UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 84617 / November 19, 2018

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3994 / November 19, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18899

In the Matter of

VANTAGE DRILLING INTERNATIONAL

Respondent.

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 ("Exchange Act"), against Vantage Drilling International ("Vantage" or "Respondent").

II.

In anticipation of the institution of these proceedings, Vantage has submitted an Offer of Settlement (the "Offer") 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 it and the subject matter of these proceedings), which are admitted, Vantage consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Vantage's Offer, the Commission finds[1] that:

Summary

1. These proceedings arise from violations of the internal accounting control provisions of the Foreign Corrupt Practices Act of 1977 (the "FCPA"), 15 U.S.C. § 78m(b)(2)(B), by Vantage Drilling Company ("VDC"). Specifically, VDC failed to devise a system of internal accounting controls with regard to VDC's transactions with VDC's former outside director, largest shareholder, and only supplier of drilling assets ("Director A"), and failed to properly implement internal accounting controls related to its use of third-party marketing agents. These violations occurred against a backdrop where VDC had an ineffective anticorruption compliance program.

2. As a result of its internal accounting control failures, VDC made substantial payments to Director A that, among other things, created a risk that VDC was providing or reimbursing funds that Director A intended to use to make improper payments to officials at Petroleo Brasileiro SA Petrobras ("Petrobras"), a Brazilian state-owned oil and gas company, in connection with obtaining an 8-year drilling services contract valued at over $1.8 billion that benefited both Director A, as the supplier of the drilling asset, and VDC.

Respondent and Related Entities

3. **Vantage Drilling Company ("VDC")** is organized under the laws of the Cayman Islands and headquartered in Houston, Texas. The Company's common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and traded on the New York Stock Exchange Market under the Ticker "VTG." In December 2015, VDC commenced liquidation proceedings in the Cayman Islands.

4. **Vantage Drilling International ("Vantage")**, an offshore drilling company, is organized under the laws of the Cayman Islands and headquartered in Houston, Texas. Until February 2016, Vantage was a subsidiary of VDC. It now owns and controls all of the tangible assets and operations of VDC.

Facts

VDC was Formed and Established a Business Relationship with Director A

5. VDC was formed in 2006 by former executives and directors of a major offshore drilling company. After an initial public offering in May 2007, VDC sought to market itself as an ultra-high end driller but did not own any drilling assets. During 2007, VDC identified Director A, a Taiwanese shipping magnate that had previously placed orders at a Korean shipyard for

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[1] Pursuant to Respondent's Offer of Settlement, the SEC makes these findings in this proceeding. The findings are not binding on any other person or entity or in any other proceeding.

offshore drilling rigs, as a prospective investor and/or supplier. Through a series of agreements entered into in 2007 and 2008, VDC acquired the rights to purchase Director A's drilling assets, including the *Titanium Explorer*, an ultra-deepwater drillship, which had an expected delivery date in 2012. In return, Director A was appointed to VDC's board, paid $56 million in cash, and issued 40% of VDC's common stock – making Director A VDC's largest shareholder.

6. VDC did not conduct any due diligence on Director A or his related companies to assess whether he was capable of fulfilling his contractual obligations before relying on him as its sole source of drilling equipment and appointing him to its board of directors.

7. In connection with VDC's efforts to buy another drillship, the *Platinum Explorer*, from Director A, Director A misrepresented the underlying terms of his payment plan with the Korean shipyard building the drillship and falsely represented to VDC that he would make the payments to the shipyard in advance of receiving a corresponding payment from VDC. In September 2008, VDC learned that – not only had Director A failed to make the installment payment to the shipyard – but he claimed to be incapable of making the payment. In response, VDC provided Director A with $32 million to make the installment payment. Later, VDC learned that the shipyard had granted Director A an extension, and the $32 million was not actually due in September 2008. Despite VDC's knowledge of the misrepresentations by Director A, VDC did not enhance its internal accounting controls in regards to its transactions with respect to Director A.

8. Ultimately, VDC was unable to obtain financing for the purchase of the *Titanium Explorer* outright. Instead, VDC announced on November 19, 2008 that Director A would continue to wholly own the *Titanium Explorer* but that Director A would engage and pay VDC to oversee construction of and then operate the drillship. Under the agreements memorializing these arrangements, VDC was to be paid $5 million a year to oversee construction of the *Titanium Explorer* and anticipated that it would be paid between $13 and $15 million a year to operate the drillship. As part of the agreement, Director A also authorized VDC to market the *Titanium Explorer* to potential clients.

The *Titanium Explorer* Contract

9. In early 2007, the CEO of VDC contacted a Brazilian third-party agent ("Agent") and requested his assistance in marketing VDC to Petrobras. While VDC policies required due diligence and prudent safeguards against improper payments to be in place with an agent who acted on its behalf with regard to foreign governments on international business development before retaining the agent, neither was done with respect to the Agent. Instead, without these internal accounting controls in effect, the Agent assisted VDC in responding to a marketing inquiry released by Petrobras' International Division ("PBID") on August 15, 2008 seeking proposals from drilling operators who could deliver a new ultra-deepwater drillship.

10. During the bidding process, the Agent was contacted by an individual who identified himself as an intermediary ("Intermediary A") for a senior PBID official ("PBID Official") and who informed the Agent that the PBID Official was willing to award the contract to VDC in return for a payment of money. Intermediary A introduced the Agent to another person also identified as an intermediary for the PBID Official ("Intermediary B") who

explained that a portion of the requested bribe was earmarked for the Brazilian politicians that appointed the PBID Official to his position at Petrobras.

11. At the Agent's request, the CEO and another VDC Director ("Director B") arranged a meeting in New York City between Director A and the Agent on November 22, 2008, for the purported purpose of familiarizing the Agent with Director A, the owner of the drillship being marketed to PBID. In actuality, and unbeknownst to the CEO and Director B, the Agent had requested the meeting in order to speak directly to Director A to ask whether Director A was willing to make the improper payments the PBID Official demanded. At a private meeting between the Agent and Director A, the Agent told Director A that in order to win the contract, Director A would have to pay a commission to the Agent and an additional payment to the PBID Official. Although the Agent and Director A did not discuss specific amounts, Director A agreed to personally make the payments and to travel to Brazil to finalize the details.

12. The Agent personally agreed to make an additional payment of $1 million to a PBID manager that was PBID's chief negotiator for the contract. At the request of the Agent, the PBID manager agreed to defer receipt of the bribe payment until 2012 when the Titanium Explorer began working for Petrobras and the Agent would begin receiving his commission payments. In return for the promised $1 million, the PBID manager supported VDC in the bidding process over its competitors.

13. During the ensuing weeks, the Agent told the CEO that Petrobras officials were still concerned about entering a contract with VDC that required the use of a drillship that VDC did not own and wanted to meet with Director A in Brazil. In actuality, the purpose of the meeting, which took place on December 20, 2008, in Rio de Janeiro, was to formalize the arrangement whereby Director A would make payments from his personal funds to the Agent and Intermediary B with the understanding that the money would be used by the Agent and Intermediary B to pay Petrobras officials. As a result of the meeting, Director A signed consulting agreements with the Agent and Intermediary B, respectively, requiring Director A to make payments in three installments: (1) $6,200,000 when PBID signed the drilling services contract with VDC; (2) $4,650,000 six months after the contract was signed and (3) $4,650,000 when the drillship began working for PBID. In total, Director A agreed to pay $31 million from his personal funds which equated to approximately 1.7% of the expected contract value.

14. On February 4, 2009, Petrobras and VDC signed the *Titanium Explorer* contract for an eight-year term and with an approximate value of $1.8 billion. A month later, VDC and Director A formalized their agreement regarding the *Titanium Explorer,* which required VDC to send Director A all revenues received from Petrobras less VDC's management fee. This agreement contemplated that Director A would continue to make the necessary installment payments to the shipyard to fund the construction of the drillship. Despite the fact that Director A had already made misrepresentations to VDC related to the *Platinum Explorer* – once again – VDC failed to establish adequate internal accounting controls with respect to its transactions with Director A.

<u>The Improper Payments</u>

15. Two weeks after the *Titanium Explorer* drilling contract was signed, Director A transferred approximately $6,200,000 to the Agent and Intermediary B, respectively. On September 10, 2009, Director A made the second improper payment that was due.

16. After the Agent received these payments from Director A, the Agent transferred $550,000 to the former PBID manager on September 17, 2010. Before these funds were transferred, the Agent and the former PBID manager agreed that the manager would accept half of the $1 million that previously had been promised in lieu of waiting to receive the total sum in 2012 when the *Titanium Explorer* began working for Petrobras.

17. Before the third improper payment was due from Director A, he sustained substantial financial losses in his other businesses and ran out of funds to continue financing the construction of the *Titanium Explorer*. To avoid defaulting on its contract with Petrobras, VDC decided to purchase the *Titanium Explorer* from Director A. After lengthy negotiations, Director A agreed to sell the *Titanium Explorer* to VDC in exchange for: (1) $169 million in cash, (2) VDC's agreement to make all future payments due to the shipyard, and (3) VDC's forgiveness of $33.6 million in debt Director A owed to VDC under the *Titanium Explorer* construction management agreement. Once again, VDC failed to have sufficient internal accounting controls associated with the transaction. To fund the purchase, VDC conducted a debt offering in April 2012.

<u>Director A's and the Agent's Corrupt Acts Went Undetected by VDC Despite Red Flags</u>

18. Although VDC's internal accounting controls prohibited making payments in violation of the FCPA both directly and indirectly through third parties and required that suspected violations of the FCPA be reported to the Chief Compliance Officer, VDC did not effectively respond to red flags indicating a risk that Director A and the Agent had promised and made improper payments to Petrobras officials to obtain the *Titanium Explorer* contract. First, on September 5, 2012, a consultant who had worked for Director A during the negotiations to sell the *Titanium Explorer* to VDC, hinted to the CEO that Director A expected that VDC would reimburse Director A for his "payment to P." Second, around the time the third and final improper payment was due, the Agent reported to the CEO that he had personally made a "final payment" regarding the *Titanium Explorer* contract. Third, on August 9, 2013, a Brazilian reporter sent the CEO and VDC's marketing department an email requesting clarification for a story she was writing concerning alleged payments made by Director A to obtain the *Titanium Explorer* contract. In her email, the reporter explicitly stated that Director A had promised three payments but defaulted on the final payment due and asked VDC whether it was aware of the arrangement.

19. VDC did not follow-up on these red flags, and took no steps to determine whether any payments VDC made to Director A were made to fund or reimburse him for improper payments. Moreover, with regard to the reporter's inquiry to the CEO, the CEO did not take or direct others to take any action to understand the nature of and basis for the payments described in the reporter's email.

The Bribery Scheme Was Exposed

20. Ultimately, Director A's scheme to make improper payments to the Agent and Intermediary B and the Agent's payment to a former PBID official were exposed as part of a sweeping criminal investigation in Brazil named "Operation Car Wash" that uncovered a decades-long bribery scheme involving Petrobras officials and Brazilian politicians extracting bribes in return for contract awards.

21. On July 27, 2015, the Agent entered into a collaboration agreement with the Brazilian Federal Public Prosecutor's Office. As part of his agreement, the Agent admitted to participating in the scheme involving the *Titanium Explorer* contract. On February 1, 2016, the Agent was convicted of corruption and money laundering. Director A was also charged in Brazil for his part in the scheme.

22. On August 31, 2015, Petrobras cancelled the *Titanium Explorer* contract. At the time of cancellation, VDC had realized net profits of approximately $106 million on the contract.

23. As a result of the revenue loss caused by the contract cancellation, VDC was unable to meet its debt obligations. Consequently, VDC entered into a restructuring agreement with its secured creditors. Pursuant to the restructuring agreement, VDC transferred its tangible assets and operations to Vantage, a wholly-owned subsidiary of VDC and holder of VDC's senior secured debt, in exchange for a $61.5 million promissory note. On December 3, 2015, Vantage commenced Chapter 11 bankruptcy proceedings in the United States Bankruptcy Court for the District of Delaware. Shortly thereafter, VDC initiated liquidation proceedings in the Cayman Islands. Vantage reemerged from bankruptcy on February 10, 2016.

VDC's Insufficient and Unenforced Internal Accounting Controls

24. VDC failed to devise and maintain a sufficient system of internal accounting controls. Specifically, VDC's internal accounting controls in regards to its transactions with Director A were insufficient in relation to the heightened risk of conducting business in the oil and gas industry in Brazil. The lack of internal accounting controls surrounding VDC's payments to Director A increased the risk that VDC provided or reimbursed Director A the funds used to make the corrupt payments.

25. In addition to failing to devise any meaningful internal accounting controls around its transactions with Director A, VDC also did not follow its own internal accounting controls by failing to conduct due diligence on the Agent and follow-up on red flags indicating that Director A and the Agent made corrupt payments in connection with the *Titanium Explorer* contract.

Legal Standards and FCPA Violations

26. As a result of the conduct described above, Vantage violated Section 13(b)(2)(B) of the Exchange Act, which requires issuers to devise and maintain a system of internal

accounting controls sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary (I) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements, and (II) to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

27. Under Section 21C(a) of the Exchange Act, the Commission may impose a cease-and-desist order upon any person who is violating, has violated, or is about to violate any provision of the Exchange Act or any regulation thereunder, and upon any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation.

Commission Consideration of Vantage's Cooperation, Remedial Efforts and Current Financial Condition

28. In determining to accept the Offer, the Commission considered Vantage's cooperation and remedial efforts. Additionally, in determining the disgorgement amount and not to impose a penalty, the Commission has considered Vantage's current financial condition and its ability to maintain necessary cash reserves to fund its operations and meet its liabilities.

29. The Company provided significant cooperation to the Commission during the entire course of its investigation. Vantage voluntarily disclosed information obtained during its own internal investigation, highlighted key documents, and disclosed facts that the Commission would not have been able to readily and independently discover. Further, Vantage took the following remedial actions to strengthen its ability to prevent or detect corruption, including: (1) reconstituting its Board of Directors on February 10, 2016; (2) obtaining a completely new management team, including a new Chief Executive Officer, Chief Financial Officer, and General Counsel, Chief Compliance Officer & Corporate Secretary; (3) severing its relationship with the Agent; (4) undertaking a comprehensive review of and enhancing its anti-corruption policies and procedures in consultation with outside counsel and consultants; (5) improving its third-party due diligence procedures; (6) undertaking a review of all of its relationships with joint venture partners, agents, customs brokers, and freight forwarders; and (7) committing additional resources to the compliance and internal audit functions at a time when the company reduced its overall expenses.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent shall cease and desist from committing or causing any violations and any future violations of Section 13(b)(2)(B) of the Exchange Act.

B. Respondent shall, within 14 days of entry of this Order, pay disgorgement of $5,000,000.00 (the "Disgorgement Amount") to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made within 14 days of when due additional interest shall accrue pursuant to SEC Rule of Practice 600. If Respondent has become a debtor under the Bankruptcy Code before the Disgorgement Amount is paid to the Commission, then, unless otherwise ordered by the bankruptcy court having jurisdiction over Respondent's bankruptcy case, Respondent shall pay the Disgorgement Amount to the Commission within 14 days of the bankruptcy court's approval of such payment. If timely payment is not made within 14 days of when due additional interest shall accrue pursuant to SEC Rule of Practice 600, unless 11 U.S.C. § 502(b)(2) applies. Payment must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent may make direct payment from a bank account via Pay.gov through the SEC Web site at http://www.sec.gov/about/offices/ofm.htm; or

(3) Respondent 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 Vantage as the Respondent 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 Charles Cain, Unit Chief, FCPA Unit, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549.

C. Respondent acknowledges that the Commission is not imposing a civil penalty based upon its cooperation in a Commission investigation and its financial condition. If at any time following the entry of the Order, the Division of Enforcement ("Division") obtains information indicating that Respondent 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 the Respondent, petition the Commission to reopen this matter and seek an order directing that the Respondent pay a civil money penalty. Respondent may contest by way of defense in any resulting administrative proceeding brought by the Commission, 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.

By the Commission.

Brent J. Fields
Secretary