UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

Plaintiff, Individually and On Behalf of All Others Similarly Situated, Plaintiff, v. RPM INTERNATIONAL INC., , and , Defendants.	Case No.: DRAFT **CLASS ACTION COMPLAINT FOR VIOLATIONS OF THE FEDERAL SECURITIES LAWS** **JURY TRIAL DEMANDED**

Plaintiff ("Plaintiff"), by and through his attorneys, alleges the following upon information and belief, except as to those allegations concerning Plaintiff, which are alleged upon personal knowledge. Plaintiff's information and belief is based upon, among other things, his counsel's investigation, which includes without limitation: (a) review and analysis of regulatory filings made by RPM INTERNATIONAL INC. ("RPM" or the "Company"), with the United States ("U.S.") Securities and Exchange Commission ("SEC"); (b) review and analysis of press releases and media reports issued by and disseminated by RPM; and (c) review of other publicly available information concerning RPM.

NATURE OF THE ACTION AND OVERVIEW

1. This is a class action on behalf of persons and entities that acquired RPM securities between July 26, 2012, and September 8, 2016, inclusive (the "Class Period"), seeking to pursue remedies under the Securities Exchange Act of 1934 (the "Exchange Act").

2. RPM, through its subsidiaries, markets and sells specialty coatings, sealants, building materials and related services across three segments. RPM's industrial products include roofing systems, sealants, corrosion control coatings, flooring coatings and other construction chemicals. RPM's consumer products are used by professionals and do-it-yourselfers for home maintenance and improvement and by hobbyists. RPM's specialty products include industrial cleaners, colorants, exterior finishes, specialty OEM coatings, edible coatings, restoration services equipment and specialty glazes for the pharmaceutical and food industries.

3. One of RPM's wholly-owned subsidiaries is Tremco, a company that provides roofing materials and services.

4. In July 2010, a former Tremco employee filed a *qui tam* complaint under the FCA (the "FCA complaint") in federal court against RPM and Tremco. The FCA complaint alleged

that Tremco overcharged the government under certain government contracts by, among other things, failing to provide required price discounts. The FCA complaint was filed under seal and provided to the U.S. Department of Justice ("DOJ") so that DOJ could investigate the allegations and decide whether to intervene in the lawsuit (the "DOJ investigation").

5. In March 2011, RPM first learned of the DOJ investigation when Tremco received a subpoena from the government, requesting documents related to Tremco's government contracts.

6. On September 9, 2016, the SEC filed a complaint against RPM with allegations of accounting fraud (the "SEC Complaint"). According to the SEC Complaint, RPM failed to appropriately and timely disclose a loss contingency, or document an accrual for the DOJ investigation. According to the SEC Complaint, a public company with a loss contingency, i.e., a lawsuit or government investigation, is obligated under accounting principles and the securities laws to (1) report the loss contingency if a material loss is reasonably possible, and (2) document an accrual for the loss contingency if a material loss is probable and reasonably estimable. Accordingly, RPM was facing a probable and reasonably estimable material loss, but the Company failed to report the loss contingency or document an accrual on its books when required to do so.

7. On this news, the Company's stock price fell $2.90 per share, over 5%, to close at $51.75 per share on September 9, 2016.

8. Throughout the Class Period, Defendants made false and/or misleading statements, as well as failed to disclose material adverse facts about the Company's business, operations, and prospects. Specifically, Defendants made false and/or misleading statements and/or failed to disclose: (1) that the Company failed to disclose the ongoing DOJ investigation

into Tremco's overcharging the government under certain government contracts; (2) that RPM failed to record an accrual for the loss contingency; (3) that a material loss related to the DOJ investigation was probable and reasonably estimable; (4) that, as a result, the Company's financial statements were misstated during the Class Period and not presented in accordance with Generally Accepted Accounting Principles ("GAAP"); (5) that the Company lacked adequate internal controls over financial reporting; and (6) that, as a result of the foregoing, RPM's financial statements were false and misleading and/or lacked a reasonable basis.

9. As a result of Defendants' wrongful acts and omissions, and the precipitous decline in the market value of the Company's securities, Plaintiff and other Class members have suffered significant losses and damages.

JURISDICTION AND VENUE

10. The claims asserted herein arise under Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)) and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. § 240.10b-5).

11. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1331 and Section 27 of the Exchange Act (15 U.S.C. § 78aa).

12. Venue is proper in this Judicial District pursuant to 28 U.S.C. § 1391(b) and Section 27 of the Exchange Act (15 U.S.C. § 78aa(c)). Substantial acts in furtherance of the alleged fraud or the effects of the fraud have occurred in this Judicial District. Many of the acts charged herein, including the dissemination of materially false and/or misleading information, occurred in substantial part in this Judicial District. In addition, the Company's principal executive offices are located in this Judicial District.

13. In connection with the acts, transactions, and conduct alleged herein, Defendants

directly and indirectly used the means and instrumentalities of interstate commerce, including the United States mail, interstate telephone communications, and the facilities of a national securities exchange.

PARTIES

14. Plaintiff, as set forth in the accompanying certification, incorporated by reference herein, purchased RPM common stock during the Class Period, and suffered damages as a result of the federal securities law violations and false and/or misleading statements and/or material omissions alleged herein.

15. Defendant RPM is a Delaware corporation with its principal executive offices located at 2628 Pearl Road, P.O. Box 777, Medina, Ohio 44258.

16. Defendant Frank C. Sullivan ("Sullivan") was, at all relevant times, Chief Executive Officer ("CEO") and a director of RPM.

17. Defendant Russell L. Gordon("Gordon") was, at all relevant times, Chief Financial Officer ("CFO") of RPM since on or around April 2012.

18. Defendant Edward W. Moore ("Moore") was, at all relevant times, General Counsel and Chief Compliance Officer of RPM.

19. Defendants Sullivan, Gordon, and Moore, are collectively referred to hereinafter as the "Individual Defendants." The Individual Defendants, because of their positions with the Company, possessed the power and authority to control the contents of RPM's reports to the SEC, press releases and presentations to securities analysts, money and portfolio managers and institutional investors, *i.e.*, the market. Each defendant was provided with copies of the Company's reports and press releases alleged herein to be misleading prior to, or shortly after, their issuance and had the ability and opportunity to prevent their issuance or cause them to be

corrected. Because of their positions and access to material non-public information available to them, each of these defendants knew that the adverse facts specified herein had not been disclosed to, and were being concealed from, the public, and that the positive representations which were being made were then materially false and/or misleading. The Individual Defendants are liable for the false statements pleaded herein, as those statements were each "group-published" information, the result of the collective actions of the Individual Defendants.

SUBSTANTIVE ALLEGATIONS

Background Allegations

20. The FCA, 31 U.S.C. §§ 3729 – 3733, is a civil fraud statute that allows triple damages and penalties against a party who submits a false claim to the government. *See* 31 U.S.C. § 3729(a). The *qui tam* provisions of the FCA allow a plaintiff, known as a "relator," to bring an action in federal court in the name of the government. *See* 31 U.S.C. § 3730(b). When a relator files a complaint under the FCA, the complaint is filed under seal and provided to DOJ so that DOJ may investigate the relator's allegations. *See id*. After the investigation, DOJ informs the court whether DOJ will intervene and litigate the case or decline to intervene and allow the relator to litigate the case alone. *Id*.

21. According to the SEC Complaint, in July 2010, a former Tremco employee filed the FCA complaint against RPM and Tremco. The FCA complaint alleged that Tremco overcharged the government under certain government contracts by, among other things, failing to provide required price discounts. The FCA complaint was filed under seal and provided to DOJ so that DOJ could investigate the allegations and decide whether to intervene in the lawsuit.

22. In March 2011, RPM learned of the DOJ investigation when Tremco received a government subpoena requesting documents related to Tremco's government contracts.

23. As RPM's General Counsel and Chief Compliance Officer, Moore oversaw the response of RPM and Tremco to the DOJ investigation. Moore also was required to keep RPM's CEO, CFO, and Audit Committee reasonably informed, with timely and accurate information, regarding the status of the DOJ investigation. Additionally, Moore was responsible for updating the Audit Firm on the status of the DOJ investigation. Moore was also responsible for providing timely and accurate information about the DOJ investigation so that RPM's disclosure and accrual obligations in its SEC filings, including RPM's quarterly reports on Forms 10-Q, annual reports on Forms 10-K, and the financial information therein was accurate.

24. Soon after learning of the DOJ investigation in March 2011, RPM retained a law to represent RPM in connection with the DOJ investigation. From the outset of that engagement, RPM's counsel and RPM understood that, in order to settle an FCA matter, DOJ generally required at least two times the amount of actual damages sustained from the false claims. RPM's counsel that worked on the DOJ investigation did not act as RPM's securities disclosure counsel for SEC filings; instead, a different law firm served as RPM's disclosure counsel.

25. At RPM's quarterly Audit Committee meeting on April 5, 2011, which was attended by Defendant Sullivan and representatives from the Company's independent accounting firm Ernst & Young (the "Audit Firm"), Moore discussed the DOJ investigation. Once the Audit Firm became aware of the DOJ investigation in April 2011, its auditors asked Moore on at least a quarterly basis whether any new developments had occurred in the DOJ investigation.

26. On June 7, 2012, the Audit Firm sent an e-mail to Moore regarding the 2012 annual report that was scheduled to be filed on Form 10-K with the SEC in July 2012. The e-mail stated in part: "As we head into yearend and start thinking about disclosures, etc. I wanted to pass along the attached, which is a document with an example disclosure related to . . .

government investigations." The Audit Firm attached to the e-mail sample language used by another public company to disclose a government investigation in an SEC filing.

27. Despite the Audit Firm providing sample disclosure language and PM and Moore's knowledge of the probable and reasonably estimable loss contingency, RPM and Moore decided not to disclose the DOJ investigation at that time.

Materially False and Misleading
Statements Issued During the Class Period

28. The Class Period begins on July 26, 2012. On that day, the Company filed its Annual Report with the SEC on Form 10-K for the Company's 2012 fiscal year. The Company's Annual Report was signed by Defendants Sullivan and Gordon.

29. The Company's Annual Report failed to disclose anything related to the DOJ investigation as a loss contingency and also failed to record an accrual for a loss contingency, as a charge against income, because a material loss was probable and reasonably estimable.

30. The Company's Annual Report on Form 10-K also contained certifications pursuant to the Sarbanes-Oxley Act of 2002 ("SOX"), signed by Defendants Gordon and Sullivan, who, in relevant part, certified:

> 1. I have reviewed this Annual Report on Form 10-K of RPM International Inc.;
>
> 2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
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> 3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
>
> 4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as

defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

> a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
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> b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
>
> c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
>
> d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

> a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
>
> b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

31. On August 9, 2012, DOJ provided a copy of the FCA Complaint, which had been partially unsealed, to RPM. A small group of RPM personnel, including Moore, reviewed the FCA Complaint. However, the FCA Complaint, or its contents, was not disclosed to the Audit

Firm.

32. On September 12, 2012, RPM's counsel met with DOJ to discuss the DOJ investigation. During that meeting, RPM's counsel informed DOJ that Tremco had not complied with the pricing terms of its government contracts. RPM's counsel also discussed with DOJ an analysis prepared by a consultant for RPM and Tremco, which calculated that Tremco overcharged the government by at least $11 million during part of the time period under investigation.

33. On or around September 28, 2012, in connection with the Audit Firm's first quarter review of RPM, the Audit Firm asked Moore about the status of the DOJ investigation. In response, Moore falsely told the Audit Firm that "no claim has been asserted" and the matter was "investigative in nature and not in litigation." However, Moore knew the FCA complaint had been filed against RPM and Tremco in federal court and that RPM's potential loss relating to the DOJ investigation was at least $11 million.

34. On October 1, 2012, Moore sent a management representation letter to the Audit Firm in connection with the first quarter review of RPM. In the letter, Moore falsely stated that, "since June 1, 2012, neither I, nor any of the lawyers over whom I exercise general legal supervision, have given substantive attention to, or represented the Company in connection with, material loss contingencies" exceeding $1.2 million.

35. Moore's representation was materially false and misleading because Moore knew that he and RPM's counsel represented RPM in connection with the DOJ investigation, and that RPM's potential loss relating to the DOJ investigation was at least $11 million.

36. Later on October 1, 2012, with Moore's knowledge and authorization, RPM sent DOJ a written analysis, estimating that Tremco overcharged the government by approximately

$11.4 million during part of the time period under investigation. The written analysis provided the information that RPM's counsel had shared orally with DOJ at the meeting on September 12, and did not include any damages multiplier under the FCA. Moreover, since the $11.4 million overcharge estimate related to only part of the time period under investigation and to only one of the contracts under investigation, and additional overcharge analyses were planned or underway, Moore knew or should have known that the total amount by which Tremco overcharged the government likely was greater than $11.4 million.

37. On October 2, 2012, RPM's Audit Committee held its quarterly meeting, which was attended by, among others, the CEO, the CFO, representatives from the Audit Firm, and Moore. According to the SEC Complaint, the $11.4 million overcharge estimate that had been sent to DOJ was never discussed Audit Committee meeting. Even without considering the effect of any possible multiplier under the FCA, the $11.4 million overcharge estimate sent to DOJ was material because it equaled approximately 30% of RPM's net income for the first quarter.

38. On October 3, 2012, RPM filed a Current Report on Form 8-K with the SEC, which attached a press release concerning RPM's financial results for the 2013 fiscal first quarter ended August 31, 2012. The Current Report was signed by Defendant Moore. The Form 8-K purported to provide RPM's financial results for its fiscal first quarter but misleadingly failed to disclose the material impact of the DOJ investigation on those results.

39. On October 4, 2012, RPM filed its Quarterly Report on a Form 10-Q with the SEC for the fiscal first quarter. The Quarterly Report was signed by Defendants Sullivan and Gordon, and included SOX certifications, substantially similar to those described in ¶___, signed by Sullivan and Gordon. With respect to contingencies, the first quarter 2012 Quarterly Report misleadingly stated that, as of the end of RPM's first quarter:

> We are party to various claims and lawsuits arising in the normal course of business. ***Although we cannot precisely predict the amount of any liability that may ultimately arise with respect to any of these matters, we record provisions when we consider the liability probable and reasonably estimable.*** Our provisions are based on historical experience and legal advice, reviewed quarterly and adjusted according to developments. In general, our accruals, including our accruals for environmental, warranty, and tax liabilities, discussed further below, represent the best estimate of a range of possible losses. Estimating probable losses requires the analysis of multiple forecasted factors that often depend on judgments about potential actions by third parties, such as regulators, courts, and state and federal legislatures. Changes in the amounts of our loss provisions, which can be material, affect our Consolidated Statements of Income. While it is reasonably possible that excess liabilities, if they were to occur, could be material to operating results in any given quarter or year of their recognition, we do not believe that it is reasonably possible that excess liabilities would have a material adverse effect on our long-term results of operations, liquidity or consolidated financial position.

40. The 10-Q failed to disclose anything related to the DOJ investigation as a loss contingency and also failed to record an accrual for a loss contingency, as a charge against income, because a material loss was probable and reasonably estimable. However by October 3, 2012, RPM knew it was reasonably likely that the DOJ investigation would have a material unfavorable impact on RPM's income in the future because at minimum, RPM's loss was at least $11.4 million, even before considering the impact of any damages multiplier under the FCA.

41. With respect to internal controls, the Form 10-Q additionally stated:

> Our Chief Executive Officer and Chief Financial Officer, after evaluating the effectiveness of our disclosure controls and procedures (as defined in Exchange Act Rule 13a-15(e)) as of August 31, 2012 (the "Evaluation Date"), have concluded that as of the Evaluation Date, our disclosure controls and procedures were effective in ensuring that information required to be disclosed by us in the reports we file or submit under the Exchange Act (1) is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms, and (2) is accumulated and communicated to our management, including the Chief Executive Officer and the Chief Financial Officer, as appropriate to allow for timely decisions regarding required disclosure.

42. However, as RPM later admitted in connection with its restatement, its disclosure controls and procedures were not effective at the end of the first quarter.

43. On October 19, 2012, RPM filed with the SEC a Prospectus Supplement for a $300 million notes offering. The Prospectus Supplement incorporated by reference RPM's SEC filings, including the materially misleading first quarter Form 10-Q filed on October 4, 2012. RPM's sale of the notes closed on or around October 23, 2012.

44. On November 5, 2012, DOJ notified RPM by e-mail that the seal on the FCA complaint would expire on January 17, 2013, and thus DOJ "want[ed] to make sure that the parties are in an appropriate posture by that date (i.e., this matter is resolved or the United States is prepared to inform the Court of its intervention determination)."

45. On December 21, 2012, RPM representatives, including Moore, and their counsel, held a conference call to discuss the DOJ investigation and RPM's planned settlement offer. During the call, the participants discussed the components of the planned settlement offer of at least $27-28 million.

46. On December 28, 2012, Moore sent another management representation letter to the Audit Firm in connection with the second quarter review of RPM. In the letter, Moore stated that, "since June 1, 2012, neither I, nor any of the lawyers over whom I exercise general legal supervision, have given substantive attention to, or represented the Company in connection with, material loss contingencies" exceeding $1.2 million. That representation was materially false and misleading because Moore knew that that RPM was planning to submit a settlement offer to resolve the DOJ investigation by January 2013; and that estimates for the settlement offer were approximately $27-28 million.

47. Also on or around December 28, 2012, as part of the second quarter review of RPM, the Audit Firm again asked Moore about the status of the DOJ investigation. During that discussion, Moore falsely stated that "no claim has been filed" and "no loss contingency exists."

Contrary to that statement, however, Moore knew the FCA complaint had been filed against RPM and he knew about the DOJ investigation.

48. On January 4, 2013, four days before RPM was scheduled to file its Form 10-Q for the fiscal second quarter, RPM's Audit Committee held its quarterly meeting. That meeting was attended by, among others, RPM's CEO, CFO, the Chairman of the Audit Committee, representatives from the Audit Firm, and Moore. During the meeting, Moore purported to provide an update on the current status of the DOJ investigation. But Moore's update was materially inaccurate because he did not disclose: (1) any of the overcharge estimates that had been sent to DOJ, which by this time totaled nearly $12 million; (2) that RPM had told DOJ a settlement offer would be submitted by January 11, 2013; or (3) that calculations for the settlement offer had reached $27-28 million.

49. On January 8, 2013, RPM filed a Current Report on Form 8-K with the SEC, which attached a press release concerning RPM's financial results for the 2013 fiscal second quarter ended November 30, 2012. The Current Report was signed by Defendant Moore. The Form 8-K purported to provide RPM's financial results for its fiscal second quarter but misleadingly failed to disclose the material impact of the DOJ investigation on those results.

50. Also on January 8, 2013, RPM filed its Quarterly Report on a Form 10-Q with the SEC for the 2013 fiscal second quarter. The Quarterly Report was signed by Defendants Sullivan and Gordon, and included SOX certifications, substantially similar to those described in ¶___, signed by Sullivan and Gordon. With respect to contingencies, the 2013 fiscal second quarter Quarterly Report misleadingly stated that, as of the end of RPM's second quarter:

> We are party to various claims and lawsuits arising in the normal course of business. Although we cannot precisely predict the amount of any liability that may ultimately arise with respect to any of these matters, we record provisions when we consider the liability probable and reasonably estimable. Our provisions

> are based on historical experience and legal advice, reviewed quarterly and adjusted according to developments. In general, our accruals, including our accruals for environmental, warranty, and tax liabilities, discussed further below, represent the best estimate of a range of possible losses. Estimating probable losses requires the analysis of multiple forecasted factors that often depend on judgments about potential actions by third parties, such as regulators, courts, and state and federal legislatures. Changes in the amounts of our loss provisions, which can be material, affect our Consolidated Statements of Income. While it is reasonably possible that excess liabilities, if they were to occur, could be material to operating results in any given quarter or year of their recognition, we do not believe that it is reasonably possible that excess liabilities would have a material adverse effect on our long-term results of operations, liquidity or consolidated financial position.

51. With respect to internal controls, the Form 10-Q additionally stated:

> Our Chief Executive Officer and Chief Financial Officer, after evaluating the effectiveness of our disclosure controls and procedures (as defined in Exchange Act Rule 13a-15(e)) as of November 30, 2012 (the "Evaluation Date"), have concluded that as of the Evaluation Date, our disclosure controls and procedures were effective in ensuring that information required to be disclosed by us in the reports we file or submit under the Exchange Act (1) is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms, and (2) is accumulated and communicated to our management, including the Chief Executive Officer and the Chief Financial Officer, as appropriate to allow for timely decisions regarding required disclosure.

52. The 10-Q failed to disclose anything related to the DOJ investigation as a loss contingency and also failed to record an accrual for a loss contingency, as a charge against income, because a material loss was probable and reasonably estimable. However, RPM knew it was reasonably likely that the DOJ investigation would have a material unfavorable impact on RPM's income in the future because RPM was planning to submit an offer to the DOJ to settle the DOJ investigation and the underlying FCA case for approximately $27-28 million.

53. On January 11, 2013, RPM submitted a settlement proposal to DOJ, offering to settle the DOJ investigation and the underlying FCA case for $28.3 million – the amount that RPM estimated Tremco overcharged the government without any damages multiplier under the FCA.

54. On March 29, 2013, DOJ conveyed a settlement counter-offer of $71 million, which included a damages multiplier of approximately 2.5 under the FCA.

55. On April 4, 2013, RPM filed a Current Report on Form 8-K with the SEC, which attached a press release concerning RPM's financial results for the 2013 fiscal third quarter ended February 28, 2013. The Current Report was signed by Defendant Moore and stated, in relevant part:

> As of February 28, 2013, based on discussions occurring on March 29, 2013, the Company recorded a $68.8 million accrual associated with an investigation of the Company's Building Solutions Group roofing contracts with the U.S. General Services Administration (the "GSA"). The substantial majority of the accrual relates to the sale of products and services from 2002 to 2008. The Company's Building Solutions Group is in ongoing settlement discussions with the U.S. Department of Justice (the "DOJ") and the GSA aimed at resolving the investigation. The Company is cooperating with the investigation, which involves compliance with certain pricing terms and conditions of GSA contracts under which the Company's Building Solutions Group roofing division sold products and services to the federal government. The actual amount of the Company's loss, which remains subject to approval by the DOJ, may vary from the amount of the accrual.

56. The a press release attached to the Current Report stated, in relevant part:

> On an as-reported basis, net sales grew 9.1% to $843.7 million from $773.6 million. Consolidated earnings before interest and taxes (EBIT) were a negative $48.6 million, compared to EBIT of $27.1 million a year ago, due primarily to an adjustment for a $68.8 million accrual associated with an investigation of the company's Building Solutions Group roofing contracts with the U.S. General Services Administration (GSA). The substantial majority of the accrual relates to the sale of products and services from 2002 to 2008. The as-reported net loss for the quarter was $42.4 million, compared to net income of $6.6 million in the year-ago period. The diluted loss per share was $0.33, compared to diluted earnings per share of $0.05 in the fiscal 2012 third quarter.

57. The April 4, 2013 Current Report and press release marked the first time RPM publicly disclosed the DOJ investigation and related accrual to investors. Both the April 4, 2013 Current Report and 10-Q misleadingly indicated that RPM had timely disclosed and accrued for the DOJ investigation in the fiscal third quarter, when in fact disclosure and accrual were

required in the first and second quarters, as indicated by RPM's subsequent restatement.

58. As of April 4, 2013, when RPM publicly disclosed the DOJ investigation, the underlying FCA complaint remained under seal. The fact that the complaint was sealed did not prevent RPM from disclosing the DOJ investigation in an SEC filing.

59. On July 24, 2013, RPM filed its Annual Report on Form 10-K for the 2013 fiscal year ended May 31, 2013. The Annual Report was signed by Defendants Sullivan and Gordon, and included SOX certifications, substantially similar to those described in ¶___, signed by Sullivan and Gordon.

60. The Form 10-K discussed the DOJ investigation and the related accrual that RPM recorded in its third quarter ended February 28, 2013. The Form 10-K, however, misleadingly indicated that RPM timely disclosed and accrued for the DOJ investigation in the third quarter, when in fact disclosure and accrual were required in the first two quarters.

61. Additionally, the Form 10-K failed to disclose any material weakness in RPM's internal control over financial reporting at any point during the fiscal year, when in fact such weakness existed. Instead, the Form 10-K misleadingly stated:

> Our management, with the participation of our Chief Executive Officer and Chief Financial Officer, after evaluating the effectiveness of our disclosure controls and procedures (as defined in Exchange Act Rule 13a-15) as of May 31, 2013 (the "Evaluation Date"), have concluded that as of the Evaluation Date, our disclosure controls and procedures were effective in ensuring that information required to be disclosed by us in the reports we file or submit under the Exchange Act (1) is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms, and (2) is accumulated and communicated to our management, including the Chief Executive Officer and the Chief Financial Officer, as appropriate to allow for timely decisions regarding required disclosure.

62. In August 2013, RPM settled the DOJ investigation and the underlying FCA case for approximately $61 million. DOJ issued a press release announcing the settlement on August 28, 2013.

63. On December 5, 2013, RPM filed with the SEC a Prospectus Supplement for a $200 million notes offering. The underwriters exercised an option to purchase additional notes, bringing the total amount of the offering to $205 million. Moore oversaw the notes offering and reviewed the Prospectus Supplement before it was filed with the SEC. The Prospectus Supplement incorporated by reference RPM's SEC filings, including the materially misleading Form 10-K filed on July 24, 2013, and stated that it was "important" for investors to consider this information. RPM's sale of the notes closed on or around December 9, 2013.

64. On March 31, 2014, RPM sent the SEC staff a written chronology of events related to the DOJ investigation. Moore reviewed and authorized the chronology before it was sent to the SEC. The chronology discussed RPM's communications with DOJ in 2012 and 2013. Among other things, the chronology stated that, "[o]n December 19, 2012, RPM and Tremco informed the DOJ that a settlement proposal would be submitted by January 11, 2013."

65. On April 5, 2014, the Audit Firm received a copy of RPM's chronology and learned for the first time that, on December 19, 2012, RPM told DOJ a settlement offer would be submitted by January 11, 2013. Upon learning that new information, the Audit Firm was concerned. Shortly after reviewing RPM's chronology, on April 5, 2014, the Audit Firm sent an e-mail to Moore and CFO Gordon, stating in part: "We had an Audit Committee meeting on January 4, 2013 and the November 30, 2012 10-Q was filed January 8 I believe. At this time, we were told the whole matter was still a $5 million issue."

66. On April 8, 2014, members of the Audit Firm met with Moore and CFO Gordon to discuss the chronology that RPM submitted to the SEC and a Form S-3 registration statement for which RPM needed the Audit Firm's consent before filing with the SEC. During the meeting, Moore told the Audit Firm that: (1) on December 19, 2012, the range of reasonably possible loss

for the DOJ investigation was $0 to $10 million; (2) the range of reasonably possible loss continued to be $0 to $10 million through January 8, 2013, when RPM's second quarter Form 10-Q was filed; and (3) the range of loss went from $0 to $10 million up to $28 million, and became probable, between January 8 and 11, 2013. Moore's April 8, 2014 statements to the Audit Firm were materially false and misleading because Moore knew that: (1) by December 19, 2012, the overcharge estimates RPM had sent to DOJ totaled nearly $12 million without any damages multiplier under the FCA; (2) by January 8, 2013, RPM's calculations for its settlement offer had reached $27-28 million; and (3) RPM's range of reasonably possible or probable loss had reached $27-28 million by December 21, 2012 – it did not jump to that amount between January 8 and 11, 2013. Based on Moore's misrepresentations, the Audit Firm provided its consent for the Form S-3, which RPM filed with the SEC.

67. During the summer of 2014, the Audit Firm learned additional facts about the DOJ investigation, including the overcharge estimates that RPM sent to DOJ in 2012. As a result of that new information, on or around July 17, 2014, the Audit Firm told RPM that the Audit Firm would not sign off on RPM's Form 10-K for the fiscal year ended May 31, 2014, unless RPM conducted an independent investigation regarding its disclosure and accrual for the DOJ investigation. In response, RPM's Audit Committee hired a law firm to conduct an investigation (the "Audit Committee investigation"). The Audit Committee investigation took place from late July through early August 2014.

68. On August 10, 2014, the findings of the Audit Committee investigation were shared with the Audit Firm in a conference call. Those findings included, among other things, that by the end of the third week of December 2012, it became "known to Ed Moore" that RPM's financial exposure in the DOJ investigation was "going to jump" from around $11

million to around $28 million and that Moore improperly made "no disclosure to [the Audit Firm] or audit committee" at the Audit Committee meeting on January 4, 2013.

69. On August 11, 2014, the Audit Committee directed RPM to restate the first, second, and third quarters of fiscal year 2013. RPM determined that its restated financial statements would reflect an $11.4 million accrual for the DOJ investigation in the first quarter (which corresponded to the $11.4 million estimate sent to DOJ on October 1, 2012), and an additional $16.9 million accrual for the investigation in the second quarter (for a total accrual of $28.3 million, which corresponded to RPM's settlement offer to DOJ on January 11, 2013).

70. RPM also restated its third quarter to reduce the accrual in that quarter from $68.8 million to $40.5 million, since $28.3 million was accrued in the restated first and second quarters.

71. On August 14, 2014, RPM filed a Current Report filed on Form 8-K, signed by Moore, to announce the restatement. The Form 8-K stated that RPM made "errors" in disclosing and accruing for the DOJ investigation. The restatement was necessary because RPM's disclosure and accounting errors were material. Moreover, RPM's Form 8-K also disclosed that "the restatement reflects a material weakness in the Company's internal control over financial reporting and that its disclosure controls and procedures were not effective" as of the first and second fiscal quarters ended on August 31 and November 30, 2012.

72. Also on August 14, 2014, RPM filed amended Forms 10-Q for the first quarter ended August 31, 2012, and the second quarter ended November 30, 2012. The amended quarterly reports disclosed the DOJ investigation and reflected accruals showing RPM's "best estimate of the amount of probable loss" associated with the DOJ investigation.

73. RPM's restatement and amended SEC filings thus confirmed that RPM's original

SEC filings in 2012 and 2013, referenced above, were materially inaccurate. By filing amended Forms 10-Q that disclosed the DOJ investigation and related accruals, RPM admitted not only that a material loss was reasonably possible by October 4, 2012 and January 8, 2013, when the original Forms 10-Q were filed, but also that a material loss was probable and estimable by those dates.

74. On July 27, 2015, RPM filed its Annual Report on Form 10-K for the 2015 fiscal year ended May 31, 2015. The Annual Report was signed by Defendants Sullivan and Gordon, and included SOX certifications, substantially similar to those described in ¶___, signed by Sullivan and Gordon.

75. On July 28, 2016, RPM filed its Annual Report on Form 10-K for the 2016 fiscal year ended May 31, 2016. The Annual Report was signed by Defendants Sullivan and Gordon, and included SOX certifications, substantially similar to those described in ¶___, signed by Sullivan and Gordon.

76. The above statements identified in ¶¶__-__ were materially false and/or misleading, as well as failed to disclose material adverse facts about the Company's business, operations, and prospects. Specifically, these statements were false and/or misleading statements and/or failed to disclose: (1) that the Company failed to disclose the ongoing DOJ investigation into Tremco's overcharging the government under certain government contracts; (2) that RPM failed to record an accrual for the loss contingency; (3) that a material loss related to the DOJ investigation was probable and reasonably estimable; (4) that, as a result, the Company's financial statements were misstated during the Class Period and not presented in accordance with Generally Accepted Accounting Principles ("GAAP"); (5) that the Company lacked adequate internal controls over financial reporting; and (6) that, as a result of the foregoing, RPM's

financial statements were false and misleading and/or lacked a reasonable basis.

Disclosures at the End of the Class Period

77. On September 9, 2016, the SEC filed a complaint against RPM with allegations of accounting fraud for failing to disclose the pending DOJ investigation and report the loss contingency when the material loss was reasonably possible.

78. On this news, the Company's stock price fell $2.90 per share, over 5%, to close at $51.75 per share on September 9, 2016.

79. On September 12, 2016, RPM filed a Current Report filed on Form 8-K, signed by Sullivan stating, in relevant part:

> On September 9, 2016, the Securities and Exchange Commission ("SEC") filed an enforcement action against RPM International Inc. ("RPM") and RPM's General Counsel Edward W. Moore in connection with the company's previously disclosed restatement of its results for the first, second and third quarters of fiscal 2013. The restatements had no impact on the audited results for the fiscal year ended May 31, 2013, and the company's audit committee concluded that there was no intentional misconduct on the part of any of its officers.
>
> RPM has cooperated with the SEC's investigation and believes the allegations mischaracterize both the company's and Mr. Moore's actions in connection with the matters related to the company's quarterly results in fiscal 2013 and are without merit.
>
> The RPM Board of Directors has the utmost confidence in Mr. Moore's integrity and ability and believe he conducted himself in this matter professionally, honestly, and ethically, consistent with his outstanding reputation earned over a distinguished legal career spanning more than 30 years. The company said Mr. Moore will continue to serve as the company's Senior Vice President, General Counsel and Chief Compliance Officer.
>
> RPM will contest the allegations in the complaint vigorously and is confident it will prevail at trial.

RPM'S VIOLATION OF GAAP RULES IN ITS FINANCIAL STATEMENTS FILED WITH THE SEC

80. The financial statements and the statements about the Company's financial results

identified above were false and misleading, as such financial information was not prepared in conformity with GAAP, nor was the financial information a fair presentation of the Company's operations due to the Company's misstatements, in violation of GAAP rules.

81. GAAP are those principles recognized by the accounting profession as the conventions, rules and procedures necessary to define accepted accounting practice at a particular time. Regulation S-X (17 C.F.R. § 210.4-01(a)(1)) states that financial statements filed with the SEC which are not prepared in compliance with GAAP are presumed to be misleading and inaccurate. Regulation S-X requires that interim financial statements must also comply with GAAP, with the exception that interim financial statements need not include disclosure which would be duplicative of disclosures accompanying annual financial statements. 17 C.F.R. § 210.10-01(a).

82. Once RPM became aware of the DOJ investigation, the company had to ensure that it complied with certain disclosure and accrual provisions of the federal securities laws in connection with the investigation.

83. Accounting Standards Codification ("ASC") 450-20 codifies GAAP regarding "loss contingencies." A loss contingency is an existing condition, situation, or set of circumstances involving uncertainty as to a possible loss that will be resolved when one or more future events occurs or fails to occur. See ASC 450-20-20. Loss contingencies include, among other things, (i) actual or possible claims and (ii) pending or threatened litigation. *See* ASC 450-20-05-10. Under GAAP, an issuer must disclose a loss contingency if a material loss is reasonably possible, see ASC 450-20-50-3, and an issuer must record an accrual for a loss contingency, as a charge against income, if a material loss is probable and reasonably estimable, see ASC 450-20-25-2.

84. From at least March 2011 through August 2013, the DOJ investigation represented a loss contingency.

85. Given these accounting irregularities, the Company announced financial results that were in violation of GAAP and the following principles:

(a) The principle that "interim financial reporting should be based upon the same accounting principles and practices used to prepare annual financial statements" was violated (APB No. 28, 10);

(b) The principle that "financial reporting should provide information that is useful to present to potential investors and creditors and other users in making rational investment, credit, and similar decisions" was violated (FASB Statement of Concepts No. 1, 34);

(c) The principle that "financial reporting should provide information about the economic resources of RPM, the claims to those resources, and effects of transactions, events, and circumstances that change resources and claims to those resources" was violated (FASB Statement of Concepts No. 1, 40);

(d) The principle that "financial reporting should provide information about RPM's financial performance during a period" was violated (FASB Statement of Concepts No. 1, 42);

(e) The principle that "financial reporting should provide information about how management of RPM has discharged its stewardship responsibility to owners (stockholders) for the use of RPM resources entrusted to it" was violated (FASB Statement of Concepts No. 1, 50);

(f) The principle that "financial reporting should be reliable in that it represents what it purports to represent" was violated (FASB Statement of Concepts No. 2, 58-59);

(g) The principle that "completeness, meaning that nothing is left out of the information that may be necessary to insure that it validly represents underlying events and conditions" was violated (FASB Statement of Concepts No. 2, 79); and

(h) The principle that "conservatism be used as a prudent reaction to uncertainty to try to ensure that uncertainties and risks inherent in business situations are adequately considered" was violated (FASB Statement of Concepts No. 2, 95).

86. The adverse information concealed by Defendants during the Class Period and detailed above was in violation of Item 303 of Regulation S-K under the federal securities law (17 C.F.R. §229.303). Under Item 303, which addresses Management's Discussion and Analysis of Financial Condition and Results of Operations ("MD&A") for Forms 10-K and 10-Q, an issuer must describe any known trends or uncertainties that have had, or that the issuer reasonably expects will have, a material unfavorable impact on net sales, revenues, or income from continuing operations. *See* 17 C.F.R. § 229.303.

87. Moreover, under Exchange Act Rule 12b-20, along with the information expressly required to be included in an SEC filing, an issuer must also disclose such further material information as may be necessary to make the required statements, in light of the circumstances, not misleading. *See* 17 C.F.R. § 240.12b-20.

CLASS ACTION ALLEGATIONS

88. Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a class, consisting of all persons and entities that

acquired RPM securities between July 26, 2012 and September 8, 2016, inclusive (the "Class Period") and who were damaged thereby (the "Class"). Excluded from the Class are Defendants, the officers and directors of the Company, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest.

89. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, RPM's securities were actively traded on the New York Stock Exchange (the "NYSE"). While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff believes that there are hundreds or thousands of members in the proposed Class. Millions of RPM shares were traded publicly during the Class Period on the NYSE. As of April 1, 2016, RPM had 132,845,726 shares of common stock outstanding. Record owners and other members of the Class may be identified from records maintained by RPM or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

91. Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

92. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation.

93. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

(a) whether the federal securities laws were violated by Defendants' acts as alleged herein;

(b) whether statements made by Defendants to the investing public during the Class Period omitted and/or misrepresented material facts about the business, operations, and prospects of RPM; and

(c) to what extent the members of the Class have sustained damages and the proper measure of damages.

94. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation makes it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this action as a class action.

UNDISCLOSED ADVERSE FACTS

95. The market for RPM's securities was open, well-developed and efficient at all relevant times. As a result of these materially false and/or misleading statements, and/or failures to disclose, RPM's securities traded at artificially inflated prices during the Class Period. Plaintiff and other members of the Class purchased or otherwise acquired RPM's securities relying upon the integrity of the market price of the Company's securities and market information relating to RPM, and have been damaged thereby.

96. During the Class Period, Defendants materially misled the investing public, thereby inflating the price of RPM's securities, by publicly issuing false and/or misleading statements and/or omitting to disclose material facts necessary to make Defendants' statements,

as set forth herein, not false and/or misleading. Said statements and omissions were materially false and/or misleading in that they failed to disclose material adverse information and/or misrepresented the truth about RPM's business, operations, and prospects as alleged herein.

97. At all relevant times, the material misrepresentations and omissions particularized in this Complaint directly or proximately caused or were a substantial contributing cause of the damages sustained by Plaintiff and other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false and/or misleading statements about RPM's financial well-being and prospects. These material misstatements and/or omissions had the cause and effect of creating in the market an unrealistically positive assessment of the Company and its financial well-being and prospects, thus causing the Company's securities to be overvalued and artificially inflated at all relevant times. Defendants' materially false and/or misleading statements during the Class Period resulted in Plaintiff and other members of the Class purchasing the Company's securities at artificially inflated prices, thus causing the damages complained of herein.

LOSS CAUSATION

98. Defendants' wrongful conduct, as alleged herein, directly and proximately caused the economic loss suffered by Plaintiff and the Class.

99. During the Class Period, Plaintiff and the Class purchased RPM's securities at artificially inflated prices and were damaged thereby. The price of the Company's securities significantly declined when the misrepresentations made to the market, and/or the information alleged herein to have been concealed from the market, and/or the effects thereof, were revealed, causing investors' losses.

SCIENTER ALLEGATIONS

100. As alleged herein, Defendants acted with scienter in that Defendants knew that the public documents and statements issued or disseminated in the name of the Company were materially false and/or misleading; knew that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth elsewhere herein in detail, Defendants, by virtue of their receipt of information reflecting the true facts regarding RPM, his/her control over, and/or receipt and/or modification of RPM's allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning RPM, participated in the fraudulent scheme alleged herein.

APPLICABILITY OF PRESUMPTION OF RELIANCE (FRAUD-ON-THE-MARKET DOCTRINE)

101. The market for RPM's securities was open, well-developed and efficient at all relevant times. As a result of the materially false and/or misleading statements and/or failures to disclose, RPM's securities traded at artificially inflated prices during the Class Period. On September 7, 2016, the Company's stock closed at an adjusted Class Period high of $55.69 per share. Plaintiff and other members of the Class purchased or otherwise acquired the Company's securities relying upon the integrity of the market price of RPM's securities and market information relating to RPM, and have been damaged thereby.

102. During the Class Period, the artificial inflation of RPM's stock was caused by the material misrepresentations and/or omissions particularized in this Complaint causing the damages sustained by Plaintiff and other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false and/or misleading statements about RPM's business, prospects, and operations. These material

misstatements and/or omissions created an unrealistically positive assessment of RPM and its business, operations, and prospects, thus causing the price of the Company's securities to be artificially inflated at all relevant times, and when disclosed, negatively affected the value of the Company stock. Defendants' materially false and/or misleading statements during the Class Period resulted in Plaintiff and other members of the Class purchasing the Company's securities at such artificially inflated prices, and each of them has been damaged as a result.

103. At all relevant times, the market for RPM's securities was an efficient market for the following reasons, among others:

(a) RPM stock met the requirements for listing, and was listed and actively traded on the NYSE, a highly efficient and automated market;

(b) As a regulated issuer, RPM filed periodic public reports with the SEC and/or the NYSE;

(c) RPM regularly communicated with public investors *via* established market communication mechanisms, including through regular dissemination of press releases on the national circuits of major newswire services and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services; and/or

(d) RPM was followed by securities analysts employed by brokerage firms who wrote reports about the Company, and these reports were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace.

104. As a result of the foregoing, the market for RPM's securities promptly digested current information regarding RPM from all publicly available sources and reflected such information in RPM's stock price. Under these circumstances, all purchasers of RPM's securities

during the Class Period suffered similar injury through their purchase of RPM's securities at artificially inflated prices and a presumption of reliance applies.

105. A Class-wide presumption of reliance is also appropriate in this action under the Supreme Court's holding in *Affiliated Ute Citizens of Utah v. United States*, 406 U.S. 128 (1972), because the Class's claims are, in large part, grounded on Defendants' material misstatements and/or omissions. Because this action involves Defendants' failure to disclose material adverse information regarding the Company's business operations and financial prospects—information that Defendants were obligated to disclose—positive proof of reliance is not a prerequisite to recovery. All that is necessary is that the facts withheld be material in the sense that a reasonable investor might have considered them important in making investment decisions. Given the importance of the Class Period material misstatements and omissions set forth above, that requirement is satisfied here.

NO SAFE HARBOR

106. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this Complaint. The statements alleged to be false and misleading herein all relate to then-existing facts and conditions. In addition, to the extent certain of the statements alleged to be false may be characterized as forward looking, they were not identified as "forward-looking statements" when made and there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. In the alternative, to the extent that the statutory safe harbor is determined to apply to any forward-looking statements pleaded herein, Defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the

speaker had actual knowledge that the forward-looking statement was materially false or misleading, and/or the forward-looking statement was authorized or approved by an executive officer of RPM who knew that the statement was false when made.

FIRST CLAIM
Violation of Section 10(b) of The Exchange Act and Rule 10b-5 Promulgated Thereunder
Against All Defendants

107. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

108. During the Class Period, Defendants carried out a plan, scheme and course of conduct which was intended to and, throughout the Class Period, did: (i) deceive the investing public, including Plaintiff and other Class members, as alleged herein; and (ii) cause Plaintiff and other members of the Class to purchase RPM's securities at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, defendants, and each of them, took the actions set forth herein.

109. Defendants (i) employed devices, schemes, and artifices to defraud; (ii) made untrue statements of material fact and/or omitted to state material facts necessary to make the statements not misleading; and (iii) engaged in acts, practices, and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities in an effort to maintain artificially high market prices for RPM's securities in violation of Section 10(b) of the Exchange Act and Rule 10b-5. All Defendants are sued either as primary participants in the wrongful and illegal conduct charged herein or as controlling persons as alleged below.

110. Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of conduct to conceal adverse material information about RPM's financial

well-being and prospects, as specified herein.

111. These defendants employed devices, schemes and artifices to defraud, while in possession of material adverse non-public information and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure investors of RPM's value and performance and continued substantial growth, which included the making of, or the participation in the making of, untrue statements of material facts and/or omitting to state material facts necessary in order to make the statements made about RPM and its business operations and future prospects in light of the circumstances under which they were made, not misleading, as set forth more particularly herein, and engaged in transactions, practices and a course of business which operated as a fraud and deceit upon the purchasers of the Company's securities during the Class Period.

112. Each of the Individual Defendants' primary liability, and controlling person liability, arises from the following facts: (i) the Individual Defendants were high-level executives and/or directors at the Company during the Class Period and members of the Company's management team or had control thereof; (ii) each of these defendants, by virtue of their responsibilities and activities as a senior officer and/or director of the Company, was privy to and participated in the creation, development and reporting of the Company's internal budgets, plans, projections and/or reports; (iii) each of these defendants enjoyed significant personal contact and familiarity with the other defendants and was advised of, and had access to, other members of the Company's management team, internal reports and other data and information about the Company's finances, operations, and sales at all relevant times; and (iv) each of these defendants was aware of the Company's dissemination of information to the investing public which they knew and/or recklessly disregarded was materially false and misleading.

113. The defendants had actual knowledge of the misrepresentations and/or omissions of material facts set forth herein, or acted with reckless disregard for the truth in that they failed to ascertain and to disclose such facts, even though such facts were available to them. Such defendants' material misrepresentations and/or omissions were done knowingly or recklessly and for the purpose and effect of concealing RPM's financial well-being and prospects from the investing public and supporting the artificially inflated price of its securities. As demonstrated by Defendants' overstatements and/or misstatements of the Company's business, operations, financial well-being, and prospects throughout the Class Period, Defendants, if they did not have actual knowledge of the misrepresentations and/or omissions alleged, were reckless in failing to obtain such knowledge by deliberately refraining from taking those steps necessary to discover whether those statements were false or misleading.

114. As a result of the dissemination of the materially false and/or misleading information and/or failure to disclose material facts, as set forth above, the market price of RPM's securities was artificially inflated during the Class Period. In ignorance of the fact that market prices of the Company's securities were artificially inflated, and relying directly or indirectly on the false and misleading statements made by Defendants, or upon the integrity of the market in which the securities trades, and/or in the absence of material adverse information that was known to or recklessly disregarded by Defendants, but not disclosed in public statements by Defendants during the Class Period, Plaintiff and the other members of the Class acquired RPM's securities during the Class Period at artificially high prices and were damaged thereby.

115. At the time of said misrepresentations and/or omissions, Plaintiff and other members of the Class were ignorant of their falsity, and believed them to be true. Had Plaintiff

and the other members of the Class and the marketplace known the truth regarding the problems that RPM was experiencing, which were not disclosed by Defendants, Plaintiff and other members of the Class would not have purchased or otherwise acquired their RPM securities, or, if they had acquired such securities during the Class Period, they would not have done so at the artificially inflated prices which they paid.

116. By virtue of the foregoing, Defendants have violated Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

117. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their respective purchases and sales of the Company's securities during the Class Period.

SECOND CLAIM
Violation of Section 20(a) of The Exchange Act
Against the Individual Defendants

118. Plaintiff repeats and realleges each and every allegation contained above as if fully set forth herein.

119. The Individual Defendants acted as controlling persons of RPM within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions, and their ownership and contractual rights, participation in and/or awareness of the Company's operations and/or intimate knowledge of the false financial statements filed by the Company with the SEC and disseminated to the investing public, the Individual Defendants had the power to influence and control and did influence and control, directly or indirectly, the decision-making of the Company, including the content and dissemination of the various statements which Plaintiff contends are false and misleading. The Individual Defendants were provided with or had unlimited access to copies of the Company's reports, press releases, public

filings and other statements alleged by Plaintiff to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

120. In particular, each of these Defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

121. As set forth above, RPM and the Individual Defendants each violated Section 10(b) and Rule 10b-5 by their acts and/or omissions as alleged in this Complaint. By virtue of their positions as controlling persons, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and other members of the Class suffered damages in connection with their purchases of the Company's securities during the Class Period.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

(a) Determining that this action is a proper class action under Rule 23 of the Federal Rules of Civil Procedure;

(b) Awarding compensatory damages in favor of Plaintiff and the other Class members against all defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

(c) Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

(d) Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

Dated:

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