UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 64496 / May 13, 2011

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3281 / May 13, 2011

ADMINISTRATIVE PROCEEDING
File No. 3-14384

In the Matter of **GEORGE B. DOHERTY,** **Respondent.**	**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER AND CIVIL PENALTY**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 ("Exchange Act"), against George B. Doherty ("Doherty" 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 him and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order and a Civil Penalty ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:[1]

Summary

1. These proceedings concern George B. Doherty's role in the improper recognition of revenue by GSI Group Inc. ("GSI" or the "Company"). Doherty caused GSI to recognize revenue from certain significant transactions in its Semiconductor Systems segment (the "Systems Division") that materially impacted GSI's financial results even though revenue recognition was prohibited pursuant to Generally Accepted Accounting Principles ("GAAP"). In April 2008, Doherty learned that GSI may have failed to provide unique, customized, factory automation software, for which it did not have vendor specific objective evidence of value, in connection with the sale of six semiconductor systems to a Taiwanese customer and, accordingly, may have improperly recognized nearly $5 million in revenue during the fourth quarter of fiscal 2007. In addition, in connection with the sale of several production systems to a Korean customer, Doherty incorrectly concluded that an as yet-undeveloped multiple pulse laser (the "Undeveloped Laser") was substantially similar to a single pulse laser (the "Single Pulse Laser") that GSI had previously sold, even though he possessed information indicating that the two lasers were in fact not substantially similar. As a result, Doherty caused GSI to improperly recognize over $16 million in revenue from these sales during the first and second quarters of fiscal year 2008.

Respondent

2. **George B. Doherty**, 48, of Lincoln, Massachusetts, worked for GSI Group, Inc. from 2004 through May 2009. Doherty became GSI's corporate controller in August 2006, a position he held until May 2009. For his work in 2007, Doherty received incentive-based compensation including, but not limited to, a cash bonus. Doherty has been a CPA licensed in Massachusetts since 1989.

Other Relevant Party

3. **GSI**, a New Brunswick, Canada corporation with its principal place of business in Bedford, Massachusetts, manufactures and sells laser systems and other technology products. GSI's stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and traded on the NASDAQ National Market System until July 31, 2006. From July 31, 2006 until April 15, 2010, GSI's stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and traded on the NASDAQ Global Market. On April 15, 2010, GSI's stock was delisted from the NASDAQ Global Market because it was delinquent in its Commission filings, deregistered from Section 12(b) of the Exchange Act, and reverted back to its designation under Section 12(g) of the Exchange Act. On November 20, 2009, GSI filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in the U.S. Bankruptcy Court for the District of Delaware. On May 27, 2010, the U.S. Bankruptcy Court for the District of Delaware confirmed GSI's plan for reorganization. On July 23, 2010, GSI completed a rights offering and emerged from the Chapter 11 proceeding. On December 4, 2008, GSI announced that past financial statements filed with the Commission could no longer be relied upon due to errors discovered with GSI's recognition of revenue for those periods. On April 13, 2010, GSI filed restated annual and quarterly financial statements for the periods

contained within the fiscal years 2004, 2005, 2006, 2007, and 2008. Effective February 14, 2011, GSI re-registered its common stock pursuant to Section 12(b) of the Exchange Act and is currently listed on the Nasdaq Global Select Market.

Facts

Background

4. GSI's Systems Division manufactures production systems that it sold to both domestic and international customers. GSI's production systems generally had both hardware (including lasers) and software components (including, in certain instances, customized, vendor specific, factory automation software) and required on-site installation by GSI personnel.

5. From mid-2007 through October 2008, Doherty, assisted by the assistant corporate controller, participated in the determination when to recognize revenue from Systems Division sales. Systems Division staff documented the basic terms of a transaction in a sales order approval form, which was reviewed and, depending on the size of the order, approved by varying levels of sales, finance and management staff. Transactions generally were automatically recognized as revenue upon shipment. Prior to the close of the quarter, the corporate controller and assistant corporate controller reviewed the documents related to each transaction and determined whether to recognize or defer revenue for the period.

The Korean Transaction

6. During November 2007, a Korean customer agreed to purchase from GSI ten systems for nearly $1 million per system. Each system was equipped with a laser previously sold by GSI. GSI agreed to upgrade these systems by replacing the original lasers with a laser that had not yet been developed (the "Undeveloped Laser") when it became available.[2] As a final condition, the customer demanded that GSI upgrade five systems that the customer had previously purchased with Undeveloped Lasers once they became available.

7. In November 2007, one of GSI's product line managers (the "PLM") sent a letter to the Korean customer confirming GSI's obligation to upgrade the five systems with Undeveloped Lasers. The PLM did not copy anyone on the letter, and neither the letter nor the terms therein were provided to GSI's finance department (the "Finance Department"). The PLM completed the sales order approval form for the transaction representing to the Finance Department that, among other things, GSI had not made any "promises or guarantees for future deliverables (systems improvements, software upgrades, etc)." The PLM also signed quarterly certifications, for the Finance Department stating that he was unaware of any side transactions or contingencies.

8. In December 2007, the PLM, Doherty, the chief financial officer, the assistant controller, and the general manager of the Systems Division (the "Systems GM") met to discuss whether they could establish fair value for the Undeveloped Lasers and thus recognize revenue from the transaction. During these discussions, they concluded that GSI could establish fair value for the Undeveloped Laser if they could find a substantially similar laser that GSI had

previously sold. Shortly thereafter, the PLM and others identified a laser (the "Identified Laser") as being substantially similar to the Undeveloped Laser.

9. In fact, the Identified Laser was not substantially similar to the Undeveloped Laser for the purposes of recognizing revenue. Among other things, the Undeveloped Laser was a unique, undeveloped product that had significantly different future application potential. In addition, the PLM had communicated to Doherty and others that the Undeveloped Lasers were unique, product innovation, worth substantially more than the Identified Laser.

10. On December 20, 2007, Doherty emailed the PLM a draft of a memo (the "Fair Value Memo") concluding that the Undeveloped Laser and the Identified Laser were substantially similar, which he asked the PLM to finalize and sign. The PLM, however, initially declined to sign the memo on the grounds that the lasers were different. Doherty then called the Systems GM and told him that if the PLM did not sign the memo, the company would not recognize revenue from the sale. The Systems GM indicated that he would talk to the PLM and, that same evening, the PLM emailed Doherty the signed Fair Value Memo.

11. In the first and second quarters of 2008, the Korean customer ordered eight additional systems and corresponding upgrades for Undeveloped Lasers. The PLM signed another memo (to which the Fair Value Memo was attached) representing that the Undeveloped Laser to be used in these systems was substantially similar to the Identified Laser when in fact the lasers were not substantially similar. As a result, GSI improperly recognized revenue for the systems. GSI provided the memos to the company's external auditors as part of their second quarter review, but did not inform them of the PLM's initial reluctance to sign the Fair Value Memo.

12. During the first and second quarter of 2008, GSI recorded in its books and records and reported in its financial statements filed with the Commission over $8.9 million and $7.1 million in revenue, respectively, from the transactions with the Korean customer. However, GSI should not have recognized any revenue from these transactions during these periods because GSI had not delivered the Undeveloped Lasers, nor had it properly established fair value for the Undeveloped Laser in accordance with GAAP.

<u>The Taiwanese Transaction</u>

13. In or around January 2007, the PLM began negotiating a sale of six systems to a Taiwanese customer. The initial quotation specifically referenced a Tool Automation Specifications ("TAS") Agreement that related to the customer specifications or factory automation software that GSI would be obligated to provide.

14. During this same time, the primary engineer responsible for creating the factory automation software informed the PLM that implementing all the TAS specifications would be "a huge task," requiring over an additional 2000 hours of labor, would cost between $450,000 to $600,000, and could "not possibly be accomplished in the required time frame."

15. In March 2007, the Taiwanese customer ordered the six systems for approximately $7 million and specifically referenced compliance with the TAS as part of the arrangement. The PLM never informed the Finance Department that, as part of the transaction, the customer required customized software that would not be completed until several months after the systems had been installed and were operational. GSI booked the orders and, between May and October 2007, shipped the six systems.

16. When the customer accepted the first system during the fourth quarter of 2007, GSI recognized nearly $5 million and deferred nearly $2 million in revenue from the six systems that had shipped even though GSI still owed the customer the customized software. Because GSI had not delivered the customized software, and because it did not have fair value for the software, this revenue should not have been recognized.

17. On March 4, 2008, Doherty received an email from GSI's Taiwan-based sales manager stating that while the Taiwanese customer had accepted the first system, there were factory automation issues with the remaining five systems and that GSI will not collect the final acceptance as scheduled. Doherty forwarded the email to the Systems GM, the assistant corporate controller and others, stating, "This does not look perfunctory." Doherty did not take any additional action to learn what, if any, factory automation issue existed with the Taiwanese customer until March 13, 2008, when GSI's chief financial officer asked him to look into the issue.

18. On March 20, 2008, Doherty emailed the PLM and others asking whether there existed a factory automation issue with respect to the Taiwanese customer. In response, the PLM told the corporate controller that GSI owed the customer "Phase II" factory automation, which GSI hoped to complete by the second quarter of 2008. The PLM provided Doherty with a copy of the TAS, which he stated contained the Phase II factory automation specifications.

19. In or around March 2008, the assistant corporate controller informed Doherty that the failure to provide factory automation may impact the revenue that GSI had previously recognized, which could result in a restatement. On April 3, 2008, Doherty emailed the assistant corporate controller, stating: "Please don't dig into these unless it blows up down the road. Let's work on getting things right going forward." On April 4, 2008, the assistant controller emailed Doherty, stating that, among other things, the Finance Department had not been aware of any future deliverable. On April 6, 2008, Doherty again emailed the assistant corporate controller: "When we go to the acceptance method this issue goes away. Let's dig into that once we get the quarter close behind us." Doherty did not properly investigate the matter and did not disclose the potential existence of undelivered factory automation software to the external auditors until November 2008.

20. During the fourth quarter of 2007, GSI recorded in its books and records and reported in its financial statements filed with the Commission nearly $5 million in revenue from sales to the Taiwanese customer. However, GSI should not have recognized any revenue from this transaction during this period because GSI had not delivered the customized, factory automation software required under the customer agreement.

Impact on Financial Statements

21. The misleading financial information that resulted from the improper recognition of revenue from the Korean and Taiwanese transactions was material because it overstated (1) revenues by 7.1% in the fourth quarter of 2007, by 1.6% for fiscal year 2007, 14.7% in the first quarter of 2008, and by 12.1% in the second quarter of 2008; and (2) revenues for GSI Group's Systems Division by, 21.5% in the fourth quarter of 2007, by 4.3% during fiscal year 2007, by 39.3% in the first quarter of 2008, and by 48.0% in the second quarter of 2008.[3]

22. As a result of the conduct described above, GSI's Form 10-K for the company's fiscal year 2007, as well as the Forms 10-Q for the quarters ended March 31, 2008 and June 30, 2008, contained false and misleading statements concerning GSI's financial results. For those two quarterly periods in 2008, GSI issued press releases, subsequently filed with the Commission on Forms 8-K, containing the false and misleading financial information.

Violations

23. As a result of the conduct above, Doherty caused GSI's violations of Sections 13(a) and 13(b)(2)(B) of the Exchange Act, and Rules 12b-20, 13a-11, and 13a-13 thereunder, which require every issuer of a security registered pursuant to Section 12 of the Exchange Act file with the Commission information, documents, and annual, quarterly and other reports as the Commission may require, and mandate that periodic reports contain such further material information as may be necessary to make the required statements not misleading, and require all reporting companies to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles.

24. As a result of the conduct above, Doherty willfully[4] violated Rule 13b2-1 under the Exchange Act in that he indirectly caused to be falsified a book, record, or account subject to Section 13(b)(2)(A) of the Exchange Act, which requires all reporting companies to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect their transactions and disposition of their assets.

IV.

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

Accordingly, pursuant to Section 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent Doherty cease and desist from committing or causing any violations and any future violations of Sections 13(a) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-11, 13a-13, and 13b2-1 thereunder.

B. IT IS FURTHER ORDERED that Respondent shall pay a civil money penalty in the amount of $20,000.00 and disgorgement of $9,846 plus prejudgment interest of $1,330, for a total payment of $31,176, to the United States Treasury. Respondent shall satisfy this obligation by paying (1) $10,000 within ten (10) business days after entry of this Order; (2) $7,058 within 180 days from the entry of this Order; (3) $7,059 within 270 days from the entry of this Order; and (4) $7,059 within 365 days from the entry of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of disgorgement and prejudgment interest, plus any additional interest accrued pursuant to SEC Rule of Practice 600, shall be due and payable immediately, without further application. Payments shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, 100 F Street, NE, Stop 6042, Washington, DC 20549; and (D) submitted under cover letter that identifies George Doherty as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to John T. Dugan, Associate Regional Director, Securities and Exchange Commission, 33 Arch Street, 23rd Floor, Boston, MA 02110.

By the Commission.

Elizabeth M. Murphy
Secretary

Service List

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order and a Civil Penalty ("Order"), on the Respondent and his legal agent.

The attached Order has been sent to the following parties and other persons entitled to notice:

Honorable Brenda P. Murray
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