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ORDER MAKING FINDINGS AND	)	PCAOB Release No. 2004-016
DISAPPROVING REGISTRATION APPLICATION	)	December 16, 2004
	)	
<i>In re Registration Application of</i>	)	
<i>Kushner, Smith, Joanou &amp; Gregson, LLP</i>	)	
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I.

On October 12, 2004, the Public Company Accounting Oversight Board ("PCAOB" or "Board"), pursuant to PCAOB Rule 2106(b)(2)(ii), issued a Notice of Hearing on the Registration Application of Kushner, Smith, Joanou & Gregson, LLP ("Applicant"). The Notice of Hearing afforded Applicant an opportunity for a hearing under PCAOB Rule 5500 to determine whether to approve or disapprove Applicant's application for registration with the Board. The Board received from Applicant a timely Request for a Hearing on the Registration Application.

II.

Pursuant to PCAOB Rule 5205, Applicant has submitted an Offer of Settlement that the Board has determined to accept. Solely for the purpose of this proceeding 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 the finding described in III.A below, Applicant consents to the entry of this Order Making Findings and Disapproving Registration Application as set forth below.

III.

On the basis of information obtained by the Board in connection with consideration of Applicant's registration application, the Board finds<sup>1/</sup> that:

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

**RELEASE**

- A. Applicant is a Limited Liability Partnership headquartered in Irvine, California.
- B. Applicant issued an audit report dated June 4, 2004 with respect to the Onyx Acceptance Corporation 401(k) Savings Plan ("Onyx"), and an audit report dated June 9, 2004 with respect to the Ingram Micro 401(k) Savings Plan ("Ingram"). Onyx and Ingram are each an issuer as defined by the Sarbanes-Oxley Act of 2002 (the "Act") and the PCAOB Rules. On the date Applicant issued the audit reports described above, Applicant was not registered with the Board. Accordingly, Applicant's issuance of the audit reports violated Section 102(a) of the Act and PCAOB Rule 2100, both of which require that, effective October 22, 2003, any person that issues an audit report with respect to an issuer must be registered with the Board.
- C. Applicant's violations described above resulted from Applicant's failure to exercise the degree of care that the Board would expect of a public accounting firm under the circumstances.

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, it is hereby ORDERED:

**RELEASE**

That Applicant's application for registration with the Board is disapproved, provided, however, that with respect to any new application for registration submitted by Applicant after June 15, 2005, the Board will not issue a Notice of Hearing to determine whether to approve or disapprove such application based solely on the violations that are the subject of the findings contained in this Order.

ISSUED BY THE BOARD.

/s/

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J. Gordon Seymour  
Acting Secretary

December 16, 2004