

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

**SECURITIES ACT OF 1933**  
**Release No. 8826 / July 18, 2007**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 56089 / July 18, 2007**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 2643 / July 18, 2007**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-12699**

**In the Matter of**

**OM GROUP, INC.**

**Respondent.**

**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933 AND SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against OM Group, Inc. (“OM Group” or “Respondent”).

**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 it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings, Making Findings, and Imposing a Cease-and-Desist Order Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934 (“Order”), as set forth below.

### III.

On the basis of this Order and Respondent's Offer, the Commission finds<sup>1</sup> that:

#### A. RESPONDENT

**OM Group** is a Delaware corporation headquartered in Cleveland, Ohio. OM Group is engaged in the production and marketing of value-added, metal-based specialty chemicals and related materials, primarily from cobalt and nickel. At all relevant times and continuing through today, OM Group's common stock has been registered with the Commission pursuant to Section 12(b) of the Exchange Act, and is listed on the New York Stock Exchange under the ticker symbol "OMG." Its fiscal year end is December 31 of each year and its independent auditor is Ernst & Young LLP.

#### B. SUMMARY

This matter involves a pattern of accounting fraud by OM Group and certain of its senior officers in 2001, 2002, and years prior. OM Group is a metal-based specialty chemicals company that is based in Cleveland, Ohio and has operations globally. At the end of each quarter and each fiscal year, OM Group consolidated the financial statements of its various operating entities and subsidiaries into one consolidated statement. OM Group's former Chief Financial Officer ("CFO") and former Corporate Controller ("Controller") were responsible for the entire consolidation process. OMG Americas was one of OM Group's wholly owned subsidiaries, and was comprised of manufacturing and other facilities at five North American locations. The former Controller of OMG Americas oversaw the consolidation process for OMG Americas. OM Group, through its CFO and Controller, engaged in accounting fraud by recording and directing numerous adjustments to the consolidated financials ("top-side adjustments"), which were wholly unsupported and often duplicative of entries already recorded at the operating unit level. The Controller of OMG Americas recorded erroneous and unsupported accounting entries at the direction of the CFO and Controller to OMG Americas' books and records. Many of the improper accounting practices were done with the intent to manage earnings and to achieve financial results that were closer to OM Group's annual plan.

These practices materially increased OM Group's annual and quarterly net income in a departure from generally accepted accounting principles ("GAAP"). During the relevant period, OM Group did not have an adequate system of internal controls that would detect and prevent this type of conduct. In addition, certain information was concealed from OM Group's independent outside auditor, Ernst & Young LLP ("E & Y"). As a result of the conduct, OM Group filed 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 the first three quarters of 2002, and the fourth quarter results

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<sup>1</sup> The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

filed on Form 10-K, and the first three quarters of 2003 filed on Form 10-Q. In March 2005, after conducting an internal investigation into the accounting improprieties, OM Group issued a restatement reducing its retained earnings for the relevant period by \$64 million as a result of the fraudulent conduct.

## C. BACKGROUND

### 1. OM Group History and Growth

OM Group is a producer and marketer of metal-based specialty chemicals and related materials primarily from cobalt and nickel. OM Group was formed in 1991 and was the parent company of three operating subsidiaries, Mooney Chemicals, Kokkola Chemicals in Finland, and Vasset S.A. in France. It became a public company in September of 1993. OM Group experienced tremendous growth from 1992 through 2001, acquiring a number of entities in the United States and internationally. In 2000, OM Group acquired a nickel refinery in Harjavalta, Finland, which increased OM Group's sales revenue from approximately \$500 million to nearly \$1 billion. The most significant acquisition occurred in August 2001, when OM Group completed the acquisition of Degussa Metals Catalysts Cerdec ("dmc<sup>2</sup>"), which consisted of multiple operating entities. After the dmc<sup>2</sup> acquisition, OM Group had over \$2 billion in sales revenue.<sup>2</sup> OM Group also experienced earnings growth during the 1999 through 2001 period and reported positive net income that increased each year during that period.<sup>3</sup> Although OM Group grew through acquisitions, the accounting staff at corporate did not grow at the same rate and the accounting staff at the operating unit level was thin.

At the end of each quarter and each fiscal year, OM Group consolidated the financial statements of its various operating entities and subsidiaries into one consolidated financial statement, which was reported on OM Group's Forms 10-K and 10-Q. During the relevant period, the CFO and Controller were responsible for the entire consolidation process, which took place at their Cleveland headquarters. In practice, each operating unit submitted to the Controller electronically its monthly financial statement, which the Controller consolidated into one corporate financial statement. During the close process, both the Controller and CFO made numerous top-side adjustments to OM Group's consolidated financial statement. In some instances, either the Controller or CFO directed the individual controllers of the operating units to make adjustments at the local level and resubmit the financials. The Controller of OMG Americas made numerous entries at the direction of the Controller and CFO of OM Group. OM Group did not have an

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<sup>2</sup> The Harjavalta acquisition was financed with about \$200 million in bank borrowing. dmc<sup>2</sup> was financed with debt (a bridge loan), equity, and the sale of assets. In conjunction with the dmc<sup>2</sup> acquisition, OM Group sold certain assets to repay a portion of the bridge loan. Shortly thereafter, in December 2001, the company completed a \$400 million bond offering and used the proceeds to repay the remainder of the bridge loan. In January 2002, the company completed a \$225.7 million equity offering and used the proceeds to repay other debts. OM Group filed registration statements for both the equity and bond offerings, which contained financial statements covering the 1999 through 2000, and 1999 through 2001 periods, respectively.

<sup>3</sup> OM Group's net income for the 1999 through 2001 period was as follows: 1999--\$55.8 million; 2000--\$71.5 million; 2001--\$75.6 million; Q1 2002--\$23.3 million (up from \$19.6 million in Q1 2001); Q2 2002--\$25.5 million (up from \$20.1 million in Q2 2001).

internal audit group during the relevant period. Thus, there was no review of the work being performed by the Controller or the CFO other than the audits performed by E & Y.

## **2. The Shareholder Litigation, Audit Committee Investigation, and \$64 Million Restatement**

The CFO retired from OM Group in May 2002. In the third quarter of 2002, under the direction of a new CFO, OM Group announced a lower of cost or market adjustment to inventory of \$108 million, after changing its outlook for the price of cobalt and determining that it had to lower production levels of cobalt and sell off inventory to raise cash. OM Group's trend of obtaining positive net income ceased when OM Group's third quarter of 2002 reflected a net loss of \$71.2 million for the three month period, and \$22.3 million for the nine month period. In response to this announcement, OM Group's stock price dropped 71% from \$30.90 to \$8.95, and shareholders filed a class action lawsuit on November 1, 2002 and a shareholder derivative suit on December 12, 2002. During the discovery phase of the shareholder lawsuit in mid-2003, OM Group's attorneys found e-mails that raised questions about whether there was adequate support for adjustments that were made to OM Group's inventory balances. In November 2003, OM Group's audit committee hired outside counsel and forensic accountants to conduct an independent investigation. At the conclusion of its internal investigation, OM Group reported its findings to the Commission staff in August 2004. The company also underwent a restatement audit.<sup>4</sup> The internal investigation and restatement audit by E & Y concluded that there were numerous unsupported top-side adjustments and other accounting entries to OM Group's financial statements. On March 31, 2005, as a result of the investigation, OM Group restated its financials for fiscal years ended December 31, 2002 and 2001, quarters ended September 30, 2003, June 30, 2003, March 31, 2003, and all four quarters of 2002. The restatement also affected periods prior to 2001.

The restatement adjustments reduced previously reported retained earnings as of September 30, 2003 by \$64.0 million. A summary of the impact of the restatement follows (in millions):

Increase in net income for the nine months Ended September 30, 2003	\$111.3
Increase in 2002 net income	125.1
Decrease in 2001 net income	(123.5)
Decrease in net income for years prior to 2001	<u>(176.9)</u>
Cumulative net decrease in previously reported Retained earnings at September 30, 2003	<u>\$(64.0)</u>

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<sup>4</sup> OM Group also undertook steps to improve its internal controls and compliance program, including implementing a formal financial statement "close process" and creating an internal audit function.

The materiality of the adjustments is demonstrated below:

(in millions)	9 months ended 9-30-03	Year ended 12-31-02	Year ended 12-31-01	Years prior to 1-1-01	Total
Net income (loss) as originally reported	57.6	(327.9)	75.7		
Adjustments	<u>111.3</u>	<u>125.1</u>	<u>(123.5)</u>	<u>(176.9)</u>	<u>(64.0)</u>
Net income (loss) as restated*	168.9	(202.8)	(47.8)		
Percent overstated (understated)	(66%)	(62%)	258%		

\* Before OM Group's change from the LIFO to FIFO method of valuing inventory.

## **D. IMPROPER ACCOUNTING PRACTICES AND FRAUDULENT CONDUCT**

### **1. Corporate Level Top-Side Adjustments**

OM Group, through its CFO and Controller, made more than 700 top-side adjustments to OM Group's financials. The adjustments were made across the divisions of OM Group and appeared to have no pattern. The support for the adjustments was either inadequate or did not exist. In addition, there were numerous e-mails and other documents that showed the adjustments were made with the intent to manage earnings and to achieve financial results that were closer to OM Group's annual plan. There are also e-mails and other documents that show a concerted effort to conceal the conduct from E & Y. The improper top-side adjustments are discussed below.

#### **a. Over Capitalizing Overhead Costs**

During the 1999 through 2002 period, the CFO and Controller made top-side adjustments to capitalize additional overhead costs related to certain of its operating units. These adjustments were wrong because they were duplicative of amounts already recorded at the operating unit level. Thus, their top-side adjustments to OM Group's consolidated financial statements contributed to an overstatement of OM Group's income.

b. Cobalt Inventory Recovery Yields

OM Group had to extract their raw materials, like cobalt, from slag piles. Although OM Group estimated the yields for the piles, extraction was a very inexact process and resulted in inconsistent yields from month to month. When the yields were below what the CFO and Controller predicted -- for example, if they expected the operating unit to extract 10% cobalt but it only extracted 8% -- the CFO and/or Controller made a top-side adjustment for the remaining expected yield. OM Group's contention was that the remaining 2% was still in the pile or somewhere in the manufacturing process. However, there was no process for extracting the remaining 2%, nor was there any analysis done to determine whether it was cost effective to attempt to recover any remaining content. This accounting practice was not consistent with GAAP.<sup>5</sup> Thus, these inappropriate top-side adjustments allowed OM Group to increase income.

c. Supplier Receivables

Prior to 2001, OM Group was in a contractual dispute with three cobalt raw material suppliers concerning the metal content of raw materials that OM Group bought from the suppliers. In connection with this dispute, the CFO recorded three receivables totaling \$26.9 million that were treated as prepaid inventory representing advance payments for future inventory shipments. It was determined that OM Group waived its claim to these recoverable amounts in its dispute negotiations with the suppliers, or otherwise did not adequately document its position to support recording these assets. The top-side adjustments resulted in an overstatement of OM Group's assets.

d. Interest Receivables

OM Group advanced \$27.6 million to its joint venture partners during construction of a smelter in years prior to 2001. OM Group recorded a receivable for such amount. Although there was no agreement between OM Group and the joint venture partners providing for interest on the advance, OM Group recorded interest income on the advances in 2001 and years prior of \$5.5 million and \$9.9 million, respectively. In 2002, OM Group established a reserve of \$12.0 million against the interest receivable of \$15.4 million. In 2003, OM Group finalized a written agreement with one of the partners, which provided for \$6.8 million in interest income. The original interest recorded represented a contingent asset that should not have been recorded until a written agreement was finalized.<sup>6</sup> Thus, the interest receivable and the 2002 reserve should not have been recorded.

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<sup>5</sup> The term inventory embraces goods awaiting sale, goods in the course of production (work-in-process), and goods to be consumed directly or indirectly in production (raw materials and supplies). ARB 43, chapter 4, paragraph 3.

<sup>6</sup> Without a written agreement, OM Group's recordation of the interest receivable and corresponding interest income constituted a contingent gain. SFAS No. 5, "Accounting for Contingencies." Paragraph 17 prohibits the reflection of gain contingencies in financial statements, since to do so might be to recognize revenue prior to its realization.

e. Duplicating Entries Already Made at the Operating Unit Level

OM Group purchased nickel raw material that was off-specification and incurred incremental costs to process this material to a usable form, which was recorded as a receivable from the supplier by the CFO and Controller. However, the raw material contract included provisions for financial remedy for off-specification raw material, and the remedy properly was accounted for at the operating unit level. The CFO and Controller made numerous other top-side adjustments to capitalize costs that were expensed at the operating unit level for certain fixed asset projects, software implementation projects, and miscellaneous other assets. The adjustments were not appropriate because the operating units appropriately accounted for the expenses.

f. Other Erroneous and Unsupported Accounting Entries

There were numerous other top-side adjustments and errors that were restated, including inappropriate adjustments to fixed asset construction projects, certain accounts payable and cost of sales related to raw material contracts, inventory numbers, incorrect entries related to purchase accounting for the Harjavalta acquisition, errors in foreign currency remeasurement and intercompany profit elimination, improper derivative accounting, and expenses charged in a period that should have been taken in an earlier period. All of these top-side adjustments were wholly inaccurate and unsupported.

2. **Inaccurate Estimates to OMG Americas' Books and Records Made by the Controller of OMG Americas at the Direction of the CFO and Controller of OM Group**

The Controller of OMG Americas was responsible for consolidating OMG Americas' financial results and submitting them to OM Group's Controller. The OMG Americas Controller used inaccurate estimates to record inventory amounts at OMG Americas. During the relevant period, OMG Americas did not have an inventory tracking system that could account for inventory that was "work-in-process" i.e., raw materials that had entered into the manufacturing process but not yet into finished goods. As a result, work-in-process was estimated by the OMG Americas Controller at the direction and review of the Controller and CFO of OM Group. Similarly, estimates were used to record amounts of finished goods inventory in-transit to company warehouses from the Franklin facility based on the theory that the system could not account for inventory that was in-transit to a distribution center. Estimates were also used to record inventory balances for containers, packaging, and certain lab inventory at the Franklin facility. Finally, entries were made to record the valuation of inventory full absorption costing.

These estimates were inaccurate and unsupported. At the end of each year, the Franklin plant slowed down production in anticipation of a holiday shutdown. By December 31<sup>st</sup>, little or no work-in-process existed because the manufacturing process was completed by that time, and the materials were turned into finished goods and shipped out. Thus, the OMG Americas Controller's estimates for work-in-process were wholly inaccurate and unsupported. It was determined that in-transit inventory was fully accounted for on OMG America's books. Thus, there was no need for

the Controller of OMG Americas to record additional amounts or estimates to record in-transit inventory. OM Group sold materials to customers in totes, to which OM Group retained ownership. The Controller of OMG Americas estimated the number of totes in inventory; however, he could not describe a mechanism that was in place to retrieve the totes from the customer, nor could he specifically describe how the totes were tracked when they were sent out to customers. Thus, there was no reasonable basis for his inventory estimates. In addition, there was no supporting documentation for his valuation of inventory full absorption at the Franklin facility. The Controller of OMG Americas submitted all of his estimates to the CFO and the Controller of OM Group for review. More often than not, the OMG Americas Controller's estimates increased following feedback from these two more senior officers.

The Controller of OMG Americas also recorded inaccurate journal entries concerning certain litigation. In 2000, the Controller of OMG Americas recorded \$4.5 million for anticipated recovery of contributions previously made by the company to a settlement trust and related legal fees for product liability litigation. The asset was reduced to \$2.5 million in 2001 and was written off in December 2002. Despite having an adverse judgment entered against the company's position and other unfavorable facts and circumstances, OM Group kept the receivable on its books. The Controller of OMG Americas established the receivable pursuant to discussions with the CFO and Controller of OM Group based upon their expectation that when the claimants had settled the matter, the funds in the trust would be redistributed to the contributors. However, the Controller of OMG Americas did not recall learning from the CFO or Controller of OM Group that an adverse judgment had been rendered against the company.

### **3. Evidence that the Accounting Improprieties Amounted to Fraud**

There are numerous e-mails and documents that clearly demonstrate that OM Group through its CFO and Controller engaged in fraudulent accounting practices, and that the Controller of OMG Americas was a participant. The e-mails evidence the intent to adjust numbers to meet earnings targets or to enhance OM Group's performance in a particular quarter or year end. The e-mails also show that there was a concerted effort by the CFO, the Controller, and the Controller of OMG Americas to hide information from E & Y. One e-mail from the Controller of OMG Americas to the CFO and Controller of OM Group states: "My concern about inventory is that going too heavy in WIP [work-in-process] or others will trigger even greater scrutiny. Truth is, we have a fresh set of auditors, and I have no idea how much conversational auditing this group will take." Another e-mail discusses making "small undetectable changes to inventory" in documents that would be submitted to E & Y, and then further states that "I can't change them by much, it would not be a prudent move." The e-mails and other documents also show that the CFO and Controller of OM Group were aware that the accounting entries made to OM Group's financial statements were not supportable and that OM Group's financial statements were potentially materially misstated during the relevant period. There are also e-mails that show the Controller of OMG Americas raised red flags to the CFO and Controller that certain of the journal entries made to OMG Americas' financial statements were not supportable. For example, the Controller of OMG Americas wrote to the Controller of OM Group that "I do believe that we were too aggressive in our estimation of an SGA [sales general administrative expenses] adjustment. I believe that we can substantiate one-fourth that number, the rest is tight."



The documents also reflect a pattern of recording almost random round numbers to journal entries to try to manage OM Group's earnings, and to look for "other candidates," i.e., other accounting categories in which to make more adjustments. There is also evidence that certain journal entries were made at locations that E & Y would not likely visit during audits.

## E. LEGAL ANALYSIS

### 1. Violations of the Antifraud Provisions: Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder

Section 17(a) of the Securities Act prohibits fraud in the offer or sale of securities. Section 10(b) of the Exchange Act and Rule 10b-5 thereunder prohibit securities fraud in connection with the purchase or sale of securities. To establish a violation of these antifraud provisions, the Commission must generally prove that the defendant made materially false or misleading representations or omissions in connection with the offer, purchase or sale of securities, with *scienter*. Aaron v. SEC, 446 U.S. 680, 697 (1980); Ernst & Ernst v. Hochfelder, 425 U.S. 185, 195 (1976); SEC v. Monarch Funding Corp., 192 F.3d 295, 308 (2d Cir. 1999); SEC v. First Jersey Secs., Inc., 101 F.3d 1450, 1466-67 (2d Cir. 1996). "Recklessness" satisfies the *scienter* standard. Press v. Chemical Investment Svcs. Corp., 166 F. 3d 529, 527-38 (2d Cir. 1999).

A statement or omission is material if "there is a substantial likelihood that a reasonable shareholder would consider it important" or, in other words, "there [is] a substantial likelihood that the disclosure of the omitted fact would have been viewed by the reasonable shareholder as having significantly altered the 'total mix' of information available." Basic, Inc. v. Levinson, 485 U.S. 224, 232 (1988) (adopting standard of TSC Industries, Inc. v. Northway, Inc., 426 U.S. 438, 449 (1976)). Precipitous movement in stock price can be an indication of materiality. United States v. Bilzerian, 926 F.2d 1285, 1298 (2d Cir. 1991). The "in connection with" requirement is satisfied by showing that false financial information was disseminated into the market place in a manner reasonably calculated to influence the investing public. Ames Department Stores, Inc. Stock Litig., 991 F.2d 953, 962, 966 (2d Cir. 1993) ("in connection with" requirement satisfied by allegations that corporation disseminated false financial information into marketplace through press releases, annual reports, Form 10-K and two Forms 10-Q).

OM Group violated Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder as a result of the conduct described above. OM Group included in its offering documents, periodic filings, and press releases financial information that senior management knew, or was reckless in not knowing, was materially false and misleading. The top-side adjustments and other improper accounting entries caused OM Group's financial statements to be materially misstated. OM Group's \$64 million retained earnings restatement is evidence of the materiality of the accounting improprieties. The materially false financial statements were included in OM Group's annual and quarterly reports during fiscal years 2001 and 2002 and in the

Form S-1, effective January 16, 2002,<sup>7</sup> that was issued in OM Group's \$225.7 million equity offering. The materially incorrect financial information was also disseminated to the public through earnings releases. The level of *scienter* was high. The CFO and Controller concealed from the company's auditor the fact that many of their top-side adjustments lacked support and were done with the intent to manage earnings. The CFO's and the Controller's *scienter* is imputed to OM Group.

**2. Violations of the Reporting Provisions: Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11 and 13a-13 thereunder**

Section 13(a) of the Exchange Act requires all issuers of securities registered under Section 12 of the Exchange Act to file reports with the Commission containing such information as the Commission's rules and regulations prescribe. 15 U.S.C. § 78m(a) (2006). Rules 13a-1, 13a-11 and 13a-13 thereunder require issuers to file annual, current, and quarterly reports, respectively. The reports must contain financial statements prepared in conformity with GAAP and not contain any materially false or misleading information. *See Ponce v. SEC*, 345 F.3d 722, 734-37 (9th Cir. 2003). Additionally, Rule 12b-20 requires that in addition to the information required in a report, further material information should be added as necessary to make the required statements, in light of the circumstances under which they were made, not misleading. Information regarding the financial condition of a company is presumptively material. *SEC v. Blavin*, 760 F.2d 706, 711 (6<sup>th</sup> Cir. 1985). No showing of *scienter* is required to establish a violation of Section 13 of the Exchange Act. *SEC v. McNulty*, 137 F.3d 732, 740-41 (2d Cir. 1998).

OM Group violated Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11 and 13a-13 thereunder as a result of the conduct described above. OM Group filed reports with the Commission that misrepresented OM Group's financial results for fiscal years ended December 31, 2001 and December 31, 2002 on Form 10-K, and in the company's quarterly reports on Form 10-Q for the first three quarters of 2002 and the fourth quarter results filed on Form 10-K, and the first three quarters of 2003 filed on Form 10-Q. Some of the misrepresented financials were included in Forms 8-K.

**3. Violations of the Books and Records and Internal Controls Provisions: Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act**

a. Books and Records Violations

Section 13(b)(2)(A) of the Exchange Act requires issuers to make and keep books and records which in reasonable detail fairly and accurately reflect the transactions and disposition of the assets of the issuer. 15 U.S.C. § 78m (b)(2)(A) (2006). OM Group violated Section 13(b)(2)(A) of the Exchange Act as a result of the conduct described above. OM group failed to make and keep books and records in accordance with GAAP.

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<sup>7</sup> OM Group filed an S-1 on December 5, 2001 that became effective on January 16, 2002 that contained financial statements for the fiscal year ended December 31, 2000 and the nine months ended September 30, 2001.

b. Internal Controls Violations

Section 13(b)(2)(B) of the Exchange Act requires issuers to “devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that ... transactions are recorded as necessary to (I) permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements and (II) to maintain accountability for assets.” 15 U.S.C. § 78m(b)(2)(B) (2006). OM Group violated Section 13(b)(2)(B) of the Exchange Act by failing to implement a system of internal accounting controls that would detect and prevent the improper accounting practices engaged in by its CFO, Controller, and Controller of OMG Americas.

**F. REMEDIAL EFFORTS**

In determining to accept the Offer, the Commission considered remedial acts promptly undertaken by OM Group and cooperation afforded the Commission staff.

**IV.**

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent’s Offer.

Accordingly, it is hereby ORDERED that:

Respondent OM Group cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act and Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 10b-5, 12b-20, 13a-1, 13a-11, and 13a-13 thereunder.

By the Commission.

Nancy M. Morris  
Secretary