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10 **UNITED STATES DISTRICT COURT**
11 **WESTERN DISTRICT OF WASHINGTON**
12 **TACOMA DIVISION**

13 SECURITIES AND EXCHANGE COMMISSION,
14 Plaintiff,
15 v.
16 JAMES DOUGLAS MILLER,
17 Defendant.

No. _____

COMPLAINT

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21 Plaintiff Securities and Exchange Commission (“the Commission”) alleges:

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23 **SUMMARY OF THE ACTION**

24 1. James Douglas Miller (“Defendant” or “Miller”) perpetrated a years-long
25 accounting fraud while he served as the Chief Financial Officer at Barrett Business Services, Inc.
26 (“BBSI”), a publicly-listed professional employer services company, headquartered in
27 Vancouver, Washington. Among other actions, Miller repeatedly falsified BBSI’s accounting
28 records to materially misstate BBSI’s expenses, liabilities, and revenue for several reporting

1 periods. During the time Miller was manipulating BBSI's financial results, he personally
2 profited by receiving bonuses and proceeds from stock sales.

3 2. Clients hire BBSI to process payroll and payroll taxes, to provide workers'
4 compensation coverage, and to perform other business administration and consulting services.
5 During Miller's tenure, BBSI maintained an accrued liability in recognition of payments it was
6 required to make on workers' compensation claims. Workers' compensation was one of BBSI's
7 largest liabilities.

8 3. From 2012 through 2014, Miller engaged in a number of fraudulent accounting
9 practices to mask negative trends in BBSI's workers' compensation exposure including
10 (1) misclassifying expenses to understate BBSI's recorded workers' compensation expense,
11 (2) improperly recognizing certain federal and state unemployment tax expenses over multiple
12 periods rather than in the period incurred, and (3) underreporting BBSI's workers' compensation
13 liability by, in part, concealing the existence of a second actuarial report that corroborated
14 BBSI's independent actuary's view that BBSI needed to increase its workers' compensation
15 liability by \$80 million. On October 28, 2014, after the market close, BBSI announced that it
16 recorded an increase to its workers' compensation reserve of \$80 million. When trading
17 resumed on October 29, 2014, BBSI's stock price fell 59% from the prior day's closing price.
18 Miller left BBSI in March 2016.

19 4. On March 9, 2016, BBSI filed a report with the Commission on a Form 8-K
20 advising the public that it could no longer rely on BBSI's financial statements for the fiscal years
21 ended December 31, 2012, 2013 and 2014, and each respective quarter in those fiscal years, and
22 for the quarters ended March 31, 2015 and June 30, 2015. BBSI's stock price fell 32% from its
23 prior day's closing price after the March 9, 2016 announcement.

24 5. In May 2016, BBSI filed its annual report with the Commission on a Form 10-K.
25 In the filing, BBSI disclosed restated annual, and interim, financial results for the periods ending
26 December 31, 2011, 2012, 2013, and 2014, and for each of the first three quarters of 2015. In
27 those restated results, BBSI reported an additional \$15.8 million in workers' compensation
28 expense during 2012 and 2013, reduced its 2013 net income by \$2.2 million (a reduction of over

1 10% from the previously-issued 2013 results), and recorded an \$80 million expense in an earlier
2 period to accrue for its workers' compensation liability.

3 6. Accordingly, Miller violated and, unless restrained or enjoined, will again violate
4 the anti-fraud, periodic reporting, certification, books and records and internal controls
5 provisions of the federal securities laws, in violation of the federal securities laws.

6 **JURISDICTION AND VENUE**

7 7. The Commission brings this action pursuant to Sections 20(b), 20(d), and 22(a) of
8 the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77t(b), 77t(d), and 77v(a), and
9 Sections 21(d) and 21(e) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C.
10 §§ 78u(d) and 78u(e).

11 8. This Court has jurisdiction over this action pursuant Sections 20(b), 20(d), and 22
12 of the Securities Act, 15 U.S.C. §§ 77t(b), 77t(d), and 77v, and Sections 21(d), 21(e), and 27 of
13 the Exchange Act, 15 U.S.C. §§ 78u(d), 78u(e), and 78aa.

14 9. Defendant, directly or indirectly, made use of the means or instruments or
15 instrumentalities of transportation or communication in interstate commerce, or of the mails, or
16 the facilities of a national securities exchange in connection with the transactions, acts, practices,
17 and courses of business alleged herein.

18 10. Venue is proper in this district pursuant to Section 22(a) of the Securities Act, 15
19 U.S.C. § 77v(a), and Section 27(a) of the Exchange Act, 15 U.S.C. § 78aa(a). Certain of the
20 acts, practices, courses of business, and transactions constituting the violations alleged herein
21 occurred within the Western District of Washington. Pursuant to LCR 3(e)(1), assignment to the
22 Tacoma Division is appropriate because a substantial part of the relevant conduct occurred in
23 Clark County.

24 **DEFENDANT**

25 11. **James Douglas Miller**, age 54, is a resident of Washougal, Washington. From
26 2008 until March 2016, when he separated from BBSI, Miller was BBSI's Vice President of
27 Finance and Chief Financial Officer. Between 1994 and 2008, Miller was BBSI's Controller.
28 Miller is a Certified Public Accountant licensed to practice in Oregon since 1990; his license is

1 currently inactive. Miller was responsible for ensuring BBSI fairly presented its workers'
2 compensation liability reserve and the associated expense in its financial statements.

3 RELEVANT ENTITY

4 12. **Barrett Business Services, Inc.** (“BBSI”) is a Maryland corporation
5 headquartered in Vancouver, Washington. BBSI is a professional employer services and staffing
6 organization, which provides human resources outsourcing. BBSI operates in multiple states.
7 BBSI is registered pursuant to Section 12(b) of the Exchange Act and listed on NASDAQ under
8 the ticker “BBSI.” Throughout the relevant period, BBSI filed with the Commission public
9 quarterly and annual reports on Forms 10-Q and 10-K. In addition, BBSI filed a registration
10 statement on a Form S-8 on July 1, 2015 which incorporated various quarterly and annual reports
11 of BBSI filed on Forms 10-K and 10-Q during the relevant period. BBSI stated in its public
12 filings that it prepared its financial statements in accordance with United States Generally
13 Accepted Accounting Principles (“GAAP”).

14 FACTUAL ALLEGATIONS

15 13. BBSI provides many of its clients with workers’ compensation liability coverage.
16 BBSI was historically self-insured for workers’ compensation claims liability in several states,
17 including California, its largest market. BBSI operates a captive insurance subsidiary to help
18 manage its workers’ compensation claims liability. Managing workers’ compensation exposure
19 is an important driver of BBSI’s financial health. During the relevant period, workers’
20 compensation was one of the largest liabilities on BBSI’s balance sheet. On earnings calls with
21 investors and analysts between 2012 and 2014, Miller regularly reported BBSI’s workers’
22 compensation expense as a percentage of its revenue. This was important to BBSI’s investors
23 because it indicated whether BBSI was appropriately pricing its overall product offering.

24 14. To satisfy state insurance regulations in states where it is self-insured, BBSI
25 maintains available reserves that can be drawn down to make payments on claims as they arise.
26 The reserve is kept at a balance commensurate with BBSI’s workers’ compensation liability on
27 its balance sheet.

1 15. Every fiscal quarter, from the first quarter ended March 31, 2009 through the
2 third quarter ended September 30, 2014, BBSI retained an independent third-party actuary
3 (“Actuary A”) to estimate its workers’ compensation liability. BBSI provided Actuary A with
4 its claims and loss data and, during period and year-end closing processes, Actuary A provided
5 BBSI with a report estimating BBSI’s overall workers’ compensation liability.

6 16. Until the first quarter of 2014, BBSI used the actuarially-derived estimate as the
7 basis for the workers’ compensation liability reflected on its balance sheet. BBSI reflected the
8 accumulation of reserves in its financial statements by accruing liabilities on its balance sheet
9 (e.g., the overall amount of unsettled insurance claims) and recognizing periodic expenses on its
10 income statement (e.g., the quarterly cost of funding the reserve).

11 **Miller Misstated BBSI’s Workers’ Compensation Expense**

12 17. In 2012 and 2013, BBSI continued to record its workers’ compensation liability
13 on its balance sheet using Actuary A’s estimate. Beginning in 2012 and continuing throughout
14 2013, however, Miller stopped recognizing the full amount of BBSI’s corresponding workers’
15 compensation expense on its income statement.

16 18. Rather than recording workers’ compensation expense as the amount of expense
17 required to increase BBSI’s reserve to match Actuary A’s overall estimate of the liability, Miller
18 instead allocated the increased expenses across several, unrelated expense accounts including a
19 payroll tax expense account. Miller orchestrated these misclassifications by making a series of
20 journal entries that transferred amounts between unrelated expense accounts in order to keep
21 BBSI’s workers’ compensation expense, relative to its revenue, consistent with historical trends
22 and forecasts provided in earnings calls.

23 19. BBSI’s accounting policies and internal accounting controls required one person
24 to prepare a journal entry and another finance department employee to approve the journal entry
25 before it was posted to the general ledger. As BBSI’s senior financial officer responsible for
26 their maintenance and implementation, Miller knew, or was reckless in not knowing, that BBSI’s
27 internal accounting controls relating to journal entries existed to the ensure accuracy of
28 accounting entries and the company’s financial statements.

1 20. However, Miller prepared and approved his own fraudulent journal entries, then
2 directed a junior accounting employee to post them to the general ledger. Miller often used
3 recurring journal entries, which had the result of recording a series of smaller, cumulative
4 transactions rather a larger, single transaction. Miller knew, or was reckless in not knowing, that
5 his journal entries did not comply with GAAP or BBSI's internal accounting controls.

6 21. By misclassifying expenses, Miller and BBSI were able to report workers'
7 compensation expenses that were in line with historical trends, when in fact BBSI's workers'
8 compensation expenses were increasing as a percentage of revenue. During quarterly earnings
9 calls with investors throughout 2012 and 2013, Miller reported BBSI's workers' compensation
10 expense as a largely consistent percentage of revenue. Miller knew, or was reckless in not
11 knowing, that his statements on earnings calls and BBSI's public filings misstated BBSI's
12 workers' compensation expense.

13 22. Based upon BBSI's own restated financial statements, for fiscal-year 2012, BBSI
14 underreported workers' compensation expense by approximately \$3.9 million and overstated
15 payroll tax expense by a similar amount. For fiscal year 2013, BBSI underreported its workers'
16 compensation expense by \$11.9 million.

17 **Miller Misstated BBSI's Federal and State Unemployment Taxes**

18 23. In addition to manipulating BBSI's workers' compensation expense, Miller
19 manipulated the period in which BBSI recognized certain federal and state unemployment tax
20 expenses ("FUTA" and "SUTA," respectively). During BBSI's 2013 year-end close, BBSI
21 employees worked to reconcile tax payments owed for FUTA and SUTA against BBSI's
22 recorded accruals for the taxes. Even though BBSI had actually paid approximately \$3.8 million
23 more in FUTA and SUTA for 2013 than it had recognized as expense, Miller decided not to
24 record as an expense the incremental amounts BBSI already paid. This was because Miller
25 wanted to avoid scrutiny of the accounting department.

26 24. In February 2014, Miller prepared a year-end journal entry that did not recognize
27 the full amount of FUTA and SUTA that BBSI had owed and paid for 2013. In the first quarter
28 of 2014, once Miller confirmed that the FUTA and SUTA amounts were indeed owed to taxing

1 | authorities, he prepared documentation to recognize FUTA and SUTA expense. However,
2 | instead of immediately recognizing the FUTA and SUTA expense in the period they were
3 | incurred, as required by GAAP, Miller spread the approximately \$3 million expense over several
4 | quarters in 2014. Miller knew, or was reckless in not knowing, that his failure to record the \$3
5 | million in FUTA and SUTA expenses when they were incurred did not comply with GAAP.
6 | Miller nevertheless reported, including in BBSI's current reports filed to announce earnings on
7 | Forms 8-K for year-end 2013 and the first quarter of 2014, financial results that did not
8 | incorporate the timely recording of FUTA and SUTA expenses.

9 | 25. When BBSI restated its financial statements, it corrected the timing of the FUTA
10 | and SUTA expenses. As a result of the FUTA and SUTA issues, BBSI's fiscal year 2013
11 | income was \$2.2 million lower than previously reported, a reduction of over 10% for the year.

12 | **Miller Misstated Workers' Compensation Expense in the Second Quarter of 2014**

13 | 26. In early 2014, Actuary A began reporting to BBSI that it anticipated an increase
14 | in its estimate of the company's overall workers' compensation liability. At the end of the first
15 | quarter in 2014, Actuary A estimated a liability figure that was \$60 million higher than the
16 | company's year-end liability (from approximately \$112 million to \$172 million). In consultation
17 | with BBSI's executives and independent auditor, Miller determined BBSI would not record a
18 | liability equal to Actuary A's estimate for the first quarter pending further analysis.

19 | 27. Following the first quarter, BBSI retained a second independent actuary
20 | ("Actuary B") in order to assist BBSI's analysis of specific claims reserves and its overall
21 | workers' compensation liability. BBSI engaged Actuary B to analyze the impact of its reserving
22 | practices on the overall liability. Miller signed BBSI's engagement letter with Actuary B, and
23 | knew Actuary B would prepare an estimate of BBSI's workers' compensation liability as of the
24 | end of the second quarter 2014.

25 | 28. At the end of the second quarter 2014, both Actuary A and Actuary B estimated
26 | that BBSI was significantly under-reserved for its workers' compensation liability. Despite
27 | using different methods of analysis, both actuaries presented liability figures that were similar to
28 | each other and significantly higher than BBSI's existing estimates. Actuary B estimated a

1 liability of \$213.5 million (which was \$93.4 million higher than BBSI's reserve as of the end of
2 the first quarter), while Actuary A estimated a liability of \$206 million (which was \$85.9 million
3 higher than BBSI's reserve as of the end of the first quarter).

4 29. At the end of the second quarter of 2014, Miller prepared a memorandum for the
5 Audit Committee of BBSI's board of directors with his analysis of the adequacy of workers'
6 compensation liability, which again rejected Actuary's A recommendation. Miller's second
7 quarter 2014 memorandum wholly omits Actuary B's analysis and Miller did not provide to, or
8 discuss with, BBSI's Audit Committee Actuary B's analysis. Similarly, Miller did not provide
9 to, or discuss with, BBSI's independent auditor Actuary B's analysis, even though, as Miller
10 knew, or was reckless in not knowing, BBSI's independent auditor sought from Miller all data
11 relevant to its workers' compensation liability analysis.

12 30. Instead of relying on Actuary A or Actuary B's calculation of the liability, for the
13 second quarter 2014, Miller recorded BBSI's worker's compensation liability based on his own
14 calculations. Miller's estimate of the liability did not take into account trends in BBSI's data, as
15 required by GAAP. Miller knew, or was reckless in not knowing, that the liability figure he
16 reported understated BBSI's workers' compensation liability.

17 31. In the third quarter of 2014, Miller again received reports from Actuary A and
18 Actuary B, which again both suggested large increases in the reserve. Miller finally shared some
19 of Actuary B's analysis with BBSI's independent auditor, but did not explain when it had been
20 provided to him. Although Miller had initially attempted to justify using a lower number for
21 BBSI's workers' compensation reserve, after discussion with management and the independent
22 auditor, BBSI decided adopt an actuarial estimate of the reserve.

23 32. To increase the liability, BBSI recognized an incremental \$80 million expense in
24 the third quarter of 2014. After BBSI publicly announced the increase on October 28, 2014,
25 after the market close, BBSI's stock fell 59% from the prior day's closing price, and the expense
26 effectively eliminated BBSI's pre-tax earnings for a five-year period.

27 33. In the third and fourth quarters of 2014, Miller took steps to hide the scope of
28 Actuary B's work from BBSI's independent auditor. In two memoranda he drafted and sent to

1 BBSI's independent auditor, Miller falsely claimed BBSI had retained Actuary B in the third
2 quarter of 2014, rather than earlier in the year.

3 34. BBSI ultimately restated its financial statements and moved the \$80 million
4 expense from the third quarter to the second quarter of 2014. This increased BBSI's reported
5 workers' compensation liability by 65% over previously-reported amounts.

6 **BBSI Restated Its Financial Statements for Multiple Periods**

7 35. After discovering the existence of the second quarter 2014 report from Actuary B,
8 on November 4, 2015, BBSI's independent auditor sent BBSI a letter pursuant to Section 10A of
9 the Exchange Act, requesting an independent investigation and stating its quarterly review of
10 BBSI's second quarter 2014 financial statements could no longer be relied upon.

11 36. On March 9, 2016, BBSI filed an 8-K announcing non-reliance on its financial
12 statements. BBSI's stock dropped 32% from the prior day's closing price, after this
13 announcement. On May 26, 2016, BBSI filed a Form 10-K, which included 2015 financial
14 statements as well as restated annual and interim financial results for 2011, 2012, 2013, and 2014
15 and the first three quarters of 2015.

16 **Miller Signed Management Representation Letters and Certified BBSI's Financial**
17 **Statements**

18 37. Throughout the time he was misstating BBSI's financial statements, Miller signed
19 all quarterly review and annual audit management representation letters to BBSI's independent
20 auditor. Miller signed management representation letters dated March 15, 2013, May 9, 2013,
21 August 8, 2013, November 8, 2013, March 14, 2014, May 12, 2014, and August 8, 2014. In
22 those letters, Miller made representations to the auditor that he knew, or was reckless in not
23 knowing, were false or misleading, including that there "are no material transactions that have
24 not been properly recorded in the accounting records underlying the consolidated financial
25 statements."

26 38. During that time period, Miller also signed certifications of BBSI's quarterly and
27 annual filings with the Commission. Miller signed BBSI's filings with the Commission dated
28 March 15, 2013, May 9, 2013, August 8, 2013, November 8, 2013, March 14, 2014, May 12,

1 2014, and August 8, 2014. In those filings, he falsely certified that the financial information in
2 those filings fairly presented BBSI's results of operations, when he knew or was reckless in not
3 knowing that they did not.

4 **Miller Received Bonuses and Proceeds from Stock Sales Between 2012 and 2016**

5 39. For the years ending 2012 and 2013, Miller received bonuses and non-equity cash
6 incentives from BBSI. In 2013, Miller sold shares from previously-vested BBSI stock options
7 and received proceeds from those sales.

8 40. Despite BBSI's accounting restatement, which was a result of Miller's
9 misconduct, Miller has not reimbursed BBSI for his bonuses, other incentive or equity-based
10 compensation, or profits realized from his sale of BBSI shares.

11 **FIRST CLAIM FOR RELIEF**

12 **Violations of Sections 17(a)(1), (2), and (3) of the Securities Act**

13 41. The Commission hereby incorporates Paragraphs Nos. 1 through 40 by reference.

14 42. By engaging in the conduct described above, defendant Miller directly or
15 indirectly, in the offer or sale of securities, by use of the means or instruments of transportation
16 or communication in interstate commerce or by use of the mails,

- 17 (1) with scienter, employed devices, schemes, and artifices to defraud;
18 (2) obtained money or property by means of untrue statements of material fact
19 and by omitting to state a material fact necessary in order to make the
20 statements made, in light of the circumstances under which they were
21 made, not misleading; and
22 (3) engaged in transactions, practices, or courses of business that operated or
23 would operate as a fraud or deceit upon purchasers.

24 43. By reason of the foregoing, defendant Miller violated and, unless restrained and
25 enjoined, will continue to violate Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

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SECOND CLAIM FOR RELIEF

Violations of Section 10(b) of the Exchange Act and Rules 10b-5(a), (b), and (c) Thereunder

44. The Commission hereby incorporates Paragraphs Nos. 1 through 40 by reference.

45. By engaging in the conduct set forth above, Miller directly or indirectly, by use of means or instrumentalities of interstate commerce, or of the mails, or of a facility of a national securities exchange, in connection with the purchase or sale of securities, with scienter,

(a) employed devices, schemes, and artifices to defraud;

(b) made untrue statements of material fact and omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and

(c) engaged in acts, practices, and courses of business that operated or would operate as a fraud or deceit upon any person.

46. By reason of the foregoing, Miller violated and, unless restrained and enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

THIRD CLAIM FOR RELIEF

Violations of Section 13(b)(5) of the Exchange Act

47. The Commission hereby incorporates Paragraphs Nos. 1 through 40 by reference.

48. By the conduct alleged above, Miller violated Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)], which prohibits anyone from knowingly circumventing a system of internal accounting controls, knowingly failing to implement a system of internal accounting controls, or knowingly falsifying required books, records, and accounts.

49. By reason of the foregoing, Miller violated and, unless restrained and enjoined, will continue to violate Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)].

FOURTH CLAIM FOR RELIEF

Violations of Rule 13b2-1 of the Exchange Act

50. The Commission hereby incorporates Paragraphs Nos. 1 through 40 by reference.

1 51. By engaging in the conduct described above, Miller, directly or indirectly,
2 falsified, or caused to be falsified, BBSI's required books, records, and accounts, in violation of
3 Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1].

4 52. By reason of the foregoing, Miller violated and, unless restrained and enjoined,
5 will continue to violate Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1].

6 **FIFTH CLAIM FOR RELIEF**

7 **Violations of Rule 13b2-2 of the Exchange Act**

8 53. The Commission hereby incorporates Paragraphs Nos. 1 through 40 by reference.

9 54. By engaging in the acts and conduct alleged above, Miller, as an officer, directly
10 or indirectly, made or caused to be made a materially false or misleading statement and omitted
11 to state or caused another person to omit to state, material facts necessary in order to make a
12 statement made, in light of the circumstances under which such statements was made, not
13 misleading to an accountant in connection with an audit or examination of the financial
14 statements of an issuer required to be made, or the preparation or filing of reports required to be
15 filed, by the issuer with the Commission.

16 55. By reason of the foregoing, Miller violated and, unless restrained and enjoined,
17 will continue to violate Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2].

18 **SIXTH CLAIM FOR RELIEF**

19 **Aiding and Abetting Violations of Section 13(a) of the Exchange Act and Rules 12b-20,
20 13a-1, 13a-11, 13a-13 Thereunder**

21 56. The Commission hereby incorporates Paragraphs Nos. 1 through 40 by reference.
22 As described above, BBSI's filings with the Commission, including quarterly and annual reports
23 filed on Forms 10-Q and Forms 10-K, and current reports filed on Forms 8-K, incorporated
24 inaccurate and misleading financial information concerning the Company's revenue.

25 57. Based on the conduct alleged above, BBSI violated Section 13(a) of the Exchange
26 Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder [17 C.F.R.
27 §§ 240.12b-20, 240.13a-1, 240.13a-11, 240.13a-13], which obligate issuers of securities
28 registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] to file with the

1 Commission periodic reports, including annual reports, with information that is accurate and not
2 misleading.

3 58. By engaging in the acts and conduct alleged above, Miller knowingly and
4 recklessly provided substantial assistance to BBSI's filing of misleading reports with the
5 Commission.

6 59. By reason of the foregoing, Miller aided and abetted violations of Section 13(a) of
7 the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder
8 [17 C.F.R. §§ 240.12b-20, 240.13a-1, 240.13a-11, 240.13a-13], and unless restrained and
9 enjoined, will continue to aid and abet such violations.

10 **SEVENTH CLAIM FOR RELIEF**

11 **Aiding and Abetting Violations of Section 13(b)(2)(A) of the Exchange Act**

12 60. The Commission hereby incorporates Paragraphs Nos. 1 through 40 by reference.

13 61. Based on the conduct alleged above, BBSI violated Section 13(b)(2)(A) of the
14 Exchange Act [15 U.S.C. § 78m(b)(2)(A)], which obligates issuers of securities registered
15 pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] to make and keep books, records,
16 and accounts which, in reasonable detail, accurately and fairly reflect the transactions and
17 dispositions of the assets of the issuer.

18 62. By engaging in the acts and conduct alleged above, Miller knowingly and
19 recklessly provided substantial assistance to BBSI's failure to make and keep books, records,
20 and accounts which, in reasonable detail, accurately and fairly reflected its transactions and
21 dispositions of its assets.

22 63. By reason of the foregoing, Miller aided and abetted violations of Section
23 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)], and unless restrained and
24 enjoined, will continue to aid and abet such violations.

25 **EIGHTH CLAIM FOR RELIEF**

26 **Aiding and Abetting Violations of Sections 13(b)(2)(B) of the Exchange Act**

27 64. The Commission hereby incorporates Paragraphs Nos. 1 through 40 by reference.

28 65. Based on the conduct alleged above, BBSI violated Section 13(b)(2)(B) of the

1 Exchange Act [15 U.S.C. § 78m(b)(2)(B)], which obligates issuers of securities registered
2 pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] to devise and maintain a sufficient
3 system of internal accounting controls.

4 66. By engaging in the acts and conduct alleged above, Miller knowingly and
5 recklessly provided substantial assistance to BBSI's failure to devise and maintain a sufficient
6 system of internal accounting controls.

7 67. By reason of the foregoing, Miller aided and abetted violations of Section
8 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)], and unless restrained and enjoined,
9 will continue to aid and abet such violations.

10 **NINTH CLAIM FOR RELIEF**

11 **Violations of Rule 13a-14 of the Exchange Act**

12 68. The Commission hereby incorporates Paragraphs Nos. 1 through 40 by reference.

13 69. Rule 13a-14 of the Exchange Act requires that each principal executive and
14 principal financial officer of an issuer, at the time of filing of a report, must sign a certification at
15 the time of filing averring, among other things, that the report does not contain any untrue
16 statement of a material fact or omit to state a material fact necessary to make the statements
17 made, in light of the circumstances under which such statements were made, not misleading with
18 respect to the period covered by the report, and as to the company's internal controls over
19 financial reporting.

20 70. As BBSI's CFO, Miller signed certifications in BBSI's quarterly and annual
21 reports filed from 2012 through 2015. These certifications were materially false and misleading,
22 as detailed herein.

23 71. By virtue of the foregoing, Miller violated, and unless restrained and enjoined
24 will again violate, Rule 13a-14 of the Exchange Act [17 C.F.R. § 240.13a-14].

25 **TENTH CLAIM FOR RELIEF**

26 **Violations of SOX Section 304(a)**

27 72. The Commission hereby incorporates Paragraphs Nos. 1 through 40 by reference.

28 73. Because of Miller's conduct described above, BBSI filed quarterly and annual

1 reports for fiscal years 2012, 2013, and 2014 that were in material non-compliance with financial
2 reporting requirements under the securities laws. BBSI's material non-compliance with its
3 financial reporting requirements was the result of Miller's misconduct, as detailed above.

4 74. As alleged above, in 2012 and 2013, Miller received bonuses and other incentive
5 or equity-based compensation. In 2013, Miller also realized profits from the sale of BBSI
6 shares. To date, Miller has not reimbursed BBSI for any bonuses, incentive or equity-based
7 compensation, or profits from the sale of BBSI shares.

8 75. Section 304(a) of the Sarbanes-Oxley Act of 2002 requires the CFO of an issuer
9 to reimburse the issuer for any bonus or other incentive or equity-based compensation received
10 and any profits realized from the sale of the issuer's securities during the 12-month period
11 following the first public issuance of a financial document for which the issuer is required to
12 prepare an accounting restatement, due to the material noncompliance of the issuer, as a result of
13 misconduct, with any financial reporting requirement under the securities laws.

14 76. By reason of the foregoing, Miller violated and, unless restrained and enjoined,
15 will continue to violate Sarbanes-Oxley Section 304(a) [15 U.S.C. § 7243(a)].

16 **PRAYER FOR RELIEF**

17 WHEREFORE, the Commission respectfully requests that this Court:

18 I.

19 Permanently restrain and enjoin Miller from, directly or indirectly, violating the
20 applicable provisions and rules of the Federal securities laws as alleged and asserted above.

21 II.

22 Pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and Section 21(d)(2)
23 of the Exchange Act [15 U.S.C. § 78u(d)(2)], prohibit defendant Miller from serving as an
24 officer or director of any entity having a class of securities registered with the Commission
25 pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports
26 pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].
27
28

1 III.

2 Order Miller to disgorge all ill-gotten gains or unjust enrichment derived from the
3 activities set forth in this Complaint, together with prejudgment interest thereon.

4 IV.

5 Order defendant Miller to pay civil penalties pursuant to Section 20(d) of the Securities
6 Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)].

7 V.

8 Order defendant Miller to reimburse BBSI for his bonuses, other incentive-based
9 compensation, and proceeds from stock sales, pursuant to Section 304 of the Sarbanes-Oxley Act
10 of 2002 [15 U.S.C. § 7243].

11 VI.

12 Retain jurisdiction of this action in accordance with the principles of equity and the
13 Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and
14 decrees that may be entered, or to entertain any suitable application or motion for additional
15 relief within the jurisdiction of this Court.

16 VII.

17 Grant such other and further relief as this Court may deem just, equitable, and necessary.

18
19 Dated: September 20, 2018

20 Respectfully submitted,

21
22 s/Rahul K. Kolhatkar
23 Rahul K. Kolhatkar (Conditionally
24 Admitted Pursuant to LCR 83.1(c)(2))
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