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Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions

In the Matter of Crowe MacKay LLP,

Respondent.

PCAOB Release No. 105-2024-038

September 24, 2024

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

- (1) censuring Crowe MacKay LLP (“Crowe MacKay,” the “Firm,” or “Respondent”);
- (2) imposing a civil money penalty in the amount of \$30,000 upon the Firm; and
- (3) requiring the Firm to comply with its policies and procedures directed toward ensuring compliance with PCAOB rules and standards for communications with audit committees and the documentation of those communications.

The Board is imposing these sanctions on the basis of its findings that the Firm failed to make certain required written communications and document pre-approval of services by two issuers’ audit committees, in violation of PCAOB Rule 3524, *Audit Committee Pre-approval of Certain Tax Services*, and AS 1215, *Audit Documentation*.

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 Respondent pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended (the “Act”), and PCAOB Rule 5200(a)(1).

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Crowe MacKay has submitted an Offer of Settlement (“Offer”) 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 Respondent and the subject matter of these proceedings, which is admitted, Respondent consents to the entry of this Order as set forth below.¹

III.

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

A. Respondent

1. **Crowe MacKay LLP** is a public accounting firm headquartered in Vancouver, Canada. At all relevant times, Crowe MacKay was registered with the Board pursuant to Section 102 of the Act and PCAOB rules. During the period covered by this Order, the Firm annually served as the principal auditor for seven issuer clients.

B. Issuer

2. **GreenPower Motor Company Inc.** (“GreenPower Motor”) was, at all relevant times, an entity incorporated in British Columbia and headquartered in Vancouver, Canada. According to its public filings, it designs, builds, and distributes electric vehicles, including buses. At all relevant times, GreenPower Motor was an “issuer” as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Crowe MacKay issued audit reports concerning GreenPower Motor’s financial statements that GreenPower Motor attached to its Forms 20-F filed with the U.S. Securities and Exchange Commission (“SEC” or “Commission”) for the year ended March 31, 2021 and for the year ended March 31, 2022.

3. **Issuer A** was, at all relevant times, an entity incorporated in British Columbia and headquartered in Victoria, Canada. According to its public filings, it develops technologies associated with the development of novel therapeutic antibodies. At all relevant times, Issuer A was an “issuer” as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii). Crowe MacKay issued an audit report concerning Issuer A’s financial statements that Issuer A

¹ The findings herein are made pursuant to Crowe MacKay’s Offer and are not binding on any other person or entity in this or any other proceeding.

attached to its Form 40-F and Form 40-F/A, filed with the Commission on July 28, 2021, and September 29, 2021, respectively.

C. Crowe MacKay Failed to Make Certain Required Written Communications and Document Audit Committee Pre-Approval of Services in Violation of PCAOB Rule 3524 and AS 1215

4. Audit documentation is the written record of the basis of the auditor's conclusions and provides support for the auditor's representation that an audit was conducted in accordance with PCAOB standards.² PCAOB standards provide that audit documentation should demonstrate that the engagement complied with the standards of the PCAOB.³

5. Thus, documentation of an audit must support that the auditor complied with PCAOB and SEC independence requirements. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client, including by satisfying the independence criteria set out in the Commission's rules and regulations under the federal securities laws.⁴ One such criterion is set out in Rule 2-01(c)(7)(i) of Commission Regulation S-X, which provides that "[a]n accountant is not independent of an issuer" unless, "[b]efore the accountant is engaged by the issuer . . . to render audit or non-audit services, the engagement is approved by the issuer's . . . audit committee."⁵

6. PCAOB Rule 3524 provides that, in connection with seeking audit committee pre-approval to perform for an issuer audit client any permissible tax service, a registered public accounting firm shall describe, in writing, to the audit committee of the issuer, among other things, the scope of the service, the fee structure of the engagement, and any side letter or other amendment to the engagement letter, or any other agreement between the firm and the audit client relating to the service. Under Rule 3524, the auditor is also required to "discuss with the audit committee of the issuer the potential effects of the services on the independence of the firm" and "document the substance of its discussion with the audit committee of the issuer."

² See AS 1215.02; AS 3101.09, *The Auditor's Report on an Audit of Financial Statements When the Auditor Expresses an Unqualified Opinion* (describing the elements that must be included in the section of the audit report containing the basis for the auditor's opinion).

³ See AS 1215.05(a).

⁴ See PCAOB Rule 3520, Note 1, *Auditor Independence*; AS 1005.05-.06, *Independence*.

⁵ 17 C.F.R. § 210.2-01(c)(7). The definition of accountant includes "any accounting firm with which the certified public accountant . . . is affiliated." 17 C.F.R. § 210.2-01(f)(1).

i. GreenPower Motor

7. Crowe MacKay audited GreenPower Motor's financial statements for the years ended March 31, 2021 and March 31, 2022, issuing audit reports that GreenPower Motor included in its Forms 20-F filed with the Commission on June 29, 2021 and July 29, 2022.

8. During the time Crowe MacKay performed those audits, it also performed other services for GreenPower Motor, including tax return preparation services and services in connection with its consent to the use of its auditor's report in connection with a Form S-8 registration statement ("consent services").

9. Crowe MacKay failed to document pre-approval from GreenPower Motor's audit committee to provide these tax return preparation and consent services.

10. Crowe MacKay also failed to describe in writing to GreenPower Motor's audit committee the scope of the tax return preparation services, the fee structure for the engagement, and any oral agreement between Crowe MacKay and GreenPower Motor relating to the tax services. Crowe MacKay further failed to document the substance of any discussion with GreenPower Motor's audit committee concerning the potential effects of the tax services on the independence of the Firm.

11. Accordingly, Crowe MacKay violated PCAOB Rule 3524 and AS 1215 with respect to the 2021 and 2022 GreenPower audits.

ii. Issuer A

12. Crowe MacKay audited Issuer A's financial statements for the year ended April 30, 2021, issuing an audit report that Issuer A attached to its Form 40-F and Form 40-F/A, filed with the Commission on July 28, 2021, and September 29, 2021, respectively.

13. Crowe MacKay failed to document pre-approval from Issuer A's audit committee for the audit services.

14. Accordingly, Crowe MacKay violated AS 1215 with respect to the 2021 Issuer A audit.

IV.

15. Crowe MacKay has represented to the Board that it has established and implemented the following changes to its policies and procedures for the purpose of providing it with reasonable assurance of compliance with PCAOB standards for communications with audit committees and the documentation of those communications:

- a. Crowe MacKay updated its engagement letter template to include communications required under PCAOB Rule 3524 and to document pre-approval by an issuer's audit committee of audit and non-audit services.
- b. Crowe Mackay updated other template work papers to document pre-approval of audit and non-audit services by an issuer's audit committee.
- c. Crowe MacKay provided training to Firm personnel that covered the requirements for obtaining and documenting audit committee pre-approval of audit and non-audit services.

V.

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), the Firm is 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 \$30,000 is imposed upon the Firm.
 1. 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.
 2. The Firm shall pay this civil money penalty within ten days of the issuance of this Order by: (1) wire transfer pursuant to instructions provided 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 NW, Washington, D.C. 20006, and (c) submitted under a cover letter, which identifies the Firm 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 NW, Washington, D.C. 20006;

3. If timely payment is not made, additional interest shall accrue at the federal debt collection rate set for the current quarter pursuant to 31 U.S.C. § 3717. Payments shall be applied first to post-Order interest;
 4. With respect to any civil money penalty amounts that Respondent shall pay pursuant to this Order, Respondent shall not, directly or indirectly, (a) seek or accept reimbursement or indemnification from any source including, but not limited to, any current or former affiliated firm or professional or any payment made pursuant to any insurance policy; (b) claim, assert, or apply for a tax deduction or tax credit in connection with any federal, state, local, or foreign tax; nor (c) seek or benefit by any offset or reduction of any award of compensatory damages, by the amount of any part of Respondent's payment of the civil money penalty pursuant to this Order, in any private action brought against Respondent based on substantially the same facts as set out in the findings in this Order; and
 5. Respondent understands that its failure to pay the civil money penalty described above may result in summary suspension of the Firm's registration, pursuant to PCAOB Rule 5304(a), following written notice to Respondent at the address on file with the PCAOB at the time of the issuance of this Order.
- C. Pursuant to Section 105(c)(4)(G) of the Act and PCAOB Rule 5300(a)(9), the Firm is required to comply with its revised policies and procedures, including those intended to provide reasonable assurance that Firm personnel will comply with PCAOB rules and standards for communications with audit committees and the documentation of those communications.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

September 24, 2024