



## II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, and the findings contained in Section 3 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

## III.

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

1. Holtzhauser, age 50, is and has been a certified public accountant licensed to practice in the State of Ohio. He served as Controller of OM Group, Inc. (“OMG”) from 1991 until his resignation in August 2003.

2. OMG was, at all relevant times, a Delaware corporation with its principal place of business in Cleveland, Ohio. OMG was engaged in the production and marketing of value-added, metal based specialty chemicals and related materials produced from cobalt and nickel. At all relevant times, OMG’s common stock was registered with the Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934 (“Exchange Act”), and traded on the New York Stock Exchange under the symbol “OMG.”

3. On July 18, 2007, the Commission filed a complaint against Holtzhauser in SEC v. James M. Materna, John R. Holtzhauser, and Paul R. Venesky, 07-CV-01274 (D.D.C.). On September 11, 2007, the court entered an order permanently enjoining Holtzhauser, by consent, from future violations of Section 17(a) of the Securities Act of 1933 (“Securities Act”) and Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13b2-1 and 13b2-2 thereunder, and aiding and abetting violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder. Holtzhauser was also ordered to pay \$76,707 in disgorgement of certain past bonus payments, and a \$100,000 civil money penalty.

4. The Commission’s complaint alleges, among other things, that Holtzhauser engaged in fraudulent accounting practices, which resulted in OMG filing materially false and misleading financial statements in the company’s annual report on Form 10-K for the fiscal years ended December 31, 2001 and December 31, 2002, and in the company’s quarterly reports on Form 10-Q for all four quarters of 2002 and the first three quarters of 2003. The complaint alleges that OMG issued a restatement in March 2005 reducing its retained earnings for the relevant period by \$64 million as a result of the fraudulent conduct. According to the complaint, Holtzhauser recorded and directed numerous erroneous and unsupported accounting entries, estimates, and top side adjustments to OMG’s books and records that materially increased

OMG's annual and quarterly net income in a departure from generally accepted accounting principles. These accounting practices allegedly included, among other things, overcapitalizing overhead costs, improperly recording supplier receivables, recording inflated inventory recovery yields, recording inaccurate inventory estimates, and duplicating entries made at the operating unit level. In addition, the complaint alleges that Holtzhauser failed to provide sufficient information to OMG's independent auditor about the accounting entries, estimates, and top side adjustments.

#### IV.

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

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

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

B. After five (5) years from the date of this order, Respondent may request that the Commission consider his reinstatement by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as:

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

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

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

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

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

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

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

By the Commission.

Nancy M. Morris  
Secretary