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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

*In the Matter of Morey, Nee, Buck & Oswald, LLC,
John P. Morey, CPA, and Gerard B. Nee, CPA,*

Respondents.

PCAOB Release No. 105-2021-005

August 10, 2021

By this Order, the Public Company Accounting Oversight Board (“Board” or “PCAOB”) is imposing sanctions upon Morey, Nee, Buck & Oswald, LLC (the “Firm”), John P. Morey, CPA (“Morey”), and Gerard B. Nee, CPA (“Nee”) (collectively, “Respondents”). The Board is:

- (1) Censuring the Respondents;
- (2) Imposing a civil money penalty in the amount of \$10,000 on the Firm; and
- (3) Limiting Respondents’ activities, for a period of two years from the date of this Order, by prohibiting them from performing audit services in audit engagements, including examination engagements, for clients that are brokers or dealers that are required to file a compliance report under Securities Exchange Act of 1934 (“Exchange Act”) Rule 17a-5, 17 C.F.R. § 240.17a-5, of the U.S. Securities and Exchange Commission (“Commission”), including audit engagements for clients that are brokers or dealers that carry customer or broker or dealer accounts and receive or hold funds or securities for those persons.

The Board is imposing these sanctions on the basis of its findings that Respondents violated PCAOB rules and standards in connection with the Firm’s 2017 and 2018 examination engagements for a broker-dealer (“Broker-Dealer A”) registered with the Commission, and that the Firm and Morey violated PCAOB rules and standards in connection with their 2017 and 2018 audits of Broker-Dealer A.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports,

that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the “Act”), and PCAOB Rule 5200(a)(1) against Respondents.

II.

In anticipation of institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have submitted Offers of Settlement (“Offers”) that the Board has determined to accept. Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the findings herein, except as to the Board’s jurisdiction over Respondents and the subject matter of these proceedings, which is admitted, Respondents consent to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions (“Order”) as set forth below.¹

III.

On the basis of Respondents’ Offers, the Board finds that:²

A. Respondents

1. **Morey, Nee, Buck & Oswald, LLC** is a professional limited liability company headquartered in Bethlehem, Pennsylvania. The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules. The Firm served as Broker-Dealer A’s independent auditor from November 2017 to October 2019.

2. **John P. Morey, CPA** is a certified public accountant licensed by the Pennsylvania State Board of Accountancy (license no. CA031172R). At all relevant times, Morey was an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Morey is the managing partner of the Firm and was the engagement partner on the Firm’s audit and examination engagements for Broker-Dealer A.

¹ The findings herein are made pursuant to Respondents’ Offers and are not binding on any other persons or entities in this or any other proceeding.

² The Board finds that Respondents’ conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

3. **Gerard B. Nee, CPA** is a certified public accountant licensed by the New Jersey State Board of Accountancy (license no. 20CC01247800). At all relevant times, Nee was an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i). Nee is a partner in the Firm and served as the engagement quality reviewer on the Firm's audit and examination engagements for Broker-Dealer A.

B. Broker-Dealer

4. At all relevant times, Broker-Dealer A was a New York corporation headquartered in New York. At all relevant times, Broker-Dealer A's public filings disclosed that it was registered with the Commission as a broker-dealer, and was engaged in a single line of business as a self-clearing securities broker-dealer that provides a service to help customers become enrolled in dividend reinvestment plans of publicly traded companies. At all relevant times, Broker-Dealer A was a "broker" and "dealer," as defined in Section 110(3) and (4) of the Act and PCAOB Rule 1001(b)(iii) and (d)(iii). At all relevant times, Broker-Dealer A was a "carrying broker-dealer" (*i.e.*, a broker-dealer that maintains custody of customer funds and/or securities).

C. Summary

5. This matter concerns the Firm's and Morey's violations of PCAOB rules and Attestation Standard No. 1 ("AT No. 1"), *Examination Engagements Regarding Compliance Reports of Brokers and Dealers*, when performing their examinations of the statements made by Broker-Dealer A in its fiscal year end ("FYE") December 31, 2017 and FYE December 31, 2018 compliance reports (the "Examinations") prepared pursuant to Exchange Act Rule 17a-5, 17 C.F.R. § 240.17a-5 ("Rule 17a-5"). In particular, the Firm and Morey failed to identify and test Broker-Dealer A's key internal controls over compliance with Commission rules for safeguarding certain customer assets held by Broker-Dealer A.

6. This matter also concerns the Firm's and Morey's violations of PCAOB rules and standards in connection with their audits of the financial statements and accompanying supporting schedules of Broker-Dealer A for FYEs December 31, 2017 and December 31, 2018 (the "Audits"). Among other things, the Firm and Morey failed to obtain sufficient appropriate audit evidence to support the Firm's audit opinion on Broker-Dealer A's financial statements and supporting schedules.

7. Additionally, in connection with the above Examinations, Nee violated AS 1220, *Engagement Quality Review*, by providing his concurring approval of issuance without performing the required engagement quality reviews with due professional care.

D. The Firm and Morey Violated AT No. 1 in The Firm's Examinations of Broker-Dealer A's 2017 and 2018 Compliance Reports

i. Certain Commission Reporting Requirements for Broker-Dealer A

8. At all relevant times, Exchange Act Rule 15c3-3, 17 C.F.R. § 240.15c3-3 ("Rule 15c3-3"), also known as the "Customer Protection Rule," imposed various obligations on Broker-Dealer A to avoid, in the event of a broker-dealer failure, a delay in returning customer securities or worse, a shortfall in which customers are not made whole.³ For example, paragraph (e) of Rule 15c3-3 (the "Reserve Requirements Rule") required Broker-Dealer A, among other things, to maintain with a bank or banks⁴ a "Special Reserve Bank Account for the Exclusive Benefit of Customers" that was kept separate from its other accounts ("Customer Reserve Bank Account"), to deposit therein an amount calculated in accordance with that paragraph, and to make and maintain a record of each such computation. Paragraph (f) of Rule 15c3-3 required Broker-Dealer A, among other things, to have a written contract with any bank at which it maintained one or more Customer Reserve Bank Accounts that provides that the cash and/or qualified securities⁵ in such Customer Reserve Bank Account(s) will at no time be used directly or indirectly as a security for a loan to the broker-dealer by the bank and will not be subject to any right, charge, security interest, lien, or claim of any kind in favor of the bank or any person claiming through the bank. And paragraph (d) of Rule 15c3-3 required Broker-Dealer A, with respect to customers'⁶ fully-paid securities and excess margin securities,⁷ regularly to determine: (i) whether such securities are in its possession and control, in accordance with paragraphs (b) and (c) of Rule 15c3-3 (*i.e.*, held in a "Good Control Location"), and (ii) the quantity of such securities.

9. At all relevant times, Rule 17a-5 required Broker-Dealer A, among other things, to file with the Commission⁸ an annual report containing: (a) a financial report that includes

³ Division of Trading and Markets and Division of Enforcement of the U.S. Securities and Exchange Commission, *Customer Protection Rule Initiative*, modified June 23, 2016, at Section II, available at <https://www.sec.gov/divisions/enforce/customer-protection-rule-initiative.shtml>. Although some broker-dealers qualify for exemption from the Customer Protection Rule under paragraph (k) of Rule 15c3-3, Broker-Dealer A, at all relevant times, did not qualify for such an exemption.

⁴ "Bank" is defined in Rule 15c3-3(a)(7).

⁵ The term "qualified security" is defined in Rule 15c3-3(a)(6).

⁶ The term "customer" is defined in Rule 15c3-3(a)(1).

⁷ The terms "fully paid securities" and "excess margin securities" are defined, respectively, in Rule 15c3-3(a)(3), (5).

⁸ See Rule 17a-5(d)(6).

financial statements and supporting schedules,⁹ and, in the case of a broker-dealer (including Broker-Dealer A) not claiming exemption under paragraph (k) of Rule 15c3-3,¹⁰ (b) a compliance report concerning the effectiveness of the broker-dealer's internal control over compliance ("ICOC")¹¹ with, among other things, the Customer Protection Rule;¹² and (c) a report by a PCAOB-registered firm based on an examination of the broker-dealer's financial and compliance reports that meets certain specified requirements.¹³ Rule 17a-5 also required that the auditor's examinations of each of Broker-Dealer A's financial report and compliance report be performed in accordance with PCAOB standards.¹⁴

10. Rule 17a-5 also required, at all relevant times, Broker-Dealer A's compliance report to contain certain statements ("assertions") about its compliance with, among other things, the Customer Protection Rule, including that: (a) the broker-dealer's ICOC was effective during the most recent fiscal year; (b) the broker-dealer's ICOC was effective as of the end of

⁹ See Rule 17a-5(d)(1)(i)(A). The financial report, including the required supporting schedules, must be in a format that is consistent with the statements contained in Commission Form X-17A-5. See Rule 17a-5(d)(2).

¹⁰ The Commission has stated that there may be circumstances in which a broker-dealer has not held customer securities or funds during the past year, but does not fit into one of the exemptive provisions set forth in paragraph (k) of Rule 15c3-3, and should file an "exemption report" under Rule 17a-5(d)(1)(i)(B)(2) in lieu of a "compliance report" under Rule 17a-5(d)(1)(i)(B)(1). See U.S. Securities and Exchange Commission, *Broker-Dealer Reports*, Exchange Act Release No. 70073 (July 30, 2013), at n. 74, available at <https://www.sec.gov/rules/final/2013/34-70073.pdf>. See also Division of Trading and Markets of the U.S. Securities and Exchange Commission, *Frequently Asked Questions Concerning the July 30, 2013 Amendments to the Broker-Dealer Financial Reporting Rule* (updated July 1, 2020), at Question and Answer 8 (describing the views of the staff of the Division of Trading and Markets regarding the eligibility of certain broker-dealers to file exemption reports in accordance with the circumstances described in footnote 74 of the 2013 *Broker-Dealer Reports* release), available at <https://www.sec.gov/divisions/marketreg/amendments-to-broker-dealer-reporting-rule-faq.htm>. Those circumstances are not applicable here.

¹¹ The term "internal control over compliance" is defined in Rule 17a-5(d)(3)(ii) as follows: "The term *Internal Control Over Compliance* means internal controls that have the objective of providing the broker or dealer with reasonable assurance that non-compliance with [Exchange Act Rules 15c3-1, 15c3-3, 17a-13], or any rule of the designated examining authority of the broker or dealer that requires account statements to be sent to the customers of the broker or dealer (an 'Account Statement Rule') will be prevented or detected on a timely basis."

¹² See Rule 17a-5(d)(1)(i)(B)(1), (d)(3).

¹³ See Rule 17a-5(d)(1)(i)(C), (g), (i).

¹⁴ See Rule 17a-5(g).

the most recent fiscal year; and (c) the broker-dealer was in compliance with, among other things, the Reserve Requirements Rule as of the end of the most recent fiscal year.¹⁵

ii. Relevant Provisions of PCAOB Rules and Standards

11. In connection with the preparation or issuance of an audit report, including an examination report, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board’s auditing and related professional practice standards, including attestation standards.¹⁶

12. AT No. 1 provides that, in performing an examination of the assertions made by a broker or dealer in a compliance report (an “examination engagement”), the auditor’s objective is to express an opinion regarding whether the assertions made by the broker or dealer in its compliance report are fairly stated, in all material respects.¹⁷ AT No. 1 also provides that, to express such an opinion, the auditor must plan and perform the examination engagement to obtain appropriate evidence that is sufficient to obtain reasonable assurance about whether, among other things: (1) one or more material weaknesses¹⁸ existed during the most recent fiscal year specified in the broker’s or dealer’s assertion; (2) one or more material weaknesses existed as of the end of the most recent fiscal year specified in the broker’s or dealer’s assertion; and (3) one or more instances of non-compliance with the Reserve Requirements Rule existed as of the end of the most recent fiscal year specified in the broker’s or dealer’s assertion.¹⁹ As noted in AT No. 1, the auditor’s examination should include an evaluation of the effectiveness of ICOC with the Customer Protection Rule during, and as of the end of, the most recent fiscal year.²⁰

13. AT No. 1 also provides that the auditor must exercise due professional care, which includes application of professional skepticism, in planning and performing the examination and preparation of the report, and that the engagement partner is responsible for proper planning and supervision of work for the engagement.²¹

¹⁵ See Rule 17a-5(d)(3)(i)(A)(2) – (4).

¹⁶ See PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

¹⁷ See ¶ 3 of AT No. 1.

¹⁸ The term “material weakness” is defined in AT No. 1, Appendix A ¶ A4.

¹⁹ See ¶ 4 of AT No. 1.

²⁰ See *id.* ¶ 4, Note.

²¹ See *id.* ¶¶ 6(d), 7.

14. Additionally, when planning the examination engagement, the auditor should obtain an understanding of the broker-dealer's processes regarding compliance with, among other things, the Customer Protection Rule, which includes evaluating the design of controls that are relevant to the examination and determining whether they have been implemented.²² When performing the examination engagement, the auditor must test the controls that are important to the auditor's conclusion about whether the broker or dealer has maintained effective ICOC for, among other things, the Customer Protection Rule during the fiscal year and at fiscal year-end.²³ The auditor must obtain evidence that the controls over compliance selected for testing are designed effectively and operated effectively during the fiscal year and at fiscal year-end.²⁴

15. AT No. 1 further requires the auditor to conduct tests that are sufficient to support the auditor's conclusions regarding whether the broker or dealer was in compliance with the Reserve Requirements Rule at fiscal year-end; the auditor does this by, among other things, testing the accuracy and completeness of the information that the broker or dealer used to determine its compliance with that rule at fiscal year-end.²⁵

16. As provided in AT No. 1, the auditor should evaluate whether he or she has obtained sufficient appropriate evidence to support the conclusions to be presented in the examination report, taking into account the risks associated with controls and non-compliance, the results of the examination procedures performed, and the appropriateness (*i.e.*, the relevance and reliability) of the evidence obtained.²⁶ If the auditor is unable to obtain sufficient appropriate evidence about an assertion, the auditor should express a disclaimer of opinion.²⁷

17. As described below, the Firm and Morey failed to comply with applicable PCAOB rules and standards in connection with their examinations of the assertions made by Broker-Dealer A in its compliance reports for FYEs December 31, 2017, and December 31, 2018.

²² See *id.* ¶ 9(b), Notes.

²³ See *id.* ¶ 11.

²⁴ See *id.* The auditor should test the design effectiveness of the selected controls by determining whether they can effectively prevent or detect instances of non-compliance with, among other things, the Customer Protection Rule on a timely basis. See *id.* ¶ 14. Additionally, the auditor should test the operating effectiveness of the selected controls by determining whether each selected control is operating as designed. See *id.* ¶ 16.

²⁵ See *id.* ¶ 21.

²⁶ See *id.* ¶ 27.

²⁷ See *id.* ¶ 29.

iii. The Firm’s Examinations of Broker-Dealer A’s 2017 and 2018 Compliance Reports

18. Broker-Dealer A filed its Forms X-17A-5 Part III for Fiscal Year (“FY”) 2017 and FY 2018 with the Commission on February 22, 2018 and on February 27, 2019, respectively. In connection with those filings, Broker-Dealer A filed its related compliance reports – the FY 2017 compliance report was dated February 21, 2018, and the FY 2018 compliance report was dated February 21, 2019 (collectively, the “Compliance Reports”). The Compliance Reports’ assertions included that Broker-Dealer A’s ICOC with the Customer Protection Rule was effective during the period from January 1, 2017 to December 31, 2017 and as of December 31, 2017, and also from January 1, 2018 to December 31, 2018 and as of December 31, 2018, respectively.

19. Morey authorized the Firm’s issuance of its examination reports for FY 2017 and FY 2018 concerning Broker-Dealer A’s related Compliance Reports (collectively, the “Examination Reports”), and Nee, as the engagement quality reviewer, provided concurring approval of issuance of those Examination Reports. The Firm’s examination report for FY 2017 was dated February 21, 2018, and the Firm’s examination report for FY 2018 was dated February 26, 2019. The Examination Reports expressed the Firm’s unqualified opinions that Broker-Dealer A’s assertions in the respective Compliance Reports were fairly stated, in all material respects, and the Examination Reports stated, among other things, that the respective examinations were conducted in accordance with PCAOB standards.

20. With respect to both the 2017 and 2018 Examinations, the Firm and Morey failed to plan and perform adequate procedures to obtain appropriate evidence that was sufficient to obtain reasonable assurance about whether there were material weaknesses in Broker-Dealer A’s ICOC, as required by AT No. 1.²⁸ In particular, the Firm and Morey failed to perform any procedures to obtain an understanding of Broker-Dealer A’s ICOC, even though the Firm and Morey had no pre-existing knowledge of Broker-Dealer A until the start of the 2017 audit and examination engagements.²⁹ In addition, the Firm and Morey failed to perform any procedures to test controls that were important to the Firm’s conclusion about whether Broker-Dealer A maintained effective ICOC, and obtain evidence that those controls were designed effectively and operating effectively.³⁰

21. More specifically, the Firm and Morey failed to perform any procedures to identify, understand, or test the design effectiveness and operating effectiveness of any ICOC with the rules requiring Broker-Dealer A to: (1) properly calculate the minimum amount of funds it must hold in its Customer Reserve Bank Accounts, in compliance with the Reserve

²⁸ See *id.* ¶ 4, Appendix A ¶ A4.

²⁹ See *id.* ¶ 9(b), Note.

³⁰ See *id.* ¶¶ 9(b), 11.

Requirements Rule; (2) obtain written evidence that its Customer Reserve Bank Accounts were compliant with the “no-lien” requirement, in compliance with Rule 15c3-3(f); (3) determine the quantity of customers’ fully-paid securities and excess margin securities held by Broker-Dealer A, in compliance with Rule 15c3-3(d); and (4) maintain those customer securities in an appropriate Good Control Location, in compliance with Rule 15c3-3(b) – (d).

22. The Firm and Morey also violated AT No. 1 by failing to perform certain required tests to determine whether Broker-Dealer A was in compliance with the Reserve Requirements Rule at year-end 2017 and 2018.³¹ Specifically, the Firm and Morey tested Broker-Dealer A’s compliance with the Reserve Requirements Rule at year-end by comparing information produced by Broker-Dealer A to a schedule it used to calculate the amount required to be reserved in the Customer Reserve Bank Accounts, but the auditors failed to test the accuracy and completeness of the information in the schedules that Broker-Dealer A had used to compute whether its Customer Reserve Bank Accounts held sufficient reserves in compliance with the Reserve Requirements Rule at the end of the respective fiscal years.³²

23. As a result of the above deficiencies, the Firm and Morey failed to obtain appropriate audit evidence sufficient to provide reasonable assurance about whether there were material weaknesses in Broker-Dealer A’s ICOC, as required by AT No. 1.³³

E. The Firm and Morey Violated PCAOB Rules and Standards in The Firm’s Audits of Broker-Dealer A’s 2017 and 2018 Supporting Schedules

24. Rule 17a-5 required that Broker-Dealer A file certain supplemental information in supporting schedules accompanying its 2017 and 2018 financial statements, and that those schedules be audited by a PCAOB-registered firm.³⁴

25. In connection with the preparation or issuance of an audit report on such supplemental information, PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board’s auditing and related professional practice standards.³⁵ Among other things, PCAOB standards require an auditor to exercise due professional care and professional skepticism in performing the audit.³⁶

³¹ See *id.* ¶ 21.

³² See *id.* ¶ 21(b).

³³ See *id.* ¶¶ 3 – 6.

³⁴ See Rule 17a-5(d)(1)(i)(A), (d)(1)(i)(C), (d)(2), (g).

³⁵ See PCAOB Rule 3100; PCAOB Rule 3200.

³⁶ See AS 1015.01 and .07, *Due Professional Care in the Performance of Work*.

26. PCAOB standards also require that, when the auditor is engaged to perform audit procedures and report on supplemental information accompanying audited financial statements, the auditor should perform audit procedures to obtain appropriate audit evidence that is sufficient to support the auditor's opinion regarding whether the supplemental information is fairly stated, in all material respects, in relation to the financial statements as a whole.³⁷ In doing so, the auditor should, among other things, obtain an understanding of the criteria that management used to prepare the supplemental information, including relevant regulatory requirements.³⁸ The auditor also should perform procedures to test the completeness and accuracy of the information presented in the supplemental information to the extent it was not tested as part of the audit of financial statements, and should evaluate whether the supplemental information complies with relevant regulatory requirements or other applicable criteria, if any.³⁹ Additionally, when an auditor uses information produced by the company as audit evidence, the auditor should evaluate whether the information is sufficient and appropriate for purposes of the audit by performing procedures to, among other things, test the accuracy and completeness of the information, or test the controls over the accuracy and completeness of that information.⁴⁰

27. According to PCAOB standards, if an auditor is unable to obtain sufficient appropriate audit evidence to support an opinion on the supplemental information, the auditor should disclaim an opinion on the supplemental information.⁴¹

28. As described below, the Firm and Morey failed to comply with PCAOB rules and standards in connection with the audit procedures they performed on the supplemental information in supporting schedules accompanying Broker-Dealer A's 2017 and 2018 financial statements.

29. Broker-Dealer A filed its Forms X-17A-5 Part III for FY 2017 and FY 2018 with the Commission on February 22, 2018, and on February 27, 2019, respectively. Included in those filings were the Firm's audit reports for FY 2017 and FY 2018 dated February 21, 2018, and February 26, 2019, respectively (collectively, the "Audit Reports"). Morey authorized the Firm's issuance of the Audit Reports, which expressed an unqualified opinion on Broker-Dealer A's related financial statements and supporting schedules, and stated, among other things, that the Firm's audits were conducted in accordance with PCAOB standards. Nee, as the engagement

³⁷ See AS 2701.02 – .03, *Auditing Supplemental Information Accompanying Audited Financial Statements*.

³⁸ See *id.* at .04(a).

³⁹ See *id.* at .04(e) – (f).

⁴⁰ See AS 1105.10, *Audit Evidence*.

⁴¹ See AS 2701.15.

quality reviewer, provided concurring approval of issuance of the Audit Reports. The Audit Reports also stated that the supplemental information in the accompanying supporting schedules was subjected to audit procedures in connection with the Firm's audits of Broker-Dealer A's related financial statements. In particular, the Firm represented that it had "perform[ed] procedures to test the completeness and accuracy of the information presented in the supplemental information."⁴²

30. For both 2017 and 2018, Broker-Dealer A's supporting schedules reported on its compliance with the Reserve Requirements Rule and Rule 15c3-3(f), relating to obtaining documentation of compliance with the Reserve Requirements Rule. Broker-Dealer A's supporting schedules also reported on its compliance with the Commission rule requiring it to, among other things, maintain customers' fully paid securities and excess margin securities in an appropriate Good Control Location in compliance with Rule 15c3-3(b) – (d).

31. In these supporting schedules for 2017 and 2018, Broker-Dealer A reported that its minimum required reserve under the Reserve Requirements Rule was \$68,868 and \$66,848, respectively, and that the "Amount on deposit in 'Reserve Bank Accounts' over amount required" was \$630,249 and \$634,292, respectively. Broker-Dealer A's supplemental information also represented that, as of the report date, all customers' fully paid securities and excess margin securities entrusted to Broker-Dealer A were held in a Good Control Location in compliance with the Customer Protection Rule.

32. But, in both years, the engagement teams' procedures concerning these supporting schedules relied solely on information produced by Broker-Dealer A without testing that information for completeness or testing Broker-Dealer A's controls over the completeness of that information. And with respect to the supplemental information concerning the quantity of customers' fully paid securities and excess margin securities that Broker-Dealer A held in custody accounts, the Firm and Morey also failed to test the accuracy of the client-produced information that the engagement team used as audit evidence. Additionally, the Firm and Morey failed to obtain documentation establishing that Broker-Dealer A's Customer Reserve Bank Accounts were in compliance with the "no-lien" requirement of the Customer Protection Rule.⁴³

33. Consequently, the Firm and Morey violated PCAOB standards in both the FY 2017 and FY 2018 audits by failing to obtain sufficient appropriate audit evidence that the

⁴² According to PCAOB standards, "The auditor should take into account relevant evidence from . . . the attestation engagement[] . . . in planning and performing audit procedures related to the supplemental information and in evaluating the results of the audit procedures to form the opinion on the supplemental information." AS 2701.03(c) Note.

⁴³ See Rule 15c3-3(f).

supplemental information in the FY 2017 and FY 2018 supporting schedules was fairly stated, in all material respects, in relation to the financial statements as a whole.⁴⁴

F. Nee Violated PCAOB Rules and Standards in Connection with the Engagement Quality Reviews for the Examinations

34. As noted above, PCAOB Rules provide that associated persons of registered public accounting firms shall comply with all applicable auditing and related professional practice standards.⁴⁵

35. AS 1220, *Engagement Quality Review*, requires that an engagement quality review be performed on all audits and certain attestation engagements conducted pursuant to PCAOB standards, like the Examinations.⁴⁶ AS 1220 also provides that the engagement quality reviewer for an engagement performed pursuant to PCAOB attestation standards should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the attestation engagement.⁴⁷ In an attestation engagement performed pursuant to AT No. 1, a firm may grant permission to an audit client to use the firm's engagement report only after an engagement quality reviewer provides concurring approval of issuance of the report.⁴⁸

36. Moreover, under AS 1220, the engagement quality reviewer may provide concurring approval of issuance of the report for an engagement performed pursuant to PCAOB attestation standards only if, after performing with due professional care the review required by AS 1220, he or she is not aware of a significant engagement deficiency.⁴⁹ AS 1220 states that a significant engagement deficiency in an attestation engagement exists when, among other things, "the engagement team failed to perform attestation procedures necessary in the circumstances of the engagement."⁵⁰

37. In connection with the Examinations, Nee failed to appropriately evaluate the conclusions reached by the engagement team with respect to significant areas of the Examinations, including the testing of Broker-Dealer A's ICOC and the testing of Broker-Dealer

⁴⁴ See AS 2701.02 – .04.

⁴⁵ See PCAOB Rule 3100.

⁴⁶ See AS 1220.01.

⁴⁷ See *id.* at .18A.

⁴⁸ See *id.* at .18C.

⁴⁹ See *id.* at .18B.

⁵⁰ *Id.* at .18B Note.

A's compliance with the Reserve Requirements Rule at fiscal year-end. Specifically, the Firm's engagement teams did not perform any procedures concerning Broker-Dealer A's assertions in its Compliance Reports that its ICOC with the Customer Protection Rule was effective during, and at the end of, the most recent fiscal year, even though such procedures were critical to the core objectives of the Firm's Examinations of the Compliance Reports. Additionally, the engagement teams failed to perform required procedures to test the accuracy and completeness of information in the schedules that Broker-Dealer A used to assert in its Compliance Reports that, at FYE December 31, 2017 and FYE December 31, 2018, respectively, its Customer Reserve Bank Accounts held sufficient reserves in compliance with the Reserve Requirements Rule.⁵¹ Nee knew the engagement teams had concluded that these assertions in the Compliance Reports were fairly stated, in all material respects, yet he saw no evidence in his reviews that the teams had performed the above necessary procedures related to those assertions.

38. As a result, Nee was aware of a significant engagement deficiency in each of the Examinations: the engagement teams' failures to perform attestation procedures necessary in the circumstances of the engagements.⁵² Nevertheless, Nee provided his concurring approvals of issuance of the Examination Reports. Accordingly, Nee failed to perform the engagement quality reviews with due professional care, in violation of AS 1220.

IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

- A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Morey, Nee, Buck & Oswald, LLC, John P. Morey, CPA, and Gerard B. Nee, CPA, are hereby censured;
- B. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of \$10,000 is imposed upon the Firm. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. The Firm shall pay the civil money penalty within 10 days of the issuance of this Order by (a) wire transfer in accordance with instructions furnished by Board staff; or (b) United States Postal money order, certified check, bank cashier's check or bank money

⁵¹ See ¶ 21(b) of AT No. 1.

⁵² See AS 1220.18B, Note.

order; (c) made payable to the Public Company Accounting Oversight Board, (d) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (e) submitted under a cover letter which identifies Morey, Nee, Buck & Oswald, LLC as a respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006; and

- C. Pursuant to Section 105(c)(4)(C) of the Act and PCAOB Rule 5300(a)(3), for a period of two years from the date of this Order, the Firm, John Morey, and Gerard Nee shall not perform audit services in audit engagements, including examination engagements, for clients that are brokers or dealers that are required to file a compliance report under Securities Exchange Act of 1934 Rule 17a-5, 17 C.F.R. § 240.17a-5, of the U.S. Securities and Exchange Commission, including audit engagements for clients that are brokers or dealers that carry customer or broker or dealer accounts and receive or hold funds or securities for those persons.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 10, 2021