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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

*In the Matter of KPMG Inc., Cornelis Van Niekerk,
and Coenraad Basson,*

Respondents.

PCAOB Release No. 105-2022-015

August 29, 2022

By this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions (“Order”), the Public Company Accounting Oversight Board (“Board” or “PCAOB”) is:

- (1) imposing civil money penalties in the amounts of \$200,000 on KPMG Inc. (“KPMG-SA”), \$50,000 on Cornelis Van Niekerk (“Van Niekerk”),¹ and \$25,000 on Coenraad Basson (“Basson”);
- (2) requiring KPMG-SA to undertake and certify the completion of certain improvements to its system of quality control;
- (3) barring Van Niekerk from being an associated person of a registered public accounting firm;² and
- (4) suspending Basson from being an associated person of a registered public accounting firm for a period of one year from the date of this Order.

In this Order, KPMG-SA, Van Niekerk, and Basson are collectively referred to as “Respondents.” The Board is imposing these sanctions on the basis of Respondents’ conduct in connection with KPMG-SA’s use of audit work performed by KPMG Chartered Accountants Zimbabwe (“KPMG-Zimbabwe”), a firm that was not registered with the Board and played a

¹ Based on his conduct, Van Niekerk’s civil money penalty in this settlement would have been \$100,000. The Board determined to accept Van Niekerk’s offer of settlement and impose a lower penalty after considering Van Niekerk’s financial resources.

² Van Niekerk may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order.

substantial role in KPMG-SA's 2015 through 2017 audits of Issuer A. Specifically, the Board finds that KPMG-SA and Van Niekerk failed to reasonably supervise KPMG-Zimbabwe under the Sarbanes-Oxley Act of 2002, as amended (the "Act"), and that Respondents violated PCAOB rules and standards in connection with the audits of Issuer 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 against Respondents pursuant to Section 105(c) of the Act and PCAOB Rules 5200(a)(1) and (2).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, the "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 are admitted, Respondents each consent to the entry of this Order as set forth below.³

III.

On the basis of Respondents' Offers, the Board finds⁴ that:

A. Respondents

1. **KPMG Inc.** is an incorporated company organized under the laws of the Republic of South Africa with headquarters in Johannesburg, South Africa. KPMG-SA is a member firm of

³ The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

⁴ 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: (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

the KPMG global organization of independent member firms affiliated with KPMG International Limited (“KPMG International Network”). KPMG-SA registered with the Board on May 19, 2004.

2. **Cornelis Van Niekerk** was, at all relevant times, a partner of KPMG-SA and 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). He served as the engagement partner for KPMG-SA’s audits of Issuer A’s 2015, 2016, and 2017 financial statements.

3. **Coenraad Basson** was, at all relevant times, a partner of KPMG-SA and 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). He served as the engagement quality reviewer for KPMG-SA’s audits of Issuer A’s 2015, 2016, and 2017 financial statements.

B. Other Relevant Entities

4. KPMG Chartered Accountants Zimbabwe is a firm organized under the laws of Zimbabwe and headquartered in Harare, Zimbabwe. KPMG-Zimbabwe is a member firm in the KPMG International Network. KPMG-Zimbabwe has never been registered with the Board. At all relevant times, KPMG-Zimbabwe was a public accounting firm, as that term is defined in Section 2(a)(11) of the Act and PCAOB Rule 1001(p)(iii), and 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). At all relevant times, KPMG-Zimbabwe was also the statutory auditor of Subsidiary X (as defined below).

5. Issuer A was a Channel Islands corporation and an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Issuer A’s largest subsidiary (“Subsidiary X”) represented 100% of Issuer A’s consolidated revenues and approximately 85-95% of its consolidated assets from 2015 through 2017.

C. Summary

6. KPMG-SA’s use of an unregistered firm, KPMG-Zimbabwe, during the 2013 and 2014 audits of Issuer A was the subject of a U.S. Securities and Exchange Commission (“Commission”) enforcement order against the firm, dated March 13, 2018. Despite being on notice that KPMG-Zimbabwe’s participation in the Issuer A audits potentially implicated regulatory issues, Respondents failed to take appropriate steps to assure that KPMG-Zimbabwe’s participation in the 2015 through 2017 audits of Issuer A would be consistent with PCAOB registration requirements.

7. Moreover, when it came to Respondents' attention near the end of the 2017 audit that KPMG-Zimbabwe's audit hours may have exceeded the threshold requiring registration with the Board, they responded by using a series of unreasonable adjustments to reduce KPMG-Zimbabwe's hours by 77%. KPMG-SA relied on the downward-adjusted hours to conclude that KPMG-Zimbabwe had not exceeded the PCAOB registration threshold.

8. KPMG-SA then reported KPMG-Zimbabwe's audit hours as 17% of the total audit hours in its Form AP filing with respect to the firm's 2017 Issuer A audit report.

9. Due to their failures to adequately supervise, plan, and review KPMG-Zimbabwe's participation in the 2015 through 2017 audits, Respondents failed to reasonably supervise an associated person under the Act and violated PCAOB rules and standards.

D. Background Concerning the Audits of Issuer A

10. KPMG-SA served as Issuer A's auditor for the 2013 through 2017 fiscal years. During those same years, KPMG-Zimbabwe served as the statutory auditor for certain subsidiaries of Issuer A, including Subsidiary X. KPMG-SA used KPMG-Zimbabwe's audit work with respect to Subsidiary X during its audits of Issuer A's 2013 through 2017 financial statements.

i. The 2013 and 2014 Audits

11. During the 2013 and 2014 Issuer A audits, KPMG-SA used the work and inter-firm reporting of KPMG-Zimbabwe, which audited the financial statements of Subsidiary X pursuant to AS 1205, *Part of Audit Performed by Other Independent Auditors* (formerly AU § 543).⁵ KPMG-SA issued its 2013 and 2014 audit reports for Issuer A on May 15, 2014, and March 27, 2015, respectively.

12. In the months following its issuance of the 2014 audit report, KPMG-SA and KPMG-Zimbabwe learned that the Commission had commenced an investigation into the 2013

⁵ As of December 31, 2016, the PCAOB reorganized its auditing standards using a topical structure and a single, integrated numbering system. See Reorganization of PCAOB Auditing Standards and Related Amendments to PCAOB Standards and Rules, PCAOB Release No. 2015-002 (Mar. 31, 2015); see also PCAOB Auditing Standards Reorganized and Pre-Reorganized Numbering (January 2017). The reorganization did not impose additional requirements on auditors or change substantively the requirements of PCAOB standards. While Respondents' conduct occurred both before and after the reorganization, the reorganized standards are cited herein for purposes of clarity.

and 2014 audits of Issuer A. KPMG-SA and KPMG-Zimbabwe ultimately submitted offers of settlement in connection with the Commission's investigation in late 2017.

13. On March 13, 2018, the Commission issued: (1) an order sanctioning KPMG-SA for, *inter alia*, failing to comply with AS 1205 and AS 1015, *Due Professional Care in the Performance of Work* (formerly AU § 230),⁶ in using the audit work of an unregistered firm, KPMG-Zimbabwe, that played a substantial role in the 2013 and 2014 audits of Issuer A;⁷ and (2) an order sanctioning KPMG-Zimbabwe for playing a substantial role, without being registered with the Board (in violation of Section 102 of the Act), in the preparation of KPMG-SA's 2013 and 2014 Issuer A audit reports.⁸

ii. The 2015 Through 2017 Audits

14. KPMG-SA changed its approach to the audit of Issuer A beginning with the 2015 fiscal year.

15. KPMG-SA continued serving as Issuer A's auditor for the 2015 through 2017 fiscal years, and KPMG-Zimbabwe continued to be responsible for the statutory audit of Subsidiary X. KPMG-SA also continued to use KPMG-Zimbabwe's audit work with respect to Subsidiary X. However, KPMG-SA began supervising KPMG-Zimbabwe's work under AS 1201, *Supervision of the Audit Engagement* (formerly AS No. 10), instead of using the work and inter-firm reporting of KPMG-Zimbabwe under AS 1205.

16. With respect to the 2015 and 2016 audits, KPMG-SA's work papers documented that "KPMG Zimbabwe performed the audit of [Subsidiary X] under the direction and supervision of [KPMG-SA]." With respect to the 2017 audit, KPMG-SA documented that "KPMG Zimbabwe was engaged to assist [KPMG-SA] with the performance of the audit field work as part of KPMG Zimbabwe's engagement to audit the statutory annual financial statements as at 31 December 2017."

17. KPMG-SA's work papers further documented that engagement partner Van Niekerk and the KPMG-Zimbabwe engagement partner for the statutory audits of Subsidiary X ("Zimbabwe Partner") were the "responsible partner[s]" for the 2015 through 2017 Subsidiary X audits. In addition to the Zimbabwe Partner, a manager and several junior audit staff from

⁶ See discussion *supra*, at n.5, concerning this Order's citation of the Board's reorganized standards for purposes of clarity.

⁷ *KPMG Inc.*, Exchange Act Release No. 82860, 2018 WL 1288628 (SEC Mar. 13, 2018).

⁸ *KPMG*, Exchange Act Release No. 82862, 2018 WL 1288630 (SEC Mar. 13, 2018).

KPMG-Zimbabwe also worked on the 2015 through 2017 Subsidiary X audits, along with certain KPMG-SA personnel.

18. During each of these audits, KPMG-Zimbabwe prepared and reviewed most of the work papers with respect to the Subsidiary X audit. At least one KPMG-SA partner or manager then reviewed nearly all of the work papers prepared by KPMG-Zimbabwe.

19. KPMG-SA issued audit reports on Issuer A's 2015, 2016, and 2017 financial statements on March 30, 2016, March 30, 2017, and March 29, 2018, respectively. These audit reports were included in Form 20-Fs that Issuer A filed with the Commission.

a. KPMG-Zimbabwe's Substantial Role in the 2015 and 2016 Audits

20. KPMG-SA's 2015 and 2016 work paper files each included a memorandum, reviewed by Van Niekerk, that noted KPMG-Zimbabwe was not registered with the PCAOB and "if a component auditor plays a substantial role in the performance of the group [Issuer A] audit, that component auditor is required to be registered with the PCAOB."⁹ The memorandum went on to state that KPMG-SA would perform "additional reviews" of KPMG-Zimbabwe's work and be involved in the "direction/planning, supervision and performance of

⁹ Section 102(a) of the Act requires an accounting firm that "prepare[s] or issue[s], or [that] participate[s] in the preparation or issuance of, any audit report with respect to any issuer, broker, or dealer" to register with the Board. 15 U.S.C. § 7212(a). Section 106(a)(2) of the Act provides that "[t]he Board may, by rule, determine that a foreign public accounting firm (or a class of such firms) . . . plays such a substantial role in the preparation and furnishing of such reports for particular issuers, brokers, or dealers, that it is necessary or appropriate, in light of the purposes of this Act and in the public interest or for the protection of investors, that such firm (or class of firms) should be treated as a public accounting firm (or firms) for purposes of registration under, and oversight by the Board in accordance with, this subchapter." 15 U.S.C. § 7216(a)(2). PCAOB Rule 2100, *Registration Requirements for Public Accounting Firms*, requires an accounting firm that "plays a substantial role in the preparation or furnishing of an audit report with respect to any issuer" to register with the Board. Thus, by virtue of Section 106(a)(2) and Rule 2100, Section 102(a) is applicable to foreign accounting firms that play a substantial role in an issuer audit.

PCAOB Rule 1001(p)(ii) defines the phrase "play a substantial role in the preparation or furnishing of an audit report" to include, among other things, the performance of "material services that a public accounting firm uses or relies on in issuing all or part of its audit report." See PCAOB Rule 1001(p)(ii)(1). Note 1 to the rule defines "material services" to mean "services, for which the engagement hours or fees constitute 20% or more of the total engagement hours or fees, respectively, provided by the principal auditor in connection with the issuance of all or part of its audit report."

the [Subsidiary X] audit.” The memorandum further stated that KPMG-SA would “take responsibility of the [Subsidiary X] audit file.”

21. While they changed KPMG-SA’s audit approach to supervise KPMG-Zimbabwe’s work, KPMG-SA and Van Niekerk failed during the 2015 and 2016 audits to perform adequate analysis in support of their view that KPMG-SA’s supervision of the Subsidiary X audit work performed by KPMG-Zimbabwe would obviate any substantial role issue.¹⁰

22. Specifically, during the 2015 and 2016 audits, KPMG-SA and Van Niekerk did not document any consideration of the “substantial role” definition in PCAOB Rule 1001(p)(ii) or the note thereto indicating that a firm plays a substantial role if it incurs more than 20% of the total audit hours or fees.

23. KPMG-SA and Van Niekerk also failed to adequately perform planning to ensure that KPMG-Zimbabwe’s 2015 or 2016 audit hours and fees would be less than 20% of the total hours and fees. KPMG-SA and Van Niekerk failed to perform any analysis of the hours or fees that they expected to be, or that actually were, incurred by KPMG-Zimbabwe during the 2015 and 2016 audits.

24. KPMG-Zimbabwe’s audit hours and fees in connection with the 2015 and 2016 audits of Issuer A ultimately exceeded 20% of the total audit hours and fees, respectively.

b. KPMG-Zimbabwe’s Substantial Role in the 2017 Audit

25. On December 14, 2017, Basson sent Van Niekerk an excerpt of guidance concerning the 20% hours and fees threshold for substantial role purposes.

26. Van Niekerk forwarded Basson’s email to the Zimbabwe Partner and stated that, in connection with the upcoming 2017 Issuer A audit, “the audit fees/hours of KPMG Zimbabwe should NOT exceed 20%.” Van Niekerk proposed that KPMG-SA and KPMG-Zimbabwe should revise how they split the Issuer A audit fee such that KPMG-Zimbabwe’s fee would fall below the 20% substantial role threshold.

27. KPMG-SA and Van Niekerk, however, did not take additional steps to estimate or project KPMG-Zimbabwe’s expected audit hours. KPMG-SA and Van Niekerk did not otherwise

¹⁰ In fact, neither the Act nor PCAOB rules exempt an unregistered firm from compliance with registration requirements simply because it is supervised by a registered firm.

perform specific planning procedures to ensure that KPMG-Zimbabwe's hours would remain below the 20% substantial role threshold.

28. On March 13, 2018, the Commission issued its orders sanctioning KPMG-SA and KPMG-Zimbabwe. The same day, Basson requested that Van Niekerk "prepare a final memo to conclude that KPMG Zim[babwe] did not play a substantial role on the [Issuer A] audit." Basson stated the "key criteria" was that KPMG-Zimbabwe's fees or hours could not exceed the 20% substantial role threshold. Basson further stated: "This is important as the AP forms are due soon after signing of the opinion and will require this year that the hours of all participating offices, ie KPMG Zim[babwe] be disclosed."

29. Three days later, Van Niekerk asked the Zimbabwe Partner to "provide us with the hours spent on [Subsidiary X], split between group reporting and statutory audit." The term "group reporting" referred to the consolidated Issuer A audit that was required to be performed in accordance with PCAOB standards, as opposed to the Subsidiary X statutory audit that was not performed under PCAOB standards.

30. At the time of Van Niekerk's March 16 email, the majority of the 2017 Issuer A audit had been completed.

31. On March 19, the Zimbabwe Partner sent Van Niekerk a spreadsheet showing an estimated allocation of 30% of KPMG-Zimbabwe's hours to the Issuer A audit and 70% to the Subsidiary X statutory audit, with minor adjustments made for certain individuals. The Zimbabwe Partner's spreadsheet resulted in an allocation of 463 hours to the Issuer A audit and 1,270 hours to the statutory audit. The Zimbabwe Partner's spreadsheet stated that the statutory audit allocation "reflect[ed] the hour[s] to complete the statutory audit," while the Issuer A hours allocation reflected "an incremental amount considered to be relevant for additional documentation" for the Issuer A audit. Thus, the Zimbabwe Partner's spreadsheet excluded from KPMG-Zimbabwe's Issuer A audit hours *any* work performed for the statutory audit, even though some of the statutory audit work also was used for the Issuer A audit.

32. On March 22, Van Niekerk sent the Zimbabwe Partner an email advising him that "[w]e are faced with a significant problem in that the hours worked by the Zimbabwe team members far exceed the 20% threshold even if we assume that only 30% of their time was spent on group reporting."

33. Later that same day, a KPMG-SA engagement team member sent Van Niekerk a new analysis, distinct from the hours allocation in the spreadsheet previously sent by the Zimbabwe Partner. The new analysis reduced KPMG-Zimbabwe's total hours based on several factors, including KPMG-SA's own estimates of time that KPMG-Zimbabwe spent on statutory

audit work that was outside the scope of the Issuer A audit and of purported “non-productive” time included in KPMG-Zimbabwe’s recorded hours. This new analysis showed KPMG-Zimbabwe’s hours at 26%, and the engagement team member told Van Niekerk that he would “work on it tomorrow morning and see if I can work out the last 6%.”

34. The engagement team member next excluded time that he estimated KPMG-Zimbabwe had spent on audit procedures that were not required for the Issuer A audit. The engagement team member then updated Van Niekerk that he was “finding it difficult now, I have reduced the ZIM hours to 24% as it stands.”

35. On March 26, Van Niekerk sent KPMG-SA’s hours analysis to the Zimbabwe Partner, noting that KPMG-Zimbabwe’s hours “should not be more than 20% (Currently 24%).” He noted that “[w]e are still 69 hours short.”

36. Van Niekerk also advised the Zimbabwe Partner that he had adjusted KPMG-Zimbabwe’s hours based on “the following arguments”: (1) a reduction for statutory audit work on Issuer A affiliates that were “not relevant for group reporting”; (2) a reduction for all of the Zimbabwe Partner’s non-tax hours; (3) a reduction for the “excess time” recorded by KPMG-Zimbabwe based on the difference in average time per work paper recorded by KPMG-Zimbabwe and the average time per work paper recorded by KPMG-SA; and (4) a reduction for “[c]ertain activities” that were completed only for purposes of the Subsidiary X statutory audit.

37. KPMG-SA subsequently removed the time charged by a KPMG-Zimbabwe manager who worked on the Subsidiary X statutory audit. On March 27, Van Niekerk sent the “updated” hours analysis to the Zimbabwe Partner. Van Niekerk wrote that “[w]e are within the 20% threshold based on the calculation . . . Can you please review and let me have you[r] approval.”

38. On March 28, Van Niekerk emailed the KPMG-SA hours analysis to Basson. Van Niekerk told Basson that the Zimbabwe Partner “wants to discuss” because he “cannot seem to agree with the non-productive hours.” The “non-productive hours” were calculated based on the assumption that it should have taken KPMG-Zimbabwe the same amount of time to prepare a work paper as KPMG-SA, regardless of the amount of testing performed or documentation involved in the preparation of each work paper.¹¹

¹¹ KPMG-SA justified this assumption, in part, on the belief that the KPMG-Zimbabwe team had charged all of its weekend hours while located onsite at the client, potentially including hours that they may not have actually been working on the audit.

39. That same day, Van Niekerk, Basson, and the Zimbabwe Partner participated in a conference call concerning KPMG-SA's hours analysis. KPMG-SA issued its audit report for Issuer A the following day.

40. About two weeks later, on April 11, Van Niekerk emailed the Zimbabwe Partner, copying Basson, and asked that he "[p]lease let me have the [Subsidiary X] hours following your review and analysis as was resolved on the conference call. We need to submit the AP form by Tuesday next week."

41. The Zimbabwe Partner sent Van Niekerk a revised analysis that reclassified a portion of the non-productive hours adjustment to a new adjustment for KPMG-Zimbabwe's travel time in connection with the audit. The Zimbabwe Partner also attempted to justify the non-productive hours adjustment by noting that KPMG-Zimbabwe personnel were subject to "delays in receiving information" from Subsidiary X.

42. Based on the approach agreed to by Van Niekerk, Basson, and the Zimbabwe Partner on March 28 and the revised analysis provided by the Zimbabwe Partner, the KPMG-SA engagement team ultimately prepared a work paper calculating KPMG-Zimbabwe's percentage of the Issuer A audit hours. The work paper documented six categories of downward adjustments that Respondents used to effect a three-quarters reduction in the number of hours originally recorded by KPMG-Zimbabwe (from 1,733 hours to 402 hours).

43. Absent these adjustments, KPMG-Zimbabwe's audit hours would have significantly exceeded 20% of the total audit hours.

44. Respondents lacked an objectively reasonable basis for or means of calculating the adjustments that they used to reduce KPMG-Zimbabwe's audit hours.

45. Nevertheless, the KPMG-SA engagement team prepared, and Van Niekerk signed off on, a work paper concluding that KPMG-Zimbabwe did not perform material services, and thus did not "trigger the 'substantial role' definition," based on KPMG-SA's calculation that KPMG-Zimbabwe's adjusted hours and fees each fell below the 20% substantial role threshold.

46. On April 19, 2018, KPMG-SA filed a Form AP with respect to its 2017 Issuer A audit report and reported that KPMG-Zimbabwe had incurred 17% of the total 2017 Issuer A audit hours.¹²

E. KPMG-SA and Van Niekerk Failed to Reasonably Supervise KPMG-Zimbabwe and Violated PCAOB Rules and Standards During the 2015 Through 2017 Audits of Issuer A

47. During the 2015 and 2016 audits of Issuer A, KPMG-Zimbabwe incurred hours and fees that exceeded 20% of the total audit hours and fees. During the 2017 audit of Issuer A, KPMG-Zimbabwe again exceeded 20% of the total audit hours. Accordingly, KPMG-Zimbabwe played a substantial role in each of the 2015 through 2017 audits without being registered with the Board, in violation of Section 102(a) of the Act and PCAOB Rule 2100.

48. KPMG-SA and Van Niekerk failed to reasonably supervise or plan KPMG-Zimbabwe's participation in the 2015 through 2017 audits in a manner designed to avoid violations of Section 102(a) and PCAOB Rule 2100. Moreover, during his engagement quality review, Basson failed to appropriately evaluate the failure to adequately plan the 2017 audit, despite being aware of the reductions made to KPMG-Zimbabwe's hours. Their conduct fell short of their obligation to reasonably supervise KPMG-Zimbabwe and violated PCAOB rules and standards.

i. KPMG-SA and Van Niekerk Failed to Reasonably Supervise KPMG-Zimbabwe

49. Section 105(c)(6) of the Act provides that the Board may impose sanctions on a registered accounting firm or upon the firm's supervisory personnel, if the Board finds that (1) the firm has failed to reasonably supervise an associated person, either as required by the rules of the Board relating to auditing or quality control standards, or otherwise, with a view to preventing violations of the Act or the rules of the Board; and (2) such associated person commits a violation of the Act or Board rules.

50. Under Section 2(a)(9) of the Act, the term "person associated with a registered public accounting firm" includes "any . . . entity that, in connection with the preparation or issuance of any audit report—(i) shares in the profits of, or receives compensation in any other form from, that firm; or (ii) participates as agent or otherwise on behalf of such accounting firm in any activity of that firm." Because it performed audit work at the direction, and under the

¹² KPMG-SA did not separately calculate KPMG-Zimbabwe's participation in the Issuer A audit for Form AP reporting purposes, and relied, instead, on its calculation of audit hours for substantial role purposes.

supervision, of KPMG-SA, KPMG-Zimbabwe acted as an “entity that, in connection with the preparation or issuance of [the Issuer A] audit report[,] . . . participate[d] as agent or otherwise on behalf of [KPMG-SA].” Accordingly, KPMG-Zimbabwe was an “associated person” of KPMG-SA during the 2015 through 2017 audits.

51. KPMG-SA had a responsibility to reasonably supervise its associated persons during the 2015 through 2017 Issuer A audits. Likewise, Van Niekerk, as the engagement partner, had supervisory responsibility and was a supervisory person of KPMG-SA for those audits. KPMG-SA and Van Niekerk knew that the Commission was investigating KPMG-Zimbabwe’s participation in the 2013 and 2014 audits.

52. KPMG-SA and Van Niekerk failed to reasonably supervise KPMG-Zimbabwe during the 2015 and 2016 audits of Issuer A with a view to preventing violations of the mandatory registration requirement set forth in Section 102(a) of the Act and PCAOB Rule 2100. Rather, they allowed KPMG-Zimbabwe, while unregistered, to play a substantial role in the 2015 and 2016 audits without performing an analysis of the mandatory registration requirement or taking adequate steps to ensure that KPMG-Zimbabwe’s participation in the audit would not constitute a substantial role.

53. By the time of the 2017 audit of Issuer A, KPMG-SA and Van Niekerk knew that KPMG-SA had submitted an offer of settlement to the Commission that included sanctions against the firm for its reliance on KPMG-Zimbabwe’s work in the 2013 and 2014 audits. During the 2017 audit, they also became aware that the Commission had issued an order accepting KPMG-SA’s offer of settlement and imposing the sanctions. Yet KPMG-SA and Van Niekerk failed to reasonably supervise KPMG-Zimbabwe during the 2017 audit with a view to preventing violations of the registration requirement.

54. Specifically, KPMG-SA and Van Niekerk allowed KPMG-Zimbabwe to play a substantial role in the 2017 audit without taking adequate steps to conduct the audit in a manner that ensured KPMG-Zimbabwe would not violate PCAOB registration requirements. Moreover, upon becoming aware that KPMG-Zimbabwe’s recorded hours exceeded the 20% substantial role threshold, KPMG-SA and Van Niekerk engaged in an outcome-driven exercise that yielded unreasonable downward adjustments to KPMG-Zimbabwe’s hours.

55. Because KPMG-Zimbabwe incurred more than 20% of the total audit hours and fees during the 2015 and 2016 audits, and more than 20% of the total audit hours during the 2017 audit, KPMG-Zimbabwe performed material services used by KPMG-SA in issuing its audit reports. KPMG-Zimbabwe therefore violated Section 102(a) and Rule 2100 by playing a substantial role in the 2015 through 2017 audits without being registered with the Board.

56. Accordingly, KPMG-SA and Van Niekerk failed to reasonably supervise KPMG-Zimbabwe under Section 105(c)(6) of the Act with respect to the nature of KPMG-Zimbabwe's participation in the 2015 through 2017 audits of Issuer A.

ii. KPMG-SA and Van Niekerk Violated PCAOB Rules and Standards

57. In connection with the preparation or issuance of an audit 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.¹³

58. PCAOB standards provide that, as part of audit planning, the auditor should establish an overall audit strategy.¹⁴ The auditor should take into account "[t]he factors that are significant in directing the activities of the engagement team" and "[t]he nature, timing, and extent of resources necessary to perform the engagement."¹⁵ "The auditor should modify the overall audit strategy and the audit plan as necessary if circumstances change significantly during the course of the audit."¹⁶ PCAOB standards require that "[d]ue professional care is to be exercised in the planning and performance of the audit and the preparation of the report."¹⁷

59. In establishing the overall audit strategy for the 2015 through 2017 audits, KPMG-SA and Van Niekerk failed to adequately take into account: (1) the significant fact that KPMG-Zimbabwe was an unregistered firm that was being investigated by the Commission for or had just been identified as having improperly played a substantial role for the same client; and (2) the nature of the resources necessary to perform the audit, insofar as those resources included the involvement of an unregistered firm. As a result of these failures, KPMG-SA and Van Nierkerk did not engage in adequate planning to ensure that KPMG-Zimbabwe would not violate PCAOB registration requirements.

60. When the extent of KPMG-Zimbabwe's participation came to light near the end of the 2017 audit, KPMG-SA and Van Niekerk exacerbated their initial planning failures by not modifying the audit strategy and audit plan to ensure compliance with the relevant regulatory

¹³ PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*; PCAOB Rule 3200, *Auditing Standards*.

¹⁴ AS 2101.08, *Audit Planning*.

¹⁵ AS 2101.09.

¹⁶ AS 2101.15.

¹⁷ AS 1015.01, *Due Professional Care in the Performance of Work*.

requirements.¹⁸ Instead, they made unreasonable downward adjustments to KPMG-Zimbabwe's audit hours.

61. Accordingly, KPMG-SA and Van Niekerk violated AS 2101. KPMG-SA and Van Niekerk also violated AS 1015 by failing to exercise due professional care in planning KPMG-Zimbabwe's participation in the 2015 through 2017 Issuer A audits.

F. Basson Violated PCAOB Rules and Standards During the 2017 Audit of Issuer A

62. PCAOB standards provide that the engagement quality reviewer should "[e]valuate the significant judgments that relate to engagement planning."¹⁹ Thus, the engagement quality reviewer should evaluate "[t]he consideration of the firm's recent engagement experience with the company."²⁰ The engagement quality reviewer must perform his or her responsibilities with due professional care.²¹

63. During the 2017 Issuer A audit, Basson knew that the Commission had issued a settled enforcement order sanctioning KPMG-SA for its use of KPMG-Zimbabwe's work in the 2013 and 2014 audits. Basson also knew or should have known that Van Niekerk and the engagement team had responded to hours calculations indicating that KPMG-Zimbabwe had played a substantial role in the 2017 audit by making unreasonable downward adjustments to KPMG-Zimbabwe's audit hours.

64. Basson failed to appropriately evaluate whether Van Niekerk and the engagement team had adequately planned to conduct the 2017 audit in a manner such that KPMG-Zimbabwe would not violate PCAOB registration requirements. Basson likewise failed to evaluate whether Van Niekerk and the engagement team appropriately responded during the course of the audit to circumstances indicating that KPMG-Zimbabwe had played a substantial role in the 2017 audit.

65. By failing to adequately evaluate these significant judgments relating to engagement planning, and by providing a concurring approval of issuance without performing

¹⁸ See AS 2101.05 ("Planning is not a discrete phase of an audit but, rather, a continual and iterative process that . . . continues until the completion of the current audit").

¹⁹ AS 1220.10, *Engagement Quality Review*.

²⁰ *Id.*

²¹ AS 1220.12.

his engagement quality review with due professional care as to such significant judgments, Basson violated AS 1220.

G. KPMG-SA Violated PCAOB Quality Control Standards

66. PCAOB quality control standards require that a firm “shall have a system of quality control for its accounting and auditing practice” and describes “elements of quality control and other matters essential to the effective design, implementation, and maintenance of the system.”²² As part of this requirement, “[p]olicies and procedures should be established to provide the firm with reasonable assurance that the work performed by engagement personnel meets applicable professional standards, regulatory requirements, and the firm’s standards of quality.”²³

67. KPMG-SA failed to establish adequate policies and procedures to provide the firm with reasonable assurance that the work performed by engagement personnel met applicable regulatory requirements when using other accounting firms. As discussed above, KPMG-SA’s lack of adequate policies and procedures related to the use of other accounting firms’ work resulted in KPMG-Zimbabwe’s participation in the 2015 through 2017 audits of Issuer A exceeding the substantial role threshold, despite the firm and engagement team’s knowledge that KPMG-Zimbabwe’s participation in the audits presented a potential registration issue.

68. As demonstrated by its failure to remedy, in any of three subsequent audits, the regulatory violations caused by KPMG-Zimbabwe’s participation in the 2013 and 2014 Issuer A audits, KPMG-SA failed to establish adequate policies to provide reasonable assurance that the work performed by engagement personnel would meet applicable regulatory requirements when using other accounting firms. Accordingly, KPMG-SA violated QC § 20 during the period of the 2015 through 2017 audits.

H. KPMG-SA Violated the Form AP Filing Rule

69. PCAOB Rule 3211(a) provides that, “[f]or each audit report it issues for an issuer, a registered public accounting firm must file with the Board a report on Form AP in accordance with the instructions to that form.” The Form AP Instructions for “Part IV – Responsibility for the Audit Is Not Divided” provide that “[a]ctual audit hours should be used if available. If actual

²² QC § 20.01.

²³ QC § 20.17.

audit hours are unavailable, the Firm may use a reasonable method to estimate the components of this calculation.”

70. On April 19, 2018, KPMG-SA filed a Form AP disclosing that KPMG-Zimbabwe had incurred 17% of the total 2017 Issuer A audit hours. KPMG-SA’s disclosure was based on the unreasonable downward adjustments to KPMG-Zimbabwe’s audit hours discussed above.

71. Because KPMG-SA’s disclosure of the audit hours incurred by KPMG-Zimbabwe was based on unreasonable calculation methods, KPMG-SA violated Rule 3211.

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)(B) of the Act and PCAOB Rule 5300(a)(2), Cornelis Van Niekerk is barred from being 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);²⁴
- B. Pursuant to PCAOB Rule 5302(b), Cornelis Van Niekerk may file a petition for Board consent to associate with a registered public accounting firm after two years from the date of this Order;
- C. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Coenraad Basson is suspended, for one year from the date of this Order, from being an

²⁴ As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Van Niekerk. Section 105(c)(7)(B) provides: “It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission.”

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);²⁵

- D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), the Board imposes the following civil money penalties:
1. KPMG Inc., \$200,000; and
 2. Cornelis Van Niekerk, \$50,000; and
 3. Coenraad Basson, \$25,000.

All funds collected by the Board as a result of the assessment of these civil money penalties will be used in accordance with Section 109(c)(2) of the Act. KPMG Inc., Van Niekerk, and Basson shall pay these civil money penalties within ten days of the issuance of this Order by (1) wire transfer in accordance with instructions furnished by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Office of Finance, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington D.C. 20006, and (c) submitted under a cover letter, which identifies the entity or person 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. ***Respondent Cornelis Van Niekerk understands that failure to pay the civil money penalty described above may alone be grounds to deny any petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm.***

- E. Pursuant to Sections 105(c)(4)(G) of the Act and PCAOB Rules 5300(a)(9), the Board orders that:
1. Review by KPMG Inc. Within six months of the date of this Order, KPMG Inc. shall review and evaluate its quality control or other policies and procedures to provide the firm with reasonable assurance that its

²⁵ As a consequence of the suspension, the provisions of Section 105(c)(7)(B) of the Act, discussed *supra*, at n.24, will apply with respect to Basson.

personnel and other associated persons comply with applicable regulatory requirements when the firm uses audit work performed or supervised by other accounting firms.

2. Reporting. Within six months of the date of this Order, KPMG Inc. shall submit a written report to the Director of the Division of Enforcement and Investigations summarizing the review and evaluation of the area specified in paragraph E.1 above (“Report”). The Report shall describe any modified or additional policies or procedures adopted or to be adopted by KPMG Inc. or, if KPMG Inc. concludes no such modifications or additions should be adopted, a detailed and satisfactory explanation of why the firm believes changes are not warranted. In addition, KPMG Inc. shall submit any additional information and evidence concerning the Report, the information in the Report, and KPMG Inc.’s compliance with this Order as the staff of the Division of Enforcement and Investigations may reasonably request.
3. Certificate of Implementation. Within twelve months of the date of this Order, KPMG Inc.’s head of quality assurance shall certify in writing (“Certificate of Implementation”) to the Director of the Division of Enforcement and Investigations that KPMG Inc. has implemented all of the modifications and additions to its policies and procedures that were described in the Report. The Certificate of Implementation shall provide written evidence of KPMG Inc.’s adoption of such modifications and additions in narrative form, identify the actions taken to implement such modifications and additions, and be supported by exhibits sufficient to demonstrate implementation. KPMG Inc. shall also submit such additional evidence of, and information concerning, implementation as the staff of the Division of Enforcement and Investigations may reasonably request.

4. Noncompliance. KPMG Inc. understands that a failure to satisfy these undertakings may constitute a violation of Rule 5000 and could provide a basis for the imposition of additional sanctions in a subsequent disciplinary proceeding.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

August 29, 2022