

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11088 / August 3, 2022

SECURITIES EXCHANGE ACT OF 1934
Release No. 95415 / August 3, 2022

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4318 / August 3, 2022

ADMINISTRATIVE PROCEEDING
File No. 3-20945

In the Matter of

**SURGALIGN HOLDINGS,
INC., and ROBERT P.
JORDHEIM,**

Respondents.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE AND CEASE-
AND-DESIST PROCEEDINGS
PURSUANT TO SECTION 8A OF THE
SECURITIES ACT OF 1933, SECTIONS
4C AND 21C OF THE SECURITIES
EXCHANGE ACT OF 1934, AND RULE
102(e) OF THE COMMISSION'S RULES
OF PRACTICE, MAKING FINDINGS,
AND IMPOSING REMEDIAL
SANCTIONS AND A CEASE-AND-
DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that public administrative and cease-and-desist proceedings be, and hereby are, instituted against Surgalign Holdings, Inc. (“Surgalign”) (formerly known as RTI Surgical Holdings, Inc., and RTI Surgical, Inc.) (“RTI”) and Robert P. Jordheim (“Jordheim”) (collectively, “Respondents”) pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), Sections 4C¹ and 21C of the Securities

¹ Section 4C provides, in relevant part, that:

The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found . . . (1) not to possess the requisite qualifications to represent others; (2) to be lacking in character or integrity, or to have engaged

Exchange Act of 1934 (“Exchange Act”), and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice.²

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondents consent to the entry of this Order Instituting Public Administrative and Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933, Sections 4C and 21C of the Securities Exchange Act of 1934, and Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondents’ Offers, the Commission finds³ that:

INTRODUCTION

1. From 2015 through 2019, RTI shipped orders weeks or months before its customers had originally requested delivery, thereby pulling sales forward from future quarters, to address projected quarterly revenue shortfalls. In some instances, RTI did so after requesting and obtaining customer permission; in other instances, RTI shipped orders early without customer approval and then prematurely recognized revenue for the sales. In multiple quarters, RTI would not have met its revenue guidance without these undisclosed pull-forwards. RTI and its former senior management, including its CFO until September 2017, Robert Jordheim, did not disclose to investors that RTI’s apparent success at achieving its revenue guidance resulted from its reliance on pull-forwards, and they did not disclose the known uncertainty that this practice created for RTI’s future revenue streams. In 2020, RTI issued a restatement to correct, among other things, its

in unethical or improper professional conduct; or (3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations issued thereunder.

² Rule 102(e)(1)(ii) provides, in pertinent part, that:

The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have engaged in unethical or improper professional conduct.

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

premature recognition of revenue, in violation of generally accepted accounting principles (GAAP), for orders shipped early to customers without their approval.

RESPONDENTS

2. **Surgalign Holdings, Inc.** (formerly known as **RTI Surgical Holdings, Inc.**, and **RTI Surgical, Inc.** (“RTI”)) is a Delaware corporation with its principal place of business in Deerfield, Illinois, and currently has a class of securities registered pursuant to Section 12(b) of the Exchange Act. Surgalign’s common stock trades on the Nasdaq exchange under the symbol “SRGA.” Surgalign files periodic reports, including annual reports on Form 10-K and quarterly reports on Form 10-Q, with the Commission pursuant to Section 13(a) of the Exchange Act and related rules thereunder. During the relevant period, RTI had a class of securities registered pursuant to Section 12(b) of the Exchange Act, and its stock traded on the Nasdaq exchange under the symbol “RTIX.”

3. **Jordheim**, age 58, resides in Ponte Vedra Beach, Florida. Jordheim was RTI’s CFO from June 2010 through September 2017, except that he served instead as RTI’s Interim CEO from December 2016 through March 2017. Jordheim obtained a CPA license from the State of North Dakota in 1987, and that license lapsed in 1989.

FACTS

A. RTI’s Reliance on Pull-Forwards to Achieve Its Revenue Guidance, and Its Deficient Disclosures and Controls.

4. RTI manufactured and sold surgical implants, such as orthopedic and spinal implants. Its pull-forward practices were concentrated in its Commercial division, which primarily sold RTI’s products to large distributors that typically placed orders months in advance.

5. Without the use of pull-forwards, including unauthorized early shipments, RTI would not have achieved its quarterly revenue guidance from Q1 2015 through Q1 2016, except in Q3 2015 (when RTI missed its guidance because of a single large customer’s resistance to a pull-forward). RTI periodically continued to use pull-forwards to help achieve its revenue guidance or analyst estimates in 2016 through 2019.

6. Members of RTI’s former senior management, including Jordheim, discussed opportunities for pull-forwards, including during regular staff meetings. RTI employees expressed concern about the impact of pull-forwards on future revenue and customer relationships, and suggested setting more conservative revenue targets, but were overruled by RTI’s former senior management. When RTI needed additional revenue to meet financial targets, Jordheim and other former senior management asked the Commercial division to identify additional potential pull-forwards and discussed specific customers that could be targeted for pull-forwards, and Jordheim and other former senior management approved discounts to induce customers to accept early shipments. Jordheim and other former senior management regularly received information about the volume of pull-forwards and their impact on RTI’s ability to achieve future revenue targets.

7. RTI and members of its former senior management, including Jordheim, also knew or should have known that RTI sent some shipments early to customers without their approval and that RTI recognized revenue prematurely for those shipments. RTI, Jordheim, and other former senior management failed to implement controls reasonably designed to ensure that RTI obtained and documented customer approval for early shipments. Rather, RTI employees typically relied on verbal customer approvals, and in some instances, they did not request or receive approval at all. RTI, Jordheim, and other former senior management also failed to implement controls reasonably designed to ensure that RTI properly recorded revenue in the correct period for shipments where customers did not agree to early delivery.

8. RTI's reliance on pull-forwards, including unauthorized early shipments, disguised RTI's true business performance and resulted in uncertainties for RTI's business and future operating results that RTI and its former senior management, including Jordheim, did not disclose. The use of pull-forwards cannibalized future sales and resulted in revenue shortfalls in future quarters that RTI filled with additional pull-forwards. RTI and its former senior management, including Jordheim, did not disclose that RTI was using early shipments to address revenue shortfalls, that RTI did not have enough orders to achieve its quarterly revenue guidance without using pull-forwards, or that earlier pull-forwards had significantly reduced the amount of available future orders. Nor did RTI, Jordheim, or other former senior management disclose that RTI was recognizing revenue prematurely for unauthorized early shipments in violation of generally accepted accounting principles (GAAP). RTI, Jordheim, and other former senior management also failed to disclose that RTI's use of pull-forwards jeopardized RTI's future revenue streams when its most significant customers imposed restrictions on future early shipments and required RTI to agree to substantial discounts or forgo annual fee increases to convince customers to accept pull-forwards.

9. Members of RTI's former senior management, including Jordheim, prepared and reviewed RTI's Commission filings, and participated in RTI's earnings calls. RTI failed to ensure that these disclosures were accurate and complete, despite its customers' objections and employees' concerns about the effect of the early shipments on customer relationships.

10. Members of RTI's former senior management, including Jordheim, signed management representation letters to RTI's auditor, letters which stated inaccurately that RTI's financial statements had been prepared and presented in accordance with GAAP. Jordheim and other former senior management did not disclose to RTI's auditor that RTI had relied on pull-forwards to achieve its revenue guidance, that RTI had recognized revenue prematurely for unauthorized early shipments, or that RTI's accounting records omitted essential details regarding RTI's unauthorized early shipments.

B. RTI's Reliance on Pull-Forwards, Including Unauthorized Early Shipments, to Achieve Revenue Guidance in 2015.

11. *RTI used \$5.8 million of pull-forwards to meet revenue projections in Q1 2015.* In Q1 2015, RTI's former senior management, including Jordheim, determined that RTI was likely to miss its revenue guidance as a result of shortfalls in its international sales and because RTI had previously used pull-forwards in 2014. In response, they elected to pull forward sales to achieve

RTI's Q1 revenue guidance. Jordheim had concluded that RTI was generating a disproportionate amount of its revenue at the end of each quarter, and he reported to other former senior management that this was "not a good trend." Nevertheless, RTI used \$5.8 million of pull-forwards to meet its revenue guidance for Q1 2015. RTI did not disclose its use of pull-forwards in its Form 10-Q, earnings release, or earnings call; rather, RTI's former senior management suggested during the earnings call that its success occurred because "The orders from our commercial partners just keep coming in."

12. *RTI used \$6.2 million of pull-forwards to meet revenue projections in Q2 2015.*

In early June 2015, Jordheim informed other former senior management that RTI was likely to fall short of its Q2 guidance. RTI's former senior management described RTI's Q2 forecast internally as "very concerning" and issued directions to "accelerate" sales. Jordheim and other former senior management received regular updates tracking RTI's pull-forward efforts. When the quarter ended, RTI's former senior management credited the Commercial division with "stepp[ing] up big this quarter to offset shortfalls" by using \$6.2 million of pull forwards to bridge the revenue gap. RTI and its former senior management, including Jordheim, did not disclose RTI's use of pull-forwards in RTI's Form 10-Q, earnings release, or earnings call, including when RTI announced in its Q2 2015 earnings release (which was an exhibit to RTI's 8-K filed with the SEC on July 30, 2015) that its revenue had exceeded its guidance for the quarter.

13. *RTI attempted to use unauthorized early shipments and other pull-forwards to meet revenue projections in Q3 2015.* When RTI's Q3 sales started to fall short of expectations, RTI's former senior management described the trend as "really unacceptable" and directed employees to use early shipments to bridge the gap to RTI's revenue guidance and "deliver on our commitment to the street." RTI's former senior management warned that "We would all be better off" if RTI did not disappoint investors by falling short of its revenue guidance. During the quarter, RTI shipped \$8.4 million of pull-forwards, including a \$2 million unauthorized early shipment to a major customer. The customer complained that the unauthorized early shipment had caused its "inventory levels [to] go sky high" and directed RTI "to not ship ANYTHING early without prior approvals." Despite its use of unauthorized early shipments and other pull-forwards, RTI ultimately missed its guidance because another one of its largest customers refused a \$2.5 million pull-forward, which was the exact amount of RTI's shortfall in Q3.

14. *RTI used \$3.8 million in pull-forwards, including unauthorized early shipments, and a \$7.2 million one-time transaction to meet revenue projections in Q4 2015.* At the end of 2015, RTI used \$3.8 million of pull forwards, including unauthorized early shipments, to meet revenue guidance. During the quarter, Jordheim told a subordinate to "ship whatever it takes" to achieve forecasted Commercial revenue targets. He was told that RTI planned to ship \$1.4 million of goods to a major customer, and that the shipment would largely exhaust that customer's orders through Q1 2016. After receiving the shipment, the customer complained to RTI and insisted that RTI must obtain the customer's approval before sending any shipments in the future. Jordheim and other former senior management were told about this customer's new directive and that it was a "response" to RTI's December 2015 shipments. They were also told that this directive would make it more difficult for RTI to achieve future revenue targets because RTI had planned to pull forward that customer's sales into Q1 2016.

15. In addition, at RTI's request, another customer agreed to a one-time \$7.2 million inventory transaction in Q4 2015 in lieu of continuing a consignment arrangement for products. The customer received a substantial price discount to purchase the inventory upfront and eliminate future payments under the consignment arrangement, which would otherwise have continued through at least 2016. Internally, Jordheim and other former senior management deliberated about whether to disclose the effect of this one-time transaction, but they decided instead to refer to "continued strong orders" to explain RTI's revenues. RTI and its former senior management, including Jordheim, did not disclose this transaction or RTI's use of pull-forwards in RTI's 10-K, earnings release, or earnings call, including when RTI announced in its Q4 2015 earnings release (which was an exhibit to RTI's 8-K filed with the SEC on January 8, 2016) that its revenue had exceeded its guidance for the quarter.

C. RTI's Use of a \$1.6 Million Unauthorized Early Shipment and Other Pull-Forwards in Q1 2016 to Achieve Revenue Guidance.

16. RTI's ability to meet its revenue guidance in early 2016 was jeopardized by poor business performance and shortfalls created by a major customer's objections to RTI's unauthorized early shipments, which kept RTI from pulling forward \$3 million of that customer's sales into Q1 2016. At the quarter end, another customer also rejected RTI's request for a \$1 million pull-forward, despite RTI's offer of an unusually large discount. Jordheim understood that this meant that RTI would "have no buffer" if some divisions missed their revenue targets. RTI's former senior management wrote to RTI's business leaders that "There is no cushion, no room for error. We need to hit the guidance, at a minimum," and were kept informed about plans to pull forward millions of dollars in shipments from future quarters into Q1 2016.

17. RTI achieved its Q1 2016 revenue guidance and analyst estimates of revenue by relying on \$3.3 million in pull-forwards, which included a \$1.6 million unauthorized early shipment to a major RTI customer. RTI employees decided that they were "not seeking [the customer's] authorization for early shipments," and Jordheim was informed in an email that RTI planned to "ship [to the customer] and deal with any issues later." RTI identified orders for which the customer had specified delivery dates through June 2, and shipped those orders on March 29, in violation of its contractual arrangement with the customer. On April 1, the customer contacted RTI to object to this early shipment, because the order had been delivered early without authorization and the customer lacked the storage and processing capacity to receive this shipment early and properly inspect it.

18. Jordheim and other former senior management learned that the customer was "pretty upset about the amount of product we shipped at quarter end" and was "contemplating returning at least a subset of" the early shipments. Jordheim and other former senior management also learned that the customer requested "pre-approval" of any further early shipments. During the quarter close process, RTI's former senior management was kept updated about the discussions with the customer, including that RTI had "still not gotten a response" to RTI's offers of a discount to induce the customer to accept the shipment. The customer did not accept the shipment, or inform RTI that it would be accepting the shipment, until late in April 2016, after RTI had closed its books for Q1 2016.

19. RTI recognized revenue for this shipment in Q1 2016 even though the revenue recognition criteria of ASC 605 (Revenue Recognition) were not satisfied: the shipment was not made pursuant to an arrangement with the customer; collectability was not reasonably assured; delivery had not occurred because the customer had not taken title or assumed the risks and rewards of ownership; and the price was not fixed or determinable because RTI had to retroactively offer a discount for the shipment, and did not know whether the customer would accept that offer. RTI and Jordheim never disclosed to investors or RTI's auditor that RTI had recognized revenue for this shipment in violation of GAAP, or that RTI had relied on this and other early shipments to achieve its revenue guidance, including when RTI announced in its Q1 2016 earnings release (which was an exhibit to RTI's 8-K filed with the SEC on April 28, 2016) that its revenue had exceeded its guidance for the quarter.

20. In addition, Jordheim and other former senior management did not take any steps to prevent RTI from sending early shipments in the future without customer approval, or from recognizing revenue for such shipments; two months later, at the end of Q2, RTI again sent a \$1.4 million early shipment to a major customer, despite that customer's clear instructions prohibiting such shipments.

D. RTI's Restatement and Jordheim's Compensation.

21. In response to the Commission's investigation, RTI conducted an internal investigation. Based on the findings of that investigation, RTI was required to prepare an accounting restatement due to its material noncompliance, as a result of misconduct, with the financial reporting requirements under the securities laws. On June 8, 2020, RTI filed an amended Form 10-K for the fiscal year ended December 31, 2018, which restated RTI's financial statements for the quarterly and annual periods of 2016, 2017, and 2018, and certain data on its financial statements, including annual revenues and income, for 2014 and 2015. Those financial statements were contained, as required by federal securities laws, in RTI's Forms 10-K and 10-Q that were filed starting with RTI's 2014 10-K on March 4, 2015, and ending with RTI's 2018 10-K on March 5, 2019. On June 8, 2020, RTI also filed its Form 10-K for the fiscal year ended December 31, 2019, which restated RTI's financial statements for the first three quarterly periods of 2019, which were contained, as required by federal securities laws, in RTI's Forms 10-Q that were filed from May 7, 2019, through November 7, 2019.

22. RTI identified and corrected several errors in its financial statements, including that "revenue for certain invoices should have been recognized at a later date than when originally recognized" because RTI had shipped certain orders "early to customers without obtaining authorized approval" from the customer as required by GAAP. RTI acknowledged that "[s]ome of those unapproved shipments were shipped by employees in order to generate additional revenue and resulted in shipments being pulled from a future quarter into an earlier quarter." In addition, RTI determined that its disclosure controls and procedures were not effective and that it had material weaknesses in its internal controls over financial reporting.

23. RTI offered and sold securities during the relevant period, including selling discounted stock under the company's employee stock purchase plan and issuing shares as compensation to certain employees under its employee incentive plan.

24. As CFO or Interim CEO of RTI, Jordheim signed RTI's 2014, 2015, and 2016 10-Ks, and the 10-Qs filed during 2015, 2016, and the first two quarters of 2017 (among other filings). During the relevant period, Jordheim sold RTI stock to satisfy withholding obligations in connection with the vesting of previously awarded RTI securities. Jordheim has not reimbursed RTI for the bonuses, incentive-based compensation, and equity-based compensation that he received from RTI, or the profits he received from sales of RTI securities, during the twelve-month periods following the first public issuance or filing of the financial documents that were restated by RTI.

VIOLATIONS

25. Section 17(a)(2) of the Securities Act proscribes, in the offer or sale of a security, the receipt of "money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading." Section 17(a)(3) of the Securities Act proscribes, in the offer or sale of a security, engaging "in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser." A violation of these provisions does not require scienter and may rest on a finding of negligence. *See Aaron v. SEC*, 446 U.S. 680, 702 (1980).

26. Section 13(a) of the Exchange Act requires issuers to file such periodic and other reports as the Commission may prescribe and in conformity with such rules as the Commission may promulgate. Exchange Act Rules 13a-1, 13a-11, and 13a-13 require the filing of annual, current, and quarterly reports, respectively. The obligation to file such reports embodies the requirement that they be true and correct. *See, e.g., SEC v. Savoy Indus., Inc.*, 587 F.2d 1149, 1165 (D.C. Cir. 1978). In addition to the information expressly required to be included in such reports, Rule 12b-20 of the Exchange Act requires issuers to add such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made not misleading. A violation of these reporting provisions does not require scienter and may rest on a finding of negligence. *See SEC v. Wills*, 472 F.Supp. 1250, 1268 (D.D.C. 1978).

27. Quarterly and annual reports for issuers such as RTI must comply with Regulation S-K Item 303, which requires, among other things, a discussion of "any known trends or uncertainties that have had or that the registrant reasonably expects will have a material favorable or unfavorable impact on net sales or revenues or income from continuing operations." It also requires that reports describe "any other significant components of revenues or expenses that, in the registrant's judgment, should be described in order to understand the registrant's results of operations." Instruction 3 to Item 303(a) of Regulation S-K requires that the "discussion and analysis shall focus specifically on material events and uncertainties known to management that would cause reported financial information not to be necessarily indicative of future operating results or of future financial condition." Item 303(b) of Regulation S-K requires discussion of material changes in such known trends or uncertainties in quarterly reports on Form 10-Q. By disguising the company's true business performance and cannibalizing future sales, RTI's use of pull-forwards created an uncertainty or event that was known to RTI and that was reasonably expected to have a material effect on its future revenue and that caused reported financial information not to be necessarily indicative of future operating results, which was not disclosed by

RTI. Likewise, RTI's quarterly earnings releases, which were filed as exhibits to RTI's current reports, disclosed that RTI's revenues had exceeded its revenue guidance, without disclosing the effect of pull-forwards. As a consequence, RTI violated Section 13(a) of the Exchange Act and Rules 13a-1, 13a-11, 13a-13, and 12b-20 thereunder.

28. Exchange Act Rule 13a-14 requires that the principal financial officer of an issuer sign a certification that the issuer's Forms 10-K and 10-Q fairly present, in all material respects, the financial condition and results of operations of the company.

29. Section 13(b)(2)(A) of the Exchange Act requires, among other things, Exchange Act Section 12 registrants to make and keep books, records, and accounts that accurately and fairly reflect the transactions and dispositions of their assets. Section 13(b)(2)(B) of the Exchange Act requires, among other things, Exchange Act Section 12 registrants to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP. Scierer is not an element of a violation of the books-and-records and internal control provisions. *See Ponce v. SEC*, 345 F.3d 722, 737 n.10 (9th Cir. 2003).

30. Exchange Act Rule 13b2-1 prohibits any person from directly or indirectly falsifying or causing to be falsified any book, record, or account subject to Section 13(b)(2)(A). Exchange Act Rule 13b2-2 prohibits an officer or director of an issuer from, among other things, making or causing to be made a materially false or misleading statement to an accountant in connection with any required audit of the issuer's financial statements or the preparation of a report required to be filed with the Commission. Scierer is not required to establish a violation of either of these rules. *See SEC v. McNulty*, 137 F.3d 732, 740-41 (2d Cir. 1997).

31. Section 304(a) of the Sarbanes-Oxley Act of 2002 requires the CEO and CFO of any issuer required to prepare an accounting restatement due to material noncompliance with the securities laws as a result of misconduct to reimburse the issuer for (1) any bonus or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month periods following the false filings, and (2) any profits realized from the sale of securities of the issuer during those 12-month periods.

32. Based on the foregoing, the Commission finds that Surgalign violated Securities Act Sections 17(a)(2) and 17(a)(3); Exchange Act Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B); and Exchange Act Rules 12b-20, 13a-1, 13a-11, and 13a-13.

33. Based on the foregoing, the Commission finds that Jordheim violated Securities Act Sections 17(a)(2) and 17(a)(3), Exchange Act Rules 13a-14, 13b2-1, and 13b2-2, and Sarbanes-Oxley Act Section 304; was a cause of Surgalign's violations of Exchange Act Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B), and Exchange Act Rules 12b-20, 13a-1, 13a-11, and 13a-13; and engaged in improper professional conduct proscribed by Exchange Act Section 4C(a)(2) and Rule 102(e)(1)(ii) of the Commission's Rules of Practice.

SURGALIGN'S COOPERATION

34. In determining to accept Surgalign's Offer, the Commission considered the cooperation it provided during the Commission's investigation. Surgalign and RTI provided substantial cooperation to the Commission's staff throughout the investigation, including by disclosing information about conduct that the staff had not yet uncovered through its own investigation, conducting an internal investigation regarding this conduct, and providing the staff regular and detailed updates on the internal investigation and key documents identified through that investigation. This cooperation substantially advanced the quality and efficiency of the staff's investigation and conserved Commission resources.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents' Offers.

Accordingly, it is hereby ORDERED, effective immediately, that:

A. Surgalign shall cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act; Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act; and Exchange Act Rules 12b-20, 13a-1, 13a-11, and 13a-13.

B. Jordheim shall cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) and 17(a)(3) of the Securities Act; Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act; Section 304 of the Sarbanes-Oxley Act; and Exchange Act Rules 12b-20, 13a-1, 13a-11, 13a-13, 13a-14, 13b2-1, and 13b2-2.

C. Jordheim is denied the privilege of appearing or practicing before the Commission as an accountant.

D. After five years from the date of the Order, Jordheim may request that the Commission consider his reinstatement by submitting an application to the attention of the Office of the Chief Accountant.

E. In support of any application for reinstatement to appear and practice before the Commission as a preparer or reviewer, or a person responsible for the preparation or review, of financial statements of a public company to be filed with the Commission, other than as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Exchange Act, Jordheim shall submit a written statement attesting to an undertaking to have his work reviewed by the independent audit committee of any public company for which he works or in some other manner acceptable to the Commission, as long as he practices before the Commission in this capacity and will comply with any Commission or other requirements related to the appearance and practice before the Commission as an accountant.

F. In support of any application for reinstatement to appear and practice before the Commission as a member of an audit committee, as that term is defined in Section 3(a)(58) of the

Exchange Act, as a preparer or reviewer, or as a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission, Jordheim shall submit a statement prepared by the audit committee(s) with which Jordheim will be associated, including the following information:

1. A summary of the responsibilities and duties of the specific audit committee(s) with which Jordheim will be associated;
2. A description of Jordheim's role on the specific audit committee(s) with which Jordheim will be associated;
3. A description of any policies, procedures, or controls designed to mitigate any potential risk to the Commission by such service;
4. A description relating to the necessity of Jordheim's service on the specific audit committee; and
5. A statement noting whether Jordheim will be able to act unilaterally on behalf of the Audit Committee as a whole.

G. In support of any application for reinstatement to appear and practice before the Commission as an independent accountant (auditor) before the Commission, Jordheim must be associated with a public accounting firm registered with the Public Company Accounting Oversight Board (the "PCAOB") and Jordheim shall submit the following additional information:

1. A statement from the public accounting firm (the "Firm") with which Jordheim is associated, stating that the firm is registered with the PCAOB in accordance with the Sarbanes-Oxley Act of 2002;
2. A statement from the Firm with which Jordheim is associated that the Firm has been inspected by the PCAOB and that the PCAOB did not identify any criticisms of or potential defects in the Firm's quality control system that would indicate that Jordheim will not receive appropriate supervision; and
3. A statement from Jordheim indicating that the PCAOB has taken no disciplinary actions against Jordheim since seven (7) years prior to the date of the Order other than for the conduct that was the basis for the Order.

H. In support of any application for reinstatement, Jordheim shall provide documentation showing that he is currently licensed as a certified public accountant ("CPA") and that he has resolved all other disciplinary issues with any applicable state boards of accountancy. If Jordheim is not currently licensed as a CPA, he shall provide documentation showing that Jordheim's licensure is dependent upon reinstatement by the Commission.

I. In support of any application for reinstatement, Jordheim shall also submit a signed affidavit truthfully stating, under penalty of perjury:

1. That Jordheim has complied with the Commission suspension Order, and with any related orders and undertakings, including any orders in *In the Matter of Suralign Holdings, Inc. and Robert P. Jordheim* or any related Commission proceedings, including any orders requiring payment of disgorgement or penalties;
2. That Jordheim undertakes to notify the Commission immediately in writing if any information submitted in support of the application for reinstatement becomes materially false or misleading or otherwise changes in any material way while the application is pending;
3. That Jordheim, since the entry of the Order, has not been convicted of a felony or a misdemeanor involving moral turpitude that would constitute a basis for a forthwith suspension from appearing or practicing before the Commission pursuant to Rule 102(e)(2);
4. That Jordheim, since the entry of the Order:
 - (a) has not been charged with a felony or a misdemeanor involving moral turpitude as set forth in Rule 102(e)(2) of the Commission's Rules of Practice, except for any charge concerning the conduct that was the basis for the Order;
 - (b) has not been found by the Commission or a court of the United States to have committed a violation of the federal securities laws, and has not been enjoined from violating the federal securities laws, except for any finding or injunction concerning the conduct that was the basis for the Order;
 - (c) has not been charged by the Commission or the United States with a violation of the federal securities laws, except for any charge concerning the conduct that was the basis for the Order;
 - (d) has not been found by a court of the United States (or any agency of the United States) or any state, territory, district, commonwealth, or possession, or any bar thereof to have committed an offense (civil or criminal) involving moral turpitude, except for any finding concerning the conduct that was the basis for the Order; and
 - (e) has not been charged by the United States (or any agency of the United States) or any state, territory, district, commonwealth, or possession, civilly or criminally, with having committed an act of moral turpitude, except for any charge concerning the conduct that was the basis for the Order;
5. That Jordheim's conduct is not at issue in any pending investigation of the Commission's Division of Enforcement, the PCAOB's Division of Enforcement and Investigations, any criminal law enforcement investigation, or

any pending proceeding of a State Board of Accountancy, except to the extent that such conduct concerns that which was the basis for the Order; and

6. That Jordheim has complied with any and all orders, undertakings, or other remedial, disciplinary, or punitive sanctions resulting from any action taken by any State Board of Accountancy, or other regulatory body.

J. Jordheim shall also provide a detailed description of:

1. Jordheim's professional history since the imposition of the Order, including:

(a) all job titles, responsibilities and role at any employer;

(b) the identification and description of any work performed for entities regulated by the Commission, and the persons to whom Respondent reported for such work; and

2. Jordheim's plans for any future appearance or practice before the Commission.

K. The Commission may conduct its own investigation to determine if the foregoing attestations are accurate.

L. If Jordheim provides the documentation and attestations required in this Order and the Commission (1) discovers no contrary information therein, and (2) determines that Jordheim truthfully and accurately attested to each of the items required in Respondent's affidavit, and the Commission discovers no information, including under Paragraph K, indicating that Jordheim has violated a federal securities law, rule or regulation or rule of professional conduct applicable to Jordheim since entry of the Order (other than by conduct underlying Jordheim's original Rule 102(e) suspension), then, unless the Commission determines that reinstatement would not be in the public interest, the Commission shall reinstate the respondent for cause shown.

M. If Jordheim is not able to provide the documentation and truthful and accurate attestations required in this Order or if the Commission has discovered contrary information, including under Paragraph K, the burden shall be on Jordheim to provide an explanation as to the facts and circumstances pertaining to the matter setting forth why Jordheim believes cause for reinstatement nonetheless exists and reinstatement would not be contrary to the public interest. The Commission may then, in its discretion, reinstate the Respondent for cause shown.

N. If the Commission declines to reinstate Jordheim pursuant to Paragraphs L and M, it may, at Jordheim's request, hold a hearing to determine whether cause has been shown to permit him to resume appearing and practicing before the Commission as an accountant.

O. Surgalign shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of \$2,000,000 to the Securities and Exchange Commission. Jordheim shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of \$75,000 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

Payment must be made in one of the following ways:

- (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondents may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondents may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying the Respondents in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to D. Mark Cave, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

P. Pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, a Fair Fund is created for the penalties referenced in paragraph O above. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondents by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

Q. Jordheim shall, within 14 days of the entry of this Order, reimburse Surgalign for a total of \$206,831, representing bonuses, incentive-based compensation, equity-based compensation, and profits from sales of RTI stock, pursuant to Section 304(a) of the Sarbanes-Oxley Act. Jordheim shall simultaneously deliver proof of satisfying this reimbursement obligation to D. Mark Cave, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

R. Surgalign acknowledges that the Commission is not imposing a civil penalty in excess of \$2 million based upon its cooperation in a Commission investigation. If, at any time following the entry of the Order, the Division of Enforcement (“Division”) obtains information indicating that Surgalign knowingly provided materially false or misleading information or materials to the Commission or in a related proceeding, the Division may, at its sole discretion and with prior notice to Surgalign, petition the Commission to reopen this matter and seek an order directing that Surgalign pay an additional civil penalty. Surgalign may contest by way of defense in any resulting administrative proceeding whether it knowingly provided materially false or misleading information, but may not: (1) contest the findings in the Order; or (2) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, Jordheim stipulates that the findings in this Order are true, and that such findings shall be accepted and deemed true, without further proof by any party, in any nondischargeability proceeding involving the Commission, and further, that any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Jordheim under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Jordheim of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

By the Commission.

Vanessa A. Countryman
Secretary