revolution. During this analysis, Kirn, Piqueira, and Condon also violated the applicable PCAOB standards.

5. Overall, rather than exercise an appropriate level of skepticism in this area – an area requiring heightened scrutiny – Kirn, Piqueira, and Condon made unreasonable determinations in concluding that Revolution's misstatements were immaterial. Their lack

of due professional care had the practical effect of obscuring the RSM audit team's failure to properly conduct an audit for fiscal years 2014 – 2017.

## **B. RESPONDENTS**

6. **Steven Kirn** is a resident of Shelton, CT and a partner at RSM. Kirn was the engagement partner responsible for RSM's audits and reviews of Revolution's financial statements for fiscal years 2013 through 2017. Kirn has been a licensed Certified Public Accountant ("CPA") since 1998. He is currently licensed as a CPA in Connecticut, Massachusetts, New York, and Vermont.

7. **Michael Piqueira** is a resident of Norwalk, CT and a senior manager at RSM. Piqueira was "senior manager" on the Revolution audits and reviews for fiscal years 2014 through 2017. Piqueira has been a licensed CPA since 2006. He is currently licensed as a CPA in Connecticut and New York.

8. **Richard Condon** is a resident of Brookline, MA. Condon is a partner at RSM. During the applicable period, Condon's title was Regional Director of the Northeast and Southeast Professional Practice Office, which is part of RSM's national office. Condon consulted on the audit of Revolution's financial statements for fiscal year 2017. Condon has been a licensed CPA since 1993. He is currently licensed as a CPA in Massachusetts and New York.

## **C. OTHER RELEVANT ENTITIES**

9. **RSM US LLP**, a limited liability partnership with its headquarters in Chicago, Illinois, is a public accounting firm registered with the PCAOB. RSM served as the auditor of Revolution, a company with publicly traded stock that was required to file periodic reports with the Commission, including reports that included audited financial statements, from at least 2010 until it resigned from that role in June 2019.

10. **Revolution Lighting Technologies, Inc.** is a Delaware corporation headquartered in Stamford, Connecticut. Revolution manufactures and markets LED lighting solutions. Its common stock was registered with the Commission under Exchange Act Section 12(g) until August 24, 2020. Before October 14, 2019, Revolution traded on the NASDAQ under the ticker symbol RVLT. On June 29, 2020, the Commission temporarily suspended trading in Revolution's securities because its periodic Commission filings were delinquent. On August 21, 2020, the Commission revoked the registration of Revolution's securities pursuant to Section 12(j) of the Exchange Act. On September 24, 2020, the Commission brought a settled action against Revolution and four of its executives for violations of the federal securities laws in connection with the bill and hold transactions at issue and efforts to conceal improper revenue recognition practices from RSM.

## **D. FACTS**

### **I. RSM IMPROPERLY TESTED BILL AND HOLD REVENUE**

#### **a. Revolution Began Relying on Bill and Hold Sales at the End of 2014**

11. During 2014, Revolution acquired Value Lighting, Inc. (“Value Lighting”) and made Value Lighting a business division. Revenue from Value Lighting immediately became the large majority of Revolution’s reported revenue.

12. Historically, Revolution recognized revenue on a sale upon shipment or delivery to its customers. At the end of 2014, however, Revolution deviated from prior practice and implemented a program at Value Lighting of recognizing revenue on so-called bill and hold sales. Broadly speaking, a bill and hold sale is a sale of a product to a customer in which the seller maintains possession of the product until some later date when the customer needs the product delivered. If certain criteria are met, a seller may properly recognize revenue from bill and hold sales before delivering the product to the customer. However, bill and hold sales are subject to abuse by companies, such as Revolution, that seek to inflate their revenues by improperly recording sales of products that have not been shipped and that do not satisfy the criteria for recognizing revenue.

13. During RSM’s 2014 Audit, Kirn and Piqueira learned Revolution had used bill and hold sales in the 2014 fiscal year. Kirn and Piqueira rated the bill and hold sales as a “significant risk” (the highest risk level under the audit standards) and a significant risk of material misstatement due to fraud. RSM’s audit team sampled and tested Revolution’s bill and hold revenue for GAAP compliance.

14. Under GAAP applicable at the time of the audits, revenue could not be recognized until it was: (1) earned and (2) realized or realizable. Bill and hold sales were required to meet specific criteria under GAAP for a company to recognize revenue from those transactions. RSM’s work papers reflected that the team applied the following seven criteria to test Revolution’s recognition of revenue from purported bill and hold sales:

- Risks of ownership must have passed to buyer.
- Buyer has a fixed commitment to purchase, preferably in writing.
- Buyer, not seller, requested the bill and hold transaction and there is a substantial business purpose for ordering the goods on a bill and hold basis.
- A fixed delivery schedule with reasonable delivery dates exists.
- Seller has not retained any specific performance obligations.
- Product is complete and ready for shipment.
- The ordered goods must have been segregated from the seller’s inventory and not be subject to being used to fill other orders.

15. Kirn, Piqueira, and the RSM audit team nominally applied these criteria during its 2014 Audit through the 2017 Audit. These seven well-established criteria closely tracked the language set forth in the Commission’s Accounting and Auditing

Enforcement Release (“AAER”) 108 and Staff Accounting Bulletin (“SAB”) No. 104. RSM understood that failure to satisfy any of the criteria disqualified the revenue from being recognized on a bill and hold basis.

**b. Kirn and Piqueira Failed to Adequately Plan the Audit, Design and Implement Bill and Hold Testing Procedures, and Supervise the Audit Team Members Performing Bill and Hold Revenue Testing**

16. Preceding each audit, the RSM audit team completed an annual risk assessment form to evaluate the risks of material misstatement and to design audit procedures responsive to the assessed risks. Based on the audit team’s inputs, RSM’s risk assessment tool rated the Revolution audit at RSM’s highest audit risk level.

17. Despite the fact that Revolution was at the top of RSM’s audit risk scale, and RSM’s determination that the bill and hold transactions presented a significant risk of material misstatement due to fraud, Kirn and Piqueira assigned the testing of Revolution’s bill and hold sales to junior members of the audit team (who lacked experience with bill and hold testing), and failed to adequately supervise the testing.

18. Under the audit’s design and planning, the reviewers of the bill and hold testing, including Piqueira and Kirn, were not required to review the underlying audit evidence for such testing. RSM’s audit team continued this approach through the 2017 Audit. Despite issues coming to the attention of Kirn and Piqueira during the 2014 and 2015 Audits and despite finding in 2016 that there was a deficiency in Revolution’s internal control over financial reporting relating to bill and hold sales, Kirn and Piqueira did not assign more experienced auditors to this significant risk area or review more closely the bill and hold testing performed by junior associates. Instead, they kept placing the highest risks of the audit on the shoulders of less experienced team members.

19. Kirn and Piqueira also failed to design and implement adequate bill and hold testing. For example, in assessing Revolution’s bill and hold sales, they did not design or apply adequate cut-off testing to verify that revenue was recognized in the appropriate period. They directed the RSM audit team to use “bill and hold agreements” as the principal documentary evidence to test bill and hold revenue recognition. The bill and hold agreements between Revolution and its customers were often executed after the quarter close, which was clear from the dates on those agreements. Yet RSM failed to find any error with recognizing revenue on sales for which the bill and hold arrangements were agreed to after the quarter close. After Piqueira received copies of bill and hold agreements dated after the quarter close during the 2015 Audit, he did not require the junior associates to document whether the customer had agreed to the bill and hold arrangement before the end of the quarter.

20. Kirn and Piqueira also did not design and implement adequate procedures to test whether a customer had initiated the bill and hold arrangement and whether it had a “substantial business purpose” for requesting the bill and hold arrangement. Nor did Kirn and Piqueira require adequate audit evidence documenting that a customer initiated the bill and hold arrangement.

21. During the 2014 Audit, RSM's audit team accepted Revolution's representations that its customers requested bill and hold arrangements because of supply constraints due to the Chinese New Year (most of Revolution's products were manufactured in China). Kirn and Piqueira accepted Revolution's representations without adequately testing Revolution's blanket assertion.

22. In general, Kirn and Piqueira did not perform regular reviews on the underlying documentation supporting the bill and hold testing to verify that the junior associates were testing correctly in one of the highest risk areas of RSM's audit.

23. Kirn and Piqueira reviewed and approved all of the bill and hold related audit work papers from the 2014 through the 2017 Audit. But Kirn and Piqueira failed to meaningfully question illogical and insufficient explanations written on bill and hold work papers.

24. Based upon the information presented to RSM's audit team, almost all of the revenue from Revolution's bill and hold sales tested by RSM was not earned and realizable in the periods in which Revolution recorded the revenue. According to RSM's later reevaluation of the bill and hold transactions in connection with Revolution's anticipated restatement in late 2018 and early 2019, which was based on later-obtained information:

- More than two thirds of the bill and hold agreements RSM tested during its 2015 to 2017 Audits were dated after the period when Revolution recognized revenue.
- RSM's work papers claim it tested the second criteria by analyzing the purchase orders from Revolution's customers and the corresponding invoices sent by Revolution. More than 60% of reported bill and hold sales from 2015 to 2018 either were missing purchase orders or the purchase orders were dated after the period for which Revolution recognized revenue.
- Only four of the 198 bill and hold sales from 2015 through 2017 included an actual "fixed delivery schedule."

25. But year after year, RSM signed off on Revolution's improper accounting because Kirn and Piqueira failed to adequately supervise the junior members of the audit team, who had failed to adequately assess Revolution's application of the seven bill and hold criteria. Kirn and Piqueira violated PCAOB standards on audit planning and supervision by inadequately assigning and supervising the testing of Revolution's bill and hold sales by the junior members of the audit team, which contributed to RSM's audit failures.

**c. Kirn and Piqueira Failed to Evaluate Adequately Audit Evidence that Raised Questions About Revolution’s Revenue Recognition**

26. Throughout the audits, when problems came to the RSM audit team’s attention, Kirn, Piqueira, and the audit team failed to evaluate adequately the significance of those issues, and failed to evaluate adequately evidence that raised questions about whether Revolution could appropriately recognize revenue on a bill and hold basis. Examples of these failures include:

- Failure to document, or failure to instruct the audit team to properly document, disconfirming customer confirmations or the audit team’s conclusions regarding the deficiencies in Revolution’s bill and hold agreements;
- Failure to evaluate, or failure to instruct the audit team to properly evaluate, audit evidence relating to bill and hold agreements that were dated after year end. Even though several bill and hold agreements were dated after quarter end, RSM did not question whether revenue could be recognized during such quarter or require evidence that the bill and hold arrangements in fact had been entered into during the quarter in which Revolution was recognizing revenue;
- Failure to evaluate audit evidence about whether Revolution agreed to fixed delivery schedules with its bill and hold customers to satisfy the fourth bill and hold criterion. Revolution told RSM’s audit team it did not have fixed delivery schedules with certain customers, and, in most instances, the very terms of the bill and hold agreements indicated that the delivery schedule was subject to change or dependent upon when the goods were needed at the customer job site. Kirn and Piqueira both reviewed and were familiar with the language of Revolution’s bill and hold agreements, and reviewed and approved RSM’s work papers stating that there was a fixed delivery schedule for every bill and hold sale that RSM tested.

**II. KIRN, PIQUEIRA, AND CONDON UNREASONABLY CONCLUDED REVOLUTION’S ACCOUNTING ERRORS WERE IMMATERIAL**

27. During the 2017 Audit, the RSM audit team, including Kirn and Piqueira, raised for the first time internally at RSM that Revolution may not have been recognizing revenue on bill and hold sales in accordance with GAAP. Piqueira reached out to the “SEC Reviewer” assigned to RSM’s audit of Revolution to discuss Revolution’s bill and hold accounting and whether Revolution was satisfying the criterion requiring a fixed delivery schedule. The “SEC Reviewer” was an RSM partner and revenue recognition specialist in RSM’s regional Professional Practice Office (“PPO”). The PPO is a part of RSM’s national office providing help to RSM professionals on a consulting basis when needed. At the time, Piqueira and the SEC Reviewer for the Revolution audits discussed whether Revolution was satisfying the criterion requiring a fixed delivery schedule, and RSM’s audit team drafted a formal “Record of Consultation” (“ROC”) to send to RSM’s national office seeking guidance.

28. In late February 2018, the SEC Reviewer reached out to Condon, Director of the Northeast and Southeast PPO, to discuss the audit team's concern about Revolution's bill and hold sales relating to the fixed delivery criterion and the potential impact of any error on Revolution's financial statements. Condon reported to RSM's National Director of Accounting.

29. To prepare Condon for a scheduled call, Piqueira sent Condon a spreadsheet that contained an analysis that used the estimated unshipped inventory as of December 31, 2016. To RSM, the amount of unshipped inventory represented the size of Revolution's potential error for 2016. That communication to Condon included an earlier e-mail chain between the SEC Reviewer and Piqueira indicating that the unshipped percentage as of December 31, 2016 was an estimate based upon the unshipped percentage from late 2017. That information was also contained in notes embedded in certain cells in the spreadsheet.

30. The estimate of the unshipped inventory for 2016 was what Piqueira described to Kirn as a "rough estimate" of Revolution's unshipped bill and hold inventory. Piqueira told Kirn that it was "the best we can do" because RSM was informed by Revolution management that Revolution could not readily provide RSM with the actual historical data of Revolution's unshipped inventory. Because the rough estimate was contrary to evidence RSM possessed and inaccurate, Kirn, Piqueira, and the RSM audit team significantly undercounted the potential misstatement of Revolution's 2016 annual revenue. In addition, Kirn and Piqueira failed to account for more than one million dollars of bill and hold revenue from Revolution's All Around Lighting division in the analysis, compounding the error.

31. After discussion with Kirn and Piqueira, Condon directed the audit team to consult with another partner from RSM's national office who was a specialist in revenue recognition for the national accounting group.

32. In consultation with the revenue recognition specialist and the SEC reviewer from RSM's national office, in late February 2018, RSM's audit team, including Kirn and Piqueira, concluded that Revolution had improperly recognized revenue in fiscal year 2017 due to Revolution's failure to adhere to fixed delivery schedules for its bill and hold sales, and presumed that this issue also impacted revenue recognition in each of the preceding three years. This presumption relied on an estimate because RSM assumed for purposes of its materiality analysis that any bill and hold transactions unshipped at year-end would not qualify for bill and hold accounting treatment.

33. The audit team, however, did not adequately document this conclusion in its work papers. For example, RSM failed to identify any specific bill and hold sale that was erroneously recognized. Kirn and Piqueira did not direct that the audit team perform any additional audit procedures to determine which of the bill and hold sales failed to satisfy the GAAP criteria. And although RSM's bill and hold testing work paper for the 2017 Audit referred to the ROC and the passed adjustment on bill and hold transactions, the work paper also stated the audit team's conclusion that all tested bill and hold sales satisfied GAAP.

34. Condon spoke with the revenue specialist from RSM's national office who consulted with Kirn and Piqueira. Condon agreed with the specialist's input and the audit team's conclusion that there were revenue recognition errors for some bill and hold sales.

35. After determining Revolution improperly accounted for bill and hold sales, RSM's audit team, including Kirn and Piqueira, drafted revised ROCs to analyze whether Revolution should restate its financial statements. Kirn and Piqueira directed the drafting and review of the ROCs. Piqueira contributed to the ROCs, including by calculating the size of Revolution's misstated financial information and providing the ROC's materiality analysis. To do so, he used the inaccurate "rough estimate." Kirn and Piqueira directed the revised ROC to Condon because situations where potential errors exceed RSM's audit planning materiality thresholds required sign off by a regional PPO member per RSM's protocols.

36. Following the discussion with the RSM national office specialist, Kirn and Piqueira also informed Revolution's CFO that there was an issue with the accounting for bill and hold sales. They told Revolution's CFO that Revolution needed to evaluate the impact on Revolution's financial statements if Revolution only recognized revenue when the product was shipped. They asked Revolution's CFO to draft a materiality assessment in accordance with the SEC's Staff Accounting Bulletin No. 99 and guided Revolution's CFO on the assessment.

37. On February 28, 2018, Revolution sent the RSM audit team a draft materiality memo. It was drafted in less than one day, and presented Revolution's view that any errors from bill and hold sales were immaterial. Even before receiving Revolution's analysis, RSM treated Revolution's errors as immaterial and suggested that the potential misstatements did not need to be corrected.

38. The draft materiality memo was riddled with errors, but Kirn and Piqueira did not object to Revolution's numbers, in part, because Revolution adopted RSM's ROC figures, including the "rough estimate" (\$12.6 million) of the unshipped inventory as of December 31, 2016. According to the draft materiality memo, the net effect for 2016 was a decrease in revenue of only \$1.3 million, or 0.7%.

39. After it rushed to file its 2017 Form 10-K on March 8, 2018, Revolution later concluded in October 2018 that its estimate of unshipped inventory was inaccurate because it failed to include the unshipped bill and hold sales from its All Around Lighting division and that it had materially misstated its financial statements.

40. Kirn and Piqueira also did not recognize that Revolution's rollover analysis in its materiality memo contradicted the audit evidence RSM possessed. For example, Value Lighting's CFO had given the RSM audit team schedules that showed that some 2015 bill and hold sales did not ship until 2017. Nonetheless, Revolution placed all deferred 2015 revenue into 2016, instead of apportioning it accurately.

41. As part of the audit team's consultation with RSM's national office, Kirn and Piqueira sent Condon the revised ROC along with a draft of Revolution's materiality memo. The next day, March 2, 2018, the RSM audit team consulted with Condon and incorporated his suggestions into a new ROC. The new ROC analyzed the necessity of adjusting Revolution's 2017 financial statements and restating prior year financial statements for the effect of bill and hold revenue that had not been shipped. Similar to situations where potential errors exceeded RSM thresholds, RSM's protocols required sign off by either the regional audit director or RSM's National Director of Accounting in order to approve a ROC relating to a possible restatement of a client's financial statements. Condon forwarded multiple versions of the ROC to RSM's National Director of Accounting, who agreed with the conclusions in the ROC.

42. Condon then edited the ROC and directed Piqueira to make changes where he thought the analysis needed further support or where he believed the evidence given did not support the proposition.

43. Condon approved the final version of the ROC ("final ROC") on March 8, 2018 – the very day that Revolution filed its Form 10-K. That final version used the flawed estimate of unshipped inventory and incorrectly measured the impact of the improper bill and hold revenue. Revolution's and RSM's faulty analysis miscalculated the actual (larger) size of the potential misstatement in 2016 and 2017. The incorrect smaller impact contributed to Revolution's and RSM's erroneous conclusion that the misstatements in Revolution's financial statements were immaterial.

44. Kirn, Piqueira, and Condon determined that Revolution's potential accounting errors from 2014 through 2017 were quantitatively material based on several metrics (revenue; net income; and earnings before interest, taxes, depreciation, and amortization ("EBITDA")). The misstated revenue was many times greater than the audit materiality levels for each year. RSM, which based its audit materiality threshold on 1% of expected revenue, found the potential revenue misstatement exceeded 5% for each of the prior three years on a cumulative basis, using the "iron curtain" method. Under the "iron curtain" method, the cumulative effect of correcting a prior period misstatement in the current period financial statements, irrespective of the misstatement's year of origin, is considered rather than just the impact of the error originating in each period. Kirn, Piqueira, and Condon also used the rollover method to quantify the potential misstatement. The rollover method quantifies a misstatement for a particular period based on the amount of error originating in that period's income statement. If errors affect the timing of revenue, the cumulative quantitative impact of correcting a continuing fraud in the current period financial statements can be muted under a rollover analysis. Even using the rollover method, they concluded that the potential revenue misstatement exceeded 5% in two of the prior three years.

45. Revolution also concluded that its revenue misstatements were immaterial and therefore its financial statements did not have to be restated, and Condon, Kirn, and Piqueira concurred with that conclusion. This concurrence was unreasonable. In

particular, the concurrence was based on the estimate of the revenue misstatements, which included certain faulty assumptions.

46. Given the heightened risk associated with bill and hold sales and the imprecision of the estimate, Kirn and Piqueira failed to exercise due professional care and skepticism by relying on an estimate without performing further audit procedures to validate the estimate and by not requiring Revolution to produce the actual historical information necessary to calculate the actual impact of the bill and hold revenue recognition errors.

47. RSM calculated that Revolution had misstated revenue in 2016 by 0.7%, when Revolution later ultimately determined that it had misstated revenue by 7.0%. RSM calculated that Revolution had misstated revenue in 2017 by 4.5%, when Revolution later calculated that it had misstated revenue by 10.3%.

48. Kirn and Piqueira, in consultation with Condon, concluded – based on RSM’s analysis that Revolution’s potential accounting errors from bill and hold sales were immaterial – that Revolution did not have to restate its 2014 through 2017 financial statements. It rested upon Kirn, Piqueira, and Condon’s determination that qualitative factors outweighed the fact that, even under faulty estimates, Revolution’s misstatements of revenue significantly exceeded the quantitative audit materiality level that RSM had identified for several of the periods in question. RSM’s analysis was flawed as to both quantitative and qualitative factors. The failure to restate effectively hid from investors Revolution’s four years of improperly recognized revenue.

49. In reaching its conclusion, RSM took a number of unreasonable missteps and made unsupported conclusions, which contradicted or deviated from RSM’s audit work over the audits for fiscal years 2014 – 2017, without adequate explanation or support, including:

- They deviated from the audit team’s prior conclusions in RSM’s work papers that, for the primary users of the financial statements (including shareholders), “revenues are the most appropriate benchmark” and the one that was “most important” to those users.
- In assessing the materiality of the misstatements, they also erroneously used the numbers from Revolution’s early forecasts of revenue instead of Revolution’s most current revenue forecasts. They concluded without any support that once a company misses its revenue forecasts, any lower revenue results would not be significant to an investor.
- The final version of the ROC stated that “RSM determined that revenue, net income, and EBITDA are all important metrics that [Revolution’s] investors and analysts frequently review.” This contradicted RSM’s work over the audits for fiscal years 2014 – 2017, when Kirn, Piqueira, and RSM’s audit team concluded that net income was not an appropriate benchmark for

materiality because investors expected losses. Similarly, RSM had not previously referenced EBITDA when it set the audit materiality level and determined that revenues were the most appropriate benchmark to the primary users of the financial statements. Neither the final ROC nor the work papers explained this contradiction.

50. The final ROC concluded, without support, that because Revolution had already missed its revenue forecasts, any further reduction in revenue creating an even larger miss “would likely not have had a significant impact on investor’s views of the performance.” The final ROC stated this conclusively, and it did not explain why a quantitatively larger miss in revenue compared to the forecasted guidance would not significantly alter the total mix of information important to an investor.

51. Kirn, Piqueira, and Condon did not exercise due professional care when weighing the qualitative factors against quantitative factors, and they inconsistently applied the qualitative factors to certain time periods. For example:

- The underlying premise of much of RSM’s argument for immateriality was that a miss to guidance is important to investors, but not the magnitude of the miss. Yet in analyzing 2015, when Revolution would have missed guidance but for the erroneous bill and hold revenue, RSM reversed course and deemed a failure to meet the analysts’ expectations not material to investors.
- The assessment of qualitative factors in the final ROC was based on analyst calls from a limited time period, 2014 and early 2015, which were used to evaluate what investors cared about during different periods, instead of an analysis of the qualitative factors for the reasonable investor in each analyzed year to determine what was material at that time. For example, one section of the final ROC attempted to explain why the missed forecast was not significant. It stated that RSM reviewed an analyst report from December 2014, an analyst report from March 2015, and a 2015 earnings call, and found that the analysts’ questions were primarily centered on long-term growth.
- The final ROC also did not address whether the analyst reports and earnings calls discussed whether Revolution met the revenue forecast. RSM also did not look to analysts’ reports after Revolution reported it missed revenue guidance to see if that guidance miss was discussed by analysts.

52. RSM also noted in its materiality analysis that its concern was mitigated by Revolution’s representations that it planned to cease using bill and hold sales going forward. Revolution’s representations about its future bill and hold practices should not have entered into RSM’s analysis of the materiality of Revolution’s past improper revenue recognition.

53. The final ROC also stated that no material weakness in internal control over financial reporting existed. Kirn and Piqueira inaccurately concluded that there was only a significant deficiency over adherence to shipping schedules.

54. Further, RSM decided no additional audit procedures were necessary to determine the scope or impact of the potential accounting errors and issued its unqualified opinion for both Revolution's financial statements and its internal control over financial reporting.

55. As a result, Condon, Kirn, and Piqueira failed to properly evaluate the audit evidence and exercise due professional care when evaluating the materiality of Revolution's erroneously recognized bill and hold revenue and whether Revolution should restate its financial statements.

### **III. KIRN AND PIQUEIRA FAILED TO ADEQUATELY AUDIT REVOLUTION'S INTERNAL CONTROL OVER FINANCIAL REPORTING**

56. According to Auditing Standard No. 2201, a material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of the entity's annual or interim financial statements will not be prevented or detected on a timely basis.

57. During its 2017 audit of Revolution's internal control over financial reporting, RSM's audit team, including Kirn and Piqueira, misidentified the causes and extent of Revolution's control deficiencies and improperly classified the control deficiency as a "significant deficiency" and not a "material weakness." If RSM had found a material weakness, Revolution would have had to disclose the material weakness in its internal control disclosures in its Form 10-K. RSM's finding of only a significant deficiency meant that Revolution did not disclose the problems with revenue-related controls.

58. Kirn, Piqueira, and RSM inappropriately ascribed the cause of the problem to one control failure that could have no other impact on revenue. Kirn and Piqueira were deeply involved in developing RSM's unreasonably narrow view of the deficiencies through their work on the consultations with RSM's national office. Kirn and Piqueira also reviewed and approved RSM's work papers concerning Revolution's internal control over financial reporting. Yet, RSM's work papers do not adequately document the conclusion in RSM's March 7, 2018 letter to Revolution's audit committee, which came to a contradictory conclusion about the number of significant deficiencies reported to Revolution's audit committee.

59. Kirn, Piqueira, and RSM's audit team failed to exercise due professional care and skepticism in their evaluation of Revolution's internal control over financial reporting.

**IV. KIRN, PIQUEIRA, AND RSM UNREASONABLY CONCLUDED THAT REVOLUTION'S REVENUE RECOGNITION POLICY DISCLOSURE WAS ADEQUATE**

60. As part of its audit, RSM reviewed Revolution's Form 10-K disclosures about its revenue recognition policies. From 2014 to 2017, Revolution's Forms 10-K stated that Revolution "recognize[d] revenue upon shipment or delivery to [its] customers in accordance with the respective contractual arrangements." This was false as to bill and hold transactions. As RSM was well aware, Revolution recognized a significant amount of its reported revenue on a bill and hold basis, not upon shipment or delivery. Indeed, revenue attributed to bill and hold sales exceeded 20% of Revolution's largest division's total revenue.

61. RSM, including Kirn and Piqueira, specifically considered whether Revolution's bill and hold practices should be disclosed. For the 2014, 2015, and 2016 Audits, RSM, including Kirn and Piqueira, unreasonably concluded that Revolution's disclosure about recognizing revenue upon shipment or delivery somehow encompassed bill and hold sales for which Revolution recognized revenue prior to shipment or delivery.

62. For the 2017 Audit, RSM, including Kirn and Piqueira, unreasonably concluded that Revolution's recognition of revenue on a bill and hold basis was "not applicable" to Revolution's revenue recognition disclosure. The RSM audit team, including Kirn and Piqueira, offered no explanation or analysis to support this unreasonable conclusion.

63. Kirn and Piqueira reviewed and approved the disclosure work papers for each of the 2014 to 2017 Audits. Their signoffs were unreasonable because, in each year, Kirn and Piqueira had substantial evidence that the disclosure in Revolution's Form 10-K did not encompass Revolution's bill and hold sales.

**V. RSM'S REPORTS CONTAINED FALSE STATEMENTS, WHICH REVOLUTION INCORPORATED INTO ITS ANNUAL FILINGS**

64. For the audits for each of the years 2014 through 2017, RSM sent Revolution its financial statements and internal control over financial reporting audit reports, and Revolution included those reports with its annual SEC filings. In each of those reports, RSM attested that it had conducted its audits "in accordance with the standards of the PCAOB." In reality, as detailed above, RSM, including Kirn and Piqueira, did not conduct its audits from 2014 to 2017 in accordance with PCAOB standards and its attestation to the contrary was therefore false. Kirn and Piqueira knew that Revolution would incorporate its reports into Revolution's annual filings with the Commission. In this manner, Kirn and Piqueira caused Revolution to include false statements in its annual filings with the Commission.

## **VI. KIRN AND PIQUEIRA VIOLATED NUMEROUS PCAOB AUDITING STANDARDS**

### **a. Failure to Adequately Plan the Audit (AS 2101)**

65. PCAOB Auditing Standard (AS) 2101 requires an auditor to properly plan the work of an audit. An auditor must plan the nature, timing, and extent of tests of controls and substantive procedures.

66. By virtue of their conduct described above, Kirn and Piqueira failed to adequately plan for and design effective testing of Revolution's high-risk bill and hold sales. Kirn and Piqueira also did not plan to have adequately experienced and trained audit staff conduct the bill and hold testing and did not require more senior members of the audit team to review critical underlying audit evidence in the highest risk area of the audit.

### **b. Failure to Obtain Appropriate Audit Evidence (AS 1105)**

67. PCAOB Auditing Standard 1105 requires an auditor to plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.

68. By virtue of their conduct described above, Kirn and Piqueira failed to adequately plan and perform audit procedures to obtain sufficient appropriate audit evidence with respect to Revolution's accounting for its bill and hold sales.

### **c. Failure to Document the Audit Properly (AS 1215)**

69. PCAOB Auditing Standard 1215 requires an auditor to prepare audit documentation in detail sufficient to provide a clear understanding of its purpose, source, and conclusions reached. Audit documentation must also include information the auditor has identified that contradicts the auditor's final conclusions on significant findings or issues.

70. By virtue of their conduct described above, Kirn and Piqueira failed to instruct the audit team to prepare sufficient audit documentation with respect to the team's assessment of Revolution's accounting for its bill and hold sales and to document disconfirming audit evidence and bill and hold agreements that controverted Revolution's recognition of revenue.

### **d. Failure to Perform Confirmation Procedures Properly (AS 2310)**

71. PCAOB Auditing Standard 2310 addresses confirmations to obtain evidence from third parties about financial statement assertions made by management. Confirmations must be reliable and relevant, and an auditor should exercise an appropriate level of professional skepticism throughout the confirmation process, including in designing the confirmation itself.

72. By virtue of their conduct described above, Kirn and Piqueira failed to perform adequate confirmation procedures by failing to adequately review and document confirmations that were incomplete and, in some instances, that were inconsistent with bill and hold revenue recognition. Kirn and Piqueira also failed to perform adequate confirmation procedures because the audit team designed confirmations that did not obtain sufficient, appropriate audit evidence of a customer's substantial business purpose for requesting the bill and hold arrangement.

**e. Failure to Supervise the Engagement Team Properly (AS 1010 & 1201)**

73. PCAOB Auditing Standard 1010 requires an engagement partner to exercise seasoned judgment in the varying degrees of his supervision and review of the work done and judgments exercised by his subordinates. PCAOB Auditing Standard 1201 requires an auditor to supervise the audit engagement (including the work of engagement team members) so that the work is performed as directed and supports the conclusions reached. The engagement partner is responsible for the engagement and its performance. The partner must review the work of engagement team members to evaluate whether: (i) the work was performed and documented; (ii) the objectives of the procedures were achieved; and (iii) the results of the work support the conclusions reached.

74. PCAOB Auditing Standard 1201 requires an auditor to supervise the audit engagement (including the work of engagement team members) so that the work is performed as directed and supports the conclusions reached. Audit managers are responsible for the parts of the audit they manage and supervise. A manager should review the work of engagement team members to evaluate whether: (i) the work was performed and documented; (ii) the objectives of the procedures were achieved; and (iii) the results of the work support the conclusions reached.

75. By virtue of their conduct described above, Kirn and Piqueira failed to properly supervise the audit team's testing of Revolution's bill and hold sales.

**f. Failure to Properly Evaluate Audit Results (AS 2810)**

76. PCAOB Auditing Standard 2810 requires an auditor to evaluate whether sufficient and appropriate audit evidence has been obtained and to evaluate the presentation of the financial statements, including the disclosures.

77. By virtue of their conduct described above, Kirn and Piqueira failed to properly evaluate the audit evidence, which did not support the conclusion that revenue recognition was proper. They also did not properly evaluate the disclosures in Revolution's financial statements, which omitted Revolution's revenue recognition policy for bill and hold sales.

**g. Failure to Properly Perform an Audit of Internal Control Over Financial Reporting (AS 2201)**

78. Under PCAOB Auditing Standard 2201, if one or more material weaknesses exist, a company's internal control over financial reporting cannot be considered effective. A material weakness in internal control over financial reporting may exist even when financial statements are not materially misstated. The auditor must evaluate the severity of each control deficiency that comes to his or her attention to determine whether the deficiencies are material weaknesses, meaning whether there is a reasonable possibility that the company's controls will fail to prevent or detect on a timely basis a material misstatement. In conducting the audit of internal control over financial reporting, the auditor should use the same materiality levels as those used in the audit of annual financial statements.

79. By virtue of their conduct described above, Kirn and Piqueira failed to properly evaluate the basis and severity of Revolution's internal control deficiencies.

**VII. CONDON, KIRN, AND PIQUEIRA FAILED TO EXERCISE DUE PROFESSIONAL CARE (AS 1015)**

80. Under PCAOB Auditing Standard 1015, "due professional care" requires each professional within an independent auditor's organization to exercise reasonable care and diligence. It requires the auditor to exercise professional skepticism—"an attitude that includes a questioning mind and a critical assessment of audit evidence."

81. As a result of their conduct described above, Kirn, Piqueira, and Condon failed to exercise an appropriate level of professional skepticism or due professional care, including in their restatement analysis and materiality assessment. In their analysis and assessment, they concluded that qualitative factors outweighed quantitative factors and, ultimately, concluded that Revolution's investors would not find large changes in revenue, net income, and EBITDA to be material. Rather than exercise an appropriate level of skepticism in this area—an area they knew required heightened scrutiny—they made unreasonable determinations in concluding that Revolution's misstatements were immaterial.

**VIII. VIOLATIONS**

82. Through the conduct described above, Kirn, Piqueira, and Condon engaged in improper professional conduct in violation of Section 4C(a)(2) of the Exchange Act and Rule 102(e) of the Commission's Rules of Practice. Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice provide, in part, that the Commission may censure a person or deny, temporarily or permanently, the privilege of appearing or practicing before the Commission to any person who is found by the Commission to have engaged in improper professional conduct. With respect to persons licensed to practice as accountants, "improper professional conduct" includes either of the following two types of negligent conduct: (i) a single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in

which an accountant knows, or should know, that heightened scrutiny is warranted; or (ii) repeated instances of unreasonable conduct, each resulting in violations of applicable professional standards, that indicate a lack of competence to practice before the Commission. *See* Rule 102(e)(1)(iv)(B)(1) and (2). By failing to comply with PCAOB standards in connection with the 2014 through 2017 Audits of Revolution, as described above, Kirn and Piqueira engaged in improper professional conduct as defined in Rule 102(e)(1)(iv). By failing to comply with PCAOB standards in connection with the restatement analysis and materiality assessment in connection with the 2017 Audit of Revolution, as described above, Condon engaged in improper professional conduct as defined in Rule 102(e)(1)(iv).

83. Through the conduct described above, Kirn and Piqueira caused RSM's violation of Rule 2-02(b)(1) of Regulation S-X. Then Rule 2-02(b)(1) of Regulation S-X required an accountant's report to state whether the audit was performed in accordance with applicable auditing standards. 17 C.F.R § 210.2-02(b)(1). RSM issued audit reports for Revolution's fiscal years 2014 through 2017 attesting that it had conducted those audits in accordance with PCAOB standards when, because of Kirn and Piqueira's conduct, it had not.

84. Through the conduct described above, Kirn and Piqueira caused Revolution's violations of Section 13(a) of the Exchange Act and Rule 13a-1 thereunder. Section 13(a) of the Exchange Act and Rule 13a-1 require issuers of securities registered under Section 12 to file annual reports with the Commission. Those annual reports must be audited by an independent public accountant registered with the PCAOB. Revolution filed annual reports on Form 10-K for fiscal years 2014 through 2017, and included RSM's audit reports in those filings. Those audit reports falsely stated that RSM had conducted its audits in accordance with PCAOB standards.

## **IX. FINDINGS**

85. Based on the foregoing, the Commission finds that Kirn, Piqueira, and Condon engaged in improper professional conduct pursuant to Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice.

86. Based on the foregoing, the Commission finds that Kirn and Piqueira caused RSM's violations of Rule 2-02(b) of Regulation S-X.

87. Based on the foregoing, the Commission finds that Kirn and Piqueira caused Revolution's violations of Section 13(a) of the Exchange Act and Rule 13a-1 promulgated thereunder.

## **IV.**

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

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

A. Respondents Kirn and Piqueira shall cease and desist from committing or causing any violations and any future violations of Rule 2-02(b) of Regulation S-X and Section 13(a) of the Exchange Act and Rule 13a-1 promulgated thereunder.

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

1. After 3 years from the date of the Order, Kirn may request that the Commission consider Kirn's reinstatement by submitting an application to the attention of the Office of the Chief Accountant.
2. In support of any application for reinstatement to appear and practice before the Commission as a preparer or reviewer, or a person responsible for the preparation or review, of financial statements of a public company to be 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, Kirn shall submit a written statement attesting to an undertaking to have Kirn's work reviewed by the independent audit committee of any public company for which Kirn works or in some other manner acceptable to the Commission, as long as Kirn practices before the Commission in this capacity and will comply with any Commission or other requirements related to the appearance and practice before the Commission as an accountant.
3. In support of any application for reinstatement to appear and practice before the Commission as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Securities Exchange Act of 1934 ("Exchange Act"), as a preparer or reviewer, or as a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission, Kirn shall submit a statement prepared by the audit committee(s) with which Kirn will be associated, including the following information:
  - a. A summary of the responsibilities and duties of the specific audit committee(s) with which Kirn will be associated;
  - b. A description of Kirn's role on the specific audit committee(s) with which Kirn will be associated;
  - c. A description of any policies, procedures, or controls designed to mitigate any potential risk to the Commission by such service;
  - d. A description relating to the necessity of Kirn's service on the specific audit committee; and

- e. A statement noting whether Kirn will be able to act unilaterally on behalf of the Audit Committee as a whole.
4. In support of any application for reinstatement to appear and practice before the Commission as an independent accountant (auditor) before the Commission, Kirn must be associated with a public accounting firm registered with the Public Company Accounting Oversight Board (the "PCAOB") and Respondent shall submit the following additional information:
  - a. A statement from the public accounting firm (the "Firm") with which Kirn is associated, stating that the firm is registered with the PCAOB in accordance with the Sarbanes-Oxley Act of 2002;
  - b. A statement from the Firm with which Kirn is associated that the Firm has been inspected by the PCAOB and that the PCAOB did not identify any criticisms of or potential defects in the Firm's quality control system that would indicate that Kirn will not receive appropriate supervision; and
  - c. A statement from Kirn indicating that the PCAOB has taken no disciplinary actions against Kirn since seven (7) years prior to the date of the Order other than for the conduct that was the basis for the Order.
5. In support of any application for reinstatement, Kirn shall provide documentation showing that Kirn is currently licensed as a certified public accountant ("CPA") and that Kirn has resolved all other disciplinary issues with any applicable state boards of accountancy. If Kirn is not currently licensed as a CPA, Kirn shall provide documentation showing that Kirn's licensure is dependent upon reinstatement by the Commission.
6. In support of any application for reinstatement, Kirn shall also submit a signed affidavit truthfully stating, under penalty of perjury:
  - a. That Kirn has complied with the Commission suspension Order, and with any related orders and undertakings, including any orders In the Matter of Steven Kirn, CPA, Michael Piqueira, CPA, and Richard Condon, CPA; In the Matter of RSM US LLP; or any related Commission proceedings, including any orders requiring payment of disgorgement or penalties;
  - b. That Kirn undertakes to notify the Commission immediately in writing if any information submitted in support of the application for reinstatement becomes materially false or misleading or otherwise changes in any material way while the application is pending;

- c. That Kirn, since the entry of the Order, has not been convicted of a felony or a misdemeanor involving moral turpitude that would constitute a basis for a forthwith suspension from appearing or practicing before the Commission pursuant to Rule 102(e)(2);
- d. That Kirn, since the entry of the Order:
  - 1) has not been charged with a felony or a misdemeanor involving moral turpitude as set forth in Rule 102(e)(2) of the Commission's Rules of Practice, except for any charge concerning the conduct that was the basis for the Order;
  - 2) has not been found by the Commission or a court of the United States to have committed a violation of the federal securities laws, and has not been enjoined from violating the federal securities laws, except for any finding or injunction concerning the conduct that was the basis for the Order;
  - 3) has not been charged by the Commission or the United States with a violation of the federal securities laws, except for any charge concerning the conduct that was the basis for the Order;
  - 4) has not been found by a court of the United States (or any agency of the United States) or any state, territory, district, commonwealth, or possession, or any bar thereof to have committed an offense (civil or criminal) involving moral turpitude, except for any finding concerning the conduct that was the basis for the Order; and
  - 5) has not been charged by the United States (or any agency of the United States) or any state, territory, district, commonwealth, or possession, civilly or criminally, with having committed an act of moral turpitude, except for any charge concerning the conduct that was the basis for the Order.
- e. That Kirn's conduct is not at issue in any pending investigation of the Commission's Division of Enforcement, the PCAOB's Division of Enforcement and Investigations, any criminal law enforcement investigation, or any pending proceeding of a State Board of Accountancy, except to the extent that such conduct concerns that which was the basis for the Order.
- f. That Kirn has complied with any and all orders, undertakings, or other remedial, disciplinary, or punitive sanctions resulting from any action taken by any State Board of Accountancy, or other regulatory body.

7. Kirn shall also provide a detailed description of:
  - a. Kirn's professional history since the imposition of the Order, including
    - 1) all job titles, responsibilities and role at any employer;
    - 2) the identification and description of any work performed for entities regulated by the Commission, and the persons to whom Respondent reported for such work; and
  - b. Kirn's plans for any future appearance or practice before the Commission.
8. The Commission may conduct its own investigation to determine if the foregoing attestations are accurate.
9. If Kirn provides the documentation and attestations required in this Order and the Commission (1) discovers no contrary information therein, and (2) determines that Kirn truthfully and accurately attested to each of the items required in Kirn's affidavit, and the Commission discovers no information, including under Paragraph B.8, indicating that Kirn has violated a federal securities law, rule or regulation or rule of professional conduct applicable to Kirn since entry of the Order (other than by conduct underlying Kirn's original Rule 102(e) suspension), then, unless the Commission determines that reinstatement would not be in the public interest, the Commission shall reinstate the respondent for cause shown.
10. If Kirn is not able to provide the documentation and truthful and accurate attestations required in this Order or if the Commission has discovered contrary information, including under Paragraph B.8, the burden shall be on Kirn to provide an explanation as to the facts and circumstances pertaining to the matter setting forth why Kirn believes cause for reinstatement nonetheless exists and reinstatement would not be contrary to the public interest. The Commission may then, in its discretion, reinstate Kirn for cause shown.
11. If the Commission declines to reinstate Kirn pursuant to Section IV, Paragraphs B.9 and B.10, it may, at Kirn's request, hold a hearing to determine whether cause has been shown to permit Kirn to resume appearing and practicing before the Commission as an accountant.

C. Piqueira is denied the privilege of appearing or practicing before the Commission as an accountant.

1. After 1 year from the date of the Order, Piqueira may request that the Commission consider Piqueira's reinstatement by submitting an application to the attention of the Office of the Chief Accountant.
2. In support of any application for reinstatement to appear and practice before the Commission as a preparer or reviewer, or a person responsible for the preparation or review, of financial statements of a public company to be 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, Piqueira shall submit a written statement attesting to an undertaking to have Piqueira's work reviewed by the independent audit committee of any public company for which Piqueira works or in some other manner acceptable to the Commission, as long as Respondent practices before the Commission in this capacity and will comply with any Commission or other requirements related to the appearance and practice before the Commission as an accountant.
3. In support of any application for reinstatement to appear and practice before the Commission as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Securities Exchange Act of 1934 ("Exchange Act"), as a preparer or reviewer, or as a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission, Piqueira shall submit a statement prepared by the audit committee(s) with which Piqueira will be associated, including the following information:
  - a. A summary of the responsibilities and duties of the specific audit committee(s) with which Piqueira will be associated;
  - b. A description of Piqueira's role on the specific audit committee(s) with which Piqueira will be associated;
  - c. A description of any policies, procedures, or controls designed to mitigate any potential risk to the Commission by such service;
  - d. A description relating to the necessity of Piqueira's service on the specific audit committee; and
  - e. A statement noting whether Piqueira will be able to act unilaterally on behalf of the Audit Committee as a whole.
4. In support of any application for reinstatement to appear and practice before the Commission as an independent accountant (auditor) before the Commission, Piqueira must be associated with a public accounting firm registered with the Public Company Accounting Oversight Board (the "PCAOB") and Piqueira shall submit the following additional information:

- a. A statement from the public accounting firm (the “Firm”) with which Piqueira is associated, stating that the firm is registered with the PCAOB in accordance with the Sarbanes-Oxley Act of 2002;
  - b. A statement from the Firm with which Piqueira is associated that the Firm has been inspected by the PCAOB and that the PCAOB did not identify any criticisms of or potential defects in the Firm’s quality control system that would indicate that Piqueira will not receive appropriate supervision; and
  - c. A statement from Piqueira indicating that the PCAOB has taken no disciplinary actions against Piqueira since seven (7) years prior to the date of the Order other than for the conduct that was the basis for the Order.
5. In support of any application for reinstatement, Piqueira shall provide documentation showing that Piqueira is currently licensed as a certified public accountant (“CPA”) and that Piqueira has resolved all other disciplinary issues with any applicable state boards of accountancy. If Piqueira is not currently licensed as a CPA, Piqueira shall provide documentation showing that Piqueira’s licensure is dependent upon reinstatement by the Commission.
6. In support of any application for reinstatement, Piqueira shall also submit a signed affidavit truthfully stating, under penalty of perjury:
- a. That Piqueira has complied with the Commission suspension Order, and with any related orders and undertakings, including any orders In the Matter of Steven Kirn, CPA, Michael Piqueira, CPA, and Richard Condon, CPA; In the Matter of RSM US LLP; or any related Commission proceedings, including any orders requiring payment of disgorgement or penalties;
  - b. That Piqueira undertakes to notify the Commission immediately in writing if any information submitted in support of the application for reinstatement becomes materially false or misleading or otherwise changes in any material way while the application is pending;
  - c. That Piqueira, since the entry of the Order, has not been convicted of a felony or a misdemeanor involving moral turpitude that would constitute a basis for a forthwith suspension from appearing or practicing before the Commission pursuant to Rule 102(e)(2);
  - d. That Piqueira, since the entry of the Order:

- 1) has not been charged with a felony or a misdemeanor involving moral turpitude as set forth in Rule 102(e)(2) of the Commission's Rules of Practice, except for any charge concerning the conduct that was the basis for the Order;
  - 2) has not been found by the Commission or a court of the United States to have committed a violation of the federal securities laws, and has not been enjoined from violating the federal securities laws, except for any finding or injunction concerning the conduct that was the basis for the Order;
  - 3) has not been charged by the Commission or the United States with a violation of the federal securities laws, except for any charge concerning the conduct that was the basis for the Order;
  - 4) has not been found by a court of the United States (or any agency of the United States) or any state, territory, district, commonwealth, or possession, or any bar thereof to have committed an offense (civil or criminal) involving moral turpitude, except for any finding concerning the conduct that was the basis for the Order; and
  - 5) has not been charged by the United States (or any agency of the United States) or any state, territory, district, commonwealth, or possession, civilly or criminally, with having committed an act of moral turpitude, except for any charge concerning the conduct that was the basis for the Order.
- e. That Piqueira's conduct is not at issue in any pending investigation of the Commission's Division of Enforcement, the PCAOB's Division of Enforcement and Investigations, any criminal law enforcement investigation, or any pending proceeding of a State Board of Accountancy, except to the extent that such conduct concerns that which was the basis for the Order.
- f. That Piqueira has complied with any and all orders, undertakings, or other remedial, disciplinary, or punitive sanctions resulting from any action taken by any State Board of Accountancy, or other regulatory body.
7. Piqueira shall also provide a detailed description of:
- a. Piqueira's professional history since the imposition of the Order, including

- 1) all job titles, responsibilities and role at any employer;
  - 2) the identification and description of any work performed for entities regulated by the Commission, and the persons to whom Piqueira reported for such work; and
- b. Piqueira's plans for any future appearance or practice before the Commission.
8. The Commission may conduct its own investigation to determine if the foregoing attestations are accurate.
  9. If Piqueira provides the documentation and attestations required in this Order and the Commission (1) discovers no contrary information therein, and (2) determines that Piqueira truthfully and accurately attested to each of the items required in Piqueira's affidavit, and the Commission discovers no information, including under Paragraph C.8, indicating that Piqueira has violated a federal securities law, rule or regulation or rule of professional conduct applicable to Piqueira since entry of the Order (other than by conduct underlying Piqueira's original Rule 102(e) suspension), then, unless the Commission determines that reinstatement would not be in the public interest, the Commission shall reinstate the respondent for cause shown.
  10. If Piqueira is not able to provide the documentation and truthful and accurate attestations required in this Order or if the Commission has discovered contrary information, including under Paragraph C.8, the burden shall be on Piqueira to provide an explanation as to the facts and circumstances pertaining to the matter setting forth why Piqueira believes cause for reinstatement nonetheless exists and reinstatement would not be contrary to the public interest. The Commission may then, in its discretion, reinstate Piqueira for cause shown.
  11. If the Commission declines to reinstate Piqueira pursuant to Section IV, Paragraphs C.9 and C.10, it may, at Piqueira's request, hold a hearing to determine whether cause has been shown to permit Piqueira to resume appearing and practicing before the Commission as an accountant.
- D. Condon is censured.

By the Commission.

Vanessa A. Countryman  
Secretary