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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

*In the Matter of Marco Alexander Rodríguez
Ramírez,*

Respondent.

PCAOB Release No. 105-2022-037

December 6, 2022

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

- (1) censuring Marco Alexander Rodríguez Ramírez (“Rodríguez” or “Respondent”); and
- (2) barring Rodríguez from being associated with a registered public accounting firm.¹

The Board is imposing these sanctions on the basis of its findings that Rodríguez failed to cooperate with the Board’s 2016 inspection of KPMG S.A.S. (“KPMG Colombia” or the “Firm”) by participating in the improper alteration of work papers for an issuer audit that was subject to inspection.²

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)

¹ Rodríguez may file a petition for Board consent to associate with a registered public accounting firm after one (1) year from the date of this Order.

² The Board determined to accept Rodríguez’s offer of settlement, which does not require him to pay a civil money penalty, after considering his financial resources. Based on Rodríguez’s conduct, the Board would have imposed a civil money penalty of \$25,000 on him in this settlement, if it had not taken his financial resources into consideration.

of the Sarbanes-Oxley Act of 2002, as amended (“Act”), and PCAOB Rule 5200(a)(1) against Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement (the “Offer”) that the Board has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Board or in which the Board is a party, and without admitting or denying the findings contained in the Order, except as to the Board’s jurisdiction over Respondent and the subject matter of these proceedings (which is admitted) and the facts, findings, and violations in paragraphs 1 and 14-20 (which are admitted), Respondent consents to the entry of this Order as set forth below.³

III.

On the basis of Respondent’s Offer, the Board finds that:⁴

A. Respondent

1. **Marco Alexander Rodríguez Ramírez** was, at all relevant times, an audit senior at KPMG Colombia and the audit senior for the audit procedures the Firm performed over certain Colombian subsidiaries of Issuer A in connection with the audit of Issuer A’s financial statements for the year ended December 31, 2015 (the “Component Audit”). Rodríguez is licensed as an accountant by the Junta Central de Contadores in Bogota D.C., Colombia (professional card no. 149387). At all relevant times, Rodríguez 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).

³ The findings herein are made pursuant to Respondent’s Offer and are not binding on any other person or entity in this or any other proceeding.

⁴ The Board finds that Respondent’s conduct described in this Order meets the condition set out in Section 105(c)(5)(A) of the Act, 15 U.S.C. § 7215(c)(5)(A), which provides that certain sanctions may be imposed in the event of intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard.

B. Relevant Entities and Individuals

2. **KPMG Colombia** is a simplified stock company headquartered in Bogotá, Republic of Colombia.⁵ KPMG Colombia is a member of the KPMG international network of firms (“KPMG Global”). The Firm is, and at all relevant times was, registered with the Board pursuant to Section 102 of the Act and PCAOB rules.

3. The “**Lead Partner**” was formerly a partner of KPMG Colombia. He served as the lead partner for the Component Audit.⁶

4. The “**Manager**” was formerly an employee of KPMG Colombia. He served as the manager for the Component Audit.⁷

5. **Issuer A** was, at all relevant times, an “issuer” within the meaning of Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Another member firm of KPMG Global served as the principal auditor for Issuer A’s financial statements for the year ended December 31, 2015, and instructed KPMG Colombia to conduct the Component Audit.

C. Summary

6. This matter involves Respondent’s failure to cooperate with the PCAOB’s 2016 inspection of KPMG Colombia, and Respondent’s related violations of PCAOB audit documentation standards and ethics rules and standards. After the completion of the Component Audit and the expiration of the applicable documentation completion date, Respondent learned that the PCAOB’s Division of Registration and Inspections (“DRI”) would be inspecting the Component Audit. At the Lead Partner’s direction, Respondent then improperly modified the Firm’s electronic work papers for the Component Audit and backdated those work papers to conceal that they had been modified. Rodríguez also provided instructions to other members of the Component Audit engagement team in connection with their efforts to make improper modifications to the work papers in anticipation of the inspection.

⁵ See *KPMG S.A.S.*, PCAOB Rel. No. 105-2022-034 (Dec. 6, 2022).

⁶ See *José Daniel Meléndez Giménez*, PCAOB Rel. No. 105-2022-035 (Dec. 6, 2022).

⁷ See *Edgar Mauricio Ramírez Rueda*, PCAOB Rel. No. 105-2022-036 (Dec. 6, 2022).

7. As a result, and as further described below, Respondent violated PCAOB Rule 4006, *Duty to Cooperate with Inspectors*, AS 3, *Audit Documentation*, and ET § 102, *Integrity and Objectivity*.⁸

D. Respondent Violated PCAOB Rules, Auditing Standards, and Ethics Standards in Connection with the PCAOB’s 2016 Inspection

i. Rules and Standards

8. PCAOB Rule 4006 requires that “[e]very registered public accounting firm, and every associated person of a registered public accounting firm . . . cooperate with the Board in the performance of any Board inspection.”⁹ “Implicit in this cooperation requirement is that auditors provide accurate and truthful information.”¹⁰

9. PCAOB rules also require that associated persons of registered public accounting firms comply with applicable auditing and related professional practice standards.¹¹ Among other requirements, registered firms and their associated persons must comply with the auditing, ethics, and quality control standards adopted by the Board.¹²

10. The Board’s audit documentation standard states, in part: “A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date (*documentation completion date*). . . . Audit documentation must not be deleted or discarded after the documentation completion date, however, information may be added. Any documentation added must indicate the date the information

⁸ All references to PCAOB rules and standards in this Order are to the versions of those rules and standards, and to their organization and numbering, in effect at the time of the audit discussed herein.

⁹ PCAOB Rule 4006.

¹⁰ *Kabani & Co., Inc.*, Rel. No. 34-80201, 2017 WL 947229, at *12 (SEC Mar. 10, 2017) (citations omitted), *petition for review denied*, *Kabani & Co., Inc. v. SEC*, 733 F. App’x 918 (9th Cir. 2018); *see also* PCAOB Staff Audit Practice Alert No. 14, at *3 (Apr. 21, 2016) (“This duty to cooperate includes an obligation not to provide improperly altered documents or misleading information in connection with the Board’s inspection processes.” (citations omitted)).

¹¹ *See* PCAOB Rule 3100, *Compliance with Auditing and Related Professional Practice Standards*.

¹² *See* PCAOB Rule 3200T, *Interim Auditing Standards*; PCAOB Rule 3400T, *Interim Quality Control Standards*; Rule 3500T, *Interim Ethics and Independence Standards*.

was added, the name of the person who prepared the additional documentation, and the reason for adding it.”¹³

11. PCAOB ethics standards provide, in part, that an associated person “shall maintain objectivity and integrity” and “shall not knowingly misrepresent facts” in the performance of professional services.¹⁴ An associated person knowingly misrepresents facts in violation of ET § 102 when, for example, he or she knowingly: (i) makes, or permits or directs another to make, materially false and misleading entries in an entity’s records; or (ii) signs, or permits or directs another to sign, a document containing materially false and misleading information.¹⁵

ii. Respondent Improperly Modified Component Audit Work Papers After the Documentation Completion Date and in Anticipation of a PCAOB Inspection

12. After completing the Component Audit, KPMG Colombia sent an interoffice report to the principal auditor by no later than February 25, 2016. The principal auditor released its audit report for the Issuer A audit by no later than February 26, 2016. As a result, the documentation completion date for all audit work performed for the Issuer A audit was no later than April 11, 2016.

13. On September 7, 2016, DRI informed KPMG Colombia that it would inspect the Component Audit. DRI identified (a) net sales and accounts receivable, and (b) property, plant, and equipment as the focus areas for the inspection.

14. On or before September 16, 2017, after learning that DRI would inspect the Component Audit, the Lead Partner instructed the Manager and Rodríguez to perform a review of the audit documentation for that engagement, with assistance from the other members of the engagement team. The Lead Partner further instructed the Manager and Rodríguez to provide him with comments from that review.

15. Rodríguez, the Manager, and the other members of the engagement team thereafter performed the review as directed. On September 19, the Manager assembled the comments he received back from the engagement team’s review of the Component Audit work papers, including comments from Rodríguez, and forwarded them to the Lead Partner as an

¹³ AS 3 ¶¶ 15-16 (italics in original).

¹⁴ See ET § 102.01.

¹⁵ See ET §§ 102.02(a), (c).

attachment to an email with the subject "To do PCAOB." The Manager copied Rodríguez on that email.

16. After receiving the engagement team's initial review comments from the Manager, the Lead Partner informed Rodríguez and the Manager that the engagement team needed to revise the audit work papers ahead of the inspection, including to address the comments from the engagement team's review. In response, on September 21, Rodríguez forwarded the "To do PCAOB" email to other members of the engagement team, copying the Manager, indicating that they should make changes to the work papers to address the comments the Manager had forwarded to the Lead Partner. In the email, Rodríguez also indicated that the engagement team members should make the changes outside of the existing electronic audit work paper database (the "eAudit database"). The purpose of revising the work papers outside of the eAudit database was to prevent certain software from capturing the actual dates the work papers were revised. At the time of his September 21 email, Rodríguez understood that work papers modified outside the eAudit database could later be substituted into the eAudit database or a local copy of the eAudit database in a manner that would conceal their modification date.

17. From September 21 to October 2, 2016, the Lead Partner also sent Rodríguez and the Manager a series of emails providing additional detailed comments for the engagement team to address through further revisions to the work papers. During that same period, other professionals whom the Lead Partner enlisted to help review the Component Audit work papers also provided comments to Rodríguez and the Manager for consideration.

18. In some of the emails, the Lead Partner noted that it was possible to see in the revised versions of the work papers that some of the changes had been made in September 2016, and he instructed Rodríguez and the Manager to alter those dates.

19. Between September 19 and October 9, 2016, Rodríguez made changes to the work papers to address certain of the comments that the Lead Partner and others had made during the reviews described in Paragraphs 14-18, above. Pursuant to the Lead Partner's instructions, Rodríguez personally altered and backdated multiple work papers between the date that he was made aware that KPMG Colombia's work on the Component Audit had been selected for inspection and the start of that inspection. Rodríguez knew he was making those changes after the documentation completion date for the Component Audit and that the revised audit documentation that would be provided to DRI, but he did not indicate the date he was making those changes or the reason(s) he was making them. To the contrary, Rodríguez backdated his changes to dates before the documentation completion date, and concealed the actual dates he made the changes, by improperly adjusting the date on a computer clock using an administrative passcode.

20. As a result of the above-described conduct, Rodríguez violated PCAOB Rule 4006, AS 3, and ET § 102 in connection with the Board’s 2016 inspection of the Firm and DRI’s review of the Component Audit.

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 Respondent’s Offer. Accordingly, it is hereby ORDERED that:

- A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Marco Alexander Rodríguez Ramírez is hereby censured;
- B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Marco Alexander Rodríguez Ramírez 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);¹⁶
- C. Pursuant to PCAOB Rule 5302(b), Marco Alexander Rodríguez Ramírez may file a petition for Board consent to associate with a registered public accounting firm after one year from the date of this Order; and
- D. Respondent understands that the determination to accept Respondent’s offer, without imposing a civil money penalty, is contingent upon the accuracy and completeness of Respondent’s financial information provided to the Division of Enforcement and Investigations (the “Division”). Respondent also understands that, if at any time following this settlement the Division obtains information indicating that any financial information provided by Respondent—including, but not limited to, any information concerning assets, income, liabilities, or net worth—was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such information was provided, the Division may, at any

¹⁶ As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Rodríguez. 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.”

time following entry of this Order, petition the Board to: (a) reopen this matter to consider whether Respondent provided accurate and complete financial information at the time such information was provided to the Division; and (b) seek an order directing payment of the maximum civil money penalty allowable under the law or any lesser amount determined to be appropriate. No other issue shall be considered in connection with this petition other than whether the financial information provided by Respondent was fraudulent, misleading, inaccurate, or incomplete in any material respect. Respondent may not, by way of defense to any such petition: (i) contest the findings in this Order; (ii) assert that payment of a civil money penalty should not be ordered; (iii) contest the amount of the civil money penalty to be ordered; or (iv) assert any defense to liability or remedy, including, but not limited to, any defense based on statute of limitations or any other time-related defense.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

December 6, 2022