

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE OCA, INC. SECURITIES AND
DERIVATIVE LITIGATION

Master File No. 05-2165

SECTION R(3)
JUDGE VANCE

THIS DOCUMENT RELATES TO:

Securities Cases Only

CONSOLIDATED CLASS ACTION COMPLAINT

Lead Plaintiff Samuel Boodman (“Plaintiff”), by his attorneys, on behalf of himself and all others similarly situated, alleges the following based upon the investigation of plaintiff’s counsel, except as to allegations specifically pertaining to plaintiff, which are based on personal knowledge. The investigation of counsel included, among other things, a review of OCA, Inc. (“OCA” or the “Company”) public filings with the United States Securities and Exchange Commission (“SEC”), press releases issued by the Company, interviews with former employees of OCA, public conference calls, media and news reports about the Company, and other publicly available data, including, but not limited to, publicly available trading data relating to the price and trading volume of OCA’s common stock.

I. INTRODUCTION

1. This action is a securities fraud action brought under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 10b-5 promulgated thereunder by the SEC by plaintiff on behalf of all those who purchased the

publicly traded common stock or sold the put options of OCA during the Class Period (defined below) to recover damages caused to the Class by defendants' violations of the securities laws.

2. OCA touted itself as a provider of all of the supporting business services an orthodontic practice needs. In exchange for a percentage of fees generated from the orthodontic practice and/or other fees, OCA offers to handle all of the "business operations of the practice," thus allowing the orthodontist to focus on patient care. Integral to the business operation services OCA offered was its ability to effectively manage and maintain the accounting records of the affiliated practices and deal with patient billings and collections.

3. The ability of OCA to effectively provide the services it offered orthodontists came into question in April 2004 when, as part of its announcement that it was dismissing its outside auditor, Ernst & Young, LLP ("E&Y"), OCA disclosed that E&Y had sent the Company's audit committee a letter indicating that OCA suffered from a material weakness in internal controls over OCA's financial statements.

4. Recognizing (i) that a company that had material internal control weaknesses would have a difficult time convincing orthodontists to hire it to maintain its books and records; and (ii) the detrimental effect such a disclosure could have on the Company's stock price, defendants engaged in a fraudulent cover-up. For the nearly thirteen month Class Period of May 18, 2004 through June 6, 2005, inclusive (the "Class Period") defendants falsely repeatedly assured investors that because of a change in accounting principle the internal control problems identified by E&Y relating to patient revenues and receivables, (the lifeblood of OCA's business) were no longer applicable

and that OCA was diligently working to remediate any other internal control issues. Moreover, defendants falsely represented that the aforementioned change in accounting principles relating to accounting for patient revenues and receivables would result in less complex and data-intensive calculations for such figures, thus implying that the change would result in more accurate reporting of these crucial amounts.

5. As detailed herein, defendants knew or severely recklessly disregarded that the internal control problems at OCA were not being addressed and corrected and were, in fact, becoming materially worse. Moreover, defendants knew or severely recklessly disregarded that the amount of patient receivables (and therefore the Company's reported earnings) was materially overstated for each of the first three quarters of 2004.

6. Finally, on June 7, 2005 (the day after the end of the Class Period) under apparent pressure from its new auditor PriceWaterhouseCoopers ("PWC"), which was holding back on issuing its report on OCA's year-end December 31, 2004 financial statements and which had determined that the Company's previously issued financial statements for the first three quarters of 2004 should not be relied upon, OCA revealed that it had materially overstated reported patient receivables for the first three quarters of 2004 and that its financial statements for such quarters would need to be restated and therefore should no longer be relied upon. Moreover, OCA admitted, notwithstanding its prior assurances to the contrary, that for the year ended 2004, it essentially had no effective internal controls and that its internal control problems had, in fact, gotten significantly worse. Several months later, and before ever issuing an audit opinion on OCA's financial statements, PWC resigned as OCA's outside auditor. Upon resigning,

PWC sent OCA's Audit Committee a letter stating its belief that OCA had not taken timely and appropriate remedial actions in response to the discovery of potential illegal acts related to alleged alterations of records provided to PWC and E&Y, among others.

7. On June 7, 2005, in reaction to OCA's disclosures of that morning, shares of OCA declined from \$4.03 to \$2.48 per share, a decline of approximately 38%, on unusually heavy volume.

II. JURISDICTION AND VENUE

8. The claims asserted arise under Sections 10(b) and 20(a) of the Exchange Act and Rule 10b-5 promulgated thereunder. Jurisdiction is conferred by Section 27 of the Exchange Act. Venue is proper pursuant to Section 27 of Exchange Act as defendant OCA and/or the Individual Defendants conduct business in and the wrongful conduct took place in this District.

III. THE PARTIES

9. Court-appointed Lead Plaintiff Samuel Boodman purchased OCA's publicly traded common stock as detailed in a Certification previously filed with the Court and was damaged thereby.

10. Defendant OCA (f/k/a Orthodontic Centers of America, Inc.) is a Delaware Corporation with its principal place of business at 3850 N. Causeway Boulevard, Suite 800, Metairie, Louisiana 70002. OCA describes itself as a leading provider of integrated business services to orthodontic and pediatric dental practices. As of September 30, 2004, OCA reportedly provided business services to 260 orthodontic and pediatric dental practices throughout the United States and to another 40 practices in parts of Japan, Mexico, Spain and Puerto Rico. OCA offers the practices a full range of

business, operational and marketing services, as well as complementary Internet-based practice management systems. These services and systems purportedly enable the practices to focus on providing quality patient care, while increasing productivity and profitability. OCA describes its services as including: 1) capital to open new practice locations; 2) proprietary business and clinical systems that provide timely information that allows practitioners to operate more efficiently; 3) proprietary financial and operating systems to enhance operational and accounting controls; 4) patient billing and collections; 5) effective advertising and marketing plans to help generate new patients; and; 6) proprietary on-line purchasing system and purchasing power to reduce clinical and supply costs.

11. Defendant Bartholomew F. Palmisano, Sr. (“Palmisano, Sr.”) has served as Chairman and CEO of the Company since July 2000 and President since October 1999. According to the Company’s SEC filings, Palmisano, Sr. is both an attorney and a Certified Public Accountant (“CPA”). Palmisano, Sr., along with Palmisano, Jr. (defined below) were both involved in developing the Company’s accounting systems.

12. Defendant Bartholomew F. Palmisano, Jr. (“Palmisano, Jr.”) served during the Class Period as the Company’s Chief Operating Officer until June 7, 2005 when the Company announced he had been placed on administrative leave, pending resolution of an internal review by a Special Committee of the Company’s Board of Directors. Prior to the Class Period, Palmisano, Jr. served as Chief Financial Officer and Chief Information Officer of OCA. During the Class Period, Palmisano, Jr. reported directly to his father, Palmisano, Sr.

13. Defendant David E. Verret served as the Company’s Senior Vice-

President of Finance and Chief Financial Officer from March 20, 2004 until his resignation in May 2005. According to the Company's SEC filings, Verret is also a CPA.

14. The individuals named as defendants in ¶¶11-13 are referred to herein as the "Individual Defendants." The Individual Defendants, because of their positions with the Company, possessed the power and authority to control the contents of OCA's quarterly reports, 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 but not to the public, 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 misleading.

IV. CLASS ACTION ALLEGATIONS

15. Plaintiff brings this action as a class action pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3) on behalf of a class of all persons who purchased the publicly traded common stock or sold put options of OCA during the period from May 18, 2004 through June 6, 2005, inclusive (the "Class").

16. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to plaintiff at the present time and can only be ascertained through appropriate discovery, plaintiff believes that there are hundreds of members of the Class located throughout the United States.

Throughout the Class Period, OCA had over 50 million shares of common stock outstanding, which were actively traded on the NYSE in an efficient market.

17. Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff and all members of the Class have sustained damages because of defendants' unlawful activities alleged herein. Plaintiff has retained counsel competent and experienced in class and securities litigation and intends to pursue this action vigorously. The interests of the Class will be fairly and adequately protected by plaintiff. Plaintiff has no interests which are contrary to or in conflict with those of the Class that plaintiff seeks to represent.

18. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy. Plaintiff knows of no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action.

19. 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 and omissions as alleged herein;
- (b) whether defendants misstated and/or omitted to state material facts in their public statements and filings with the SEC;
- (c) whether defendants participated directly or indirectly in the course of conduct complained of herein; and

(d) whether the members of the Class have sustained damages and the proper measure of such damages.

V. BACKGROUND

20. OCA has been plagued by material weaknesses in its internal controls since at least 2003. Indeed, OCA's previous auditor, E&Y, reported such weaknesses to OCA's Audit Committee in early 2004, as a result of auditing OCA's fiscal 2003 financial statements. As set forth below, these material weaknesses have affected the Company's ability to ascertain and report its true financial condition.

21. On April 26, 2004, OCA filed a Report on Form 8-K disclosing that the Company had dismissed E&Y as OCA's independent auditors and appointed PWC as OCA's new auditors. According to the 8-K, E&Y submitted a letter to OCA's Audit Committee discussing *a material weakness* in internal controls over OCA's financial statement close process for the year ended December 31, 2003 (the "E&Y Letter"). The E&Y Letter was not attached to the 8-K and was not otherwise made public. Indeed, OCA down-played the significance of the E&Y Letter by representing that it discussed only "**a** material weakness in internal controls," thereby indicating that the internal control weakness was very limited in nature and scope. (Emphasis added). Moreover, defendants represented in the 8-K that "OCA is taking steps to address the issues raised in Ernst & Young's letter." No other information about the internal controls problem was provided at the time. However, as discussed below, on July 26, 2004, OCA filed an amended Report on Form 8-K which purportedly detailed the contents of the E&Y Letter and indicated the wider scope of the internal control problems faced by OCA.

22. Following disclosure of the E&Y Letter, defendants repeatedly represented, as set forth below, that the Company's internal controls and E&Y's stated concerns were either rendered moot as a result of OCA's adoption of certain new accounting standards (FIN 46R) or that the internal control issues raised by E&Y were being addressed and corrected. These representations were relied upon by investors during the Class Period. However, as discussed below, these representations and assurances were materially false and misleading when made.

VI. FALSE AND MISLEADING STATEMENTS

23. The Class Period begins on May 18, 2004, when the Company issued a press release stating, among other things, that:

METAIRIE, LA. - (BUSINESS WIRE) - May 18, 2004 - Orthodontic Centers of America, Inc. (NYSE:OCA) today announced that it has adopted Financial Accounting Standards Board ("FASB") Interpretation No. 46R, "Consolidation of Variable Interest Entities - an Interpretation of ARB No. 51" ("FIN 46R"). FIN 46R, which was issued in December 2003, requires the consolidation of financial results of variable interest entities, or VIEs, in certain circumstances if a company has an ownership, contractual or other financial interests in the VIEs

"We are now making the necessary changes to our financial reporting," said Bart F. Palmisano, Sr., President, Chairman and Chief Executive Officer. "We believe the changes in our accounting and financial reporting under FIN 46R simplify our accounting and make it more transparent for our shareholders and other stakeholders to measure our progress. Although this changes the way we recognize our revenue, it does not affect our cash flows, which continue to be healthy. This is a watershed event for OCA because it permits us to report our results on a basis that is more consistent with the way we manage the business and our relationships with our affiliated practices."

As a result of the Company's adoption of FIN 46R, the Company was required to make a number of changes in its accounting and financial statement presentation effective as of January 1, 2004, including the following:

-- Patient revenue. The Company will now record patient revenue under patient contracts between affiliated practices and their patients, rather than the fee revenue portion that represented the Company's service fees. The Company will now recognize patient revenue on a straight-line basis over the term of treatment (which averages about 25 months), except that a portion of patient contracts relating to retainers will be recognized in the final month of treatment when braces are removed and retainers are provided to patients. This eliminates the recognition of revenue related to the retainers over the term of treatment, which resulted in increasing unbilled service fees receivable under the Company's prior revenue recognition policy.

-- Amounts retained by affiliated practices. The portion of patient revenue that is retained by affiliated practices will now be reflected as an expense in the Company's condensed consolidated statements of income.

-- Patient receivables. The Company will now record patient receivables owed to affiliated practices under their patient contracts. It will no longer record service fees receivable, including service fees receivable relating to the final retainer payment. This change will cause patient receivables to more closely match the actual timing of billing and collection for retainers, which is typically in the final month of treatment. The Company will also no longer record the financed practice-related expense portion of service fees receivable. Practice-related expenses will be expensed on the Company's condensed consolidated income statement, and to the extent that an affiliated practice repays its portion of these amounts, it will result in a decrease in amounts retained by affiliated practices.

* * *

Form 10-Q and First Quarter Results

OCA also announced that it will delay the filing of its quarterly report on Form 10-Q for the quarter ended March 31, 2004, with the Securities and Exchange Commission. As previously announced, the Company recently changed independent auditors and, given the changes in accounting related to the Company's adoption of FIN 46R, additional time is needed to complete the Company's financial statements for the first quarter of 2004 and the other disclosure to be included in the Form 10-Q.

In conjunction with the Company's normal quarterly review process, the Company and its independent auditors continue to analyze the impact of adopting FIN 46R on the Company's financial results. Based on its preliminary analysis, the Company currently estimates that, after applying its adoption of FIN 46R, for the first quarter of 2004, estimated patient revenue was \$110.9 million, generating estimated after-tax income of approximately \$7.2 million, or \$0.14 per diluted share, before a cumulative effect of accounting change, which the Company currently estimates to be \$72.3 million, net of income tax benefit. On a pro forma basis as if the Company's adoption of FIN 46R and change in revenue recognition were effective as of January 1, 2003, the Company currently estimates that for the first quarter of 2003 pro forma patient revenue was \$112.9 million, generating estimated after-tax income of \$6.7 million, or \$0.13 per diluted share. These pro forma results reflect an estimated 12% increase in patient revenue from the Company's base affiliated practices and a corresponding decrease in patient revenue from non-performing practices that are engaged in litigation with the Company and/or ceased to pay service fees. (Emphasis added).

24. On May 20, 2004 the Company issued a press release stating, among other things, that:

METAIRIE, La. - (BUSINESS WIRE) - May 20, 2004 - Orthodontic Centers of America, Inc. (NYSE: OCA) today announced that it has filed its Quarterly Report on Form 10-Q for the quarter ended March 31, 2004 with the Securities and Exchange Commission.

As previously announced, the Company has adopted Financial Accounting Standards Board Interpretation No. 46R, "Consolidation of Variable Interest Entities - an Interpretation of ARB No. 51" ("FIN 46R"). The financial information included in this release for the first quarter of 2004 reflects the Company's adoption of FIN 46R, and includes the Company's Condensed Consolidated Statements of Income, Condensed Consolidated Balance Sheets and Condensed Consolidated Statements of Cash Flows.

Bart F. Palmisano, Sr., the Company's Chief Executive Officer, commented, "We continue to make progress on a number of fronts that are important to the long range future of the Company, including improved transparency of our accounting. . . . (Emphasis added).

25. On May 20, 2004, OCA filed its quarterly report with the SEC on Form 10-Q for the period ended March 31, 2004 (“March 31, 2004 Form 10-Q”). The results were in line with those reported on May 18, 2004, including reported patient revenue of approximately \$110.9 million and reported patient receivables (net of allowance of uncollectible amounts) of \$122.9 million, making patient receivables the single largest component of the Company’s reported \$200.9 million of reported current assets. The Form 10-Q, signed by defendants Palmisano, Sr. and Verret, included the Company’s financial results for the period ended March 31, 2004.

26. In the March 31, 2004 Form 10-Q, the Company stated that “[t]he accompanying unaudited consolidated financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X.”

27. In the March 31, 2004 Form 10-Q, the Defendants also represented the following regarding OCA’s internal controls:

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

We, with the participation of our management, including our Chief Executive Officer and Chief Financial Officer, carried out an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934) as of the end of the period covered by this Report. Based upon that evaluation and as of the end of the period covered by the Report, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures are effective in timely alerting them to information required to be disclosed in our reports that we file or submit to the SEC under the Securities Exchange Act of 1934, subject to certain enhancements to our internal controls as described below.

Changes in Internal Control Over Financial Reporting

In April 2004, we received a letter dated March 15, 2004 from Ernst & Young LLP, our former independent auditors, stating that they believed that there were material weaknesses in internal controls over our financial statement close process. Our senior management and the members of our Audit Committee are reviewing carefully this letter and Ernst & Young's related recommendations, and are developing a plan to address each item in the letter. Certain items in the letter from Ernst & Young may no longer be applicable due to our adoption of FIN 46R and change in revenue recognition policy effective January 1, 2004. Among other things, these changes eliminated the need to calculate fee revenue and service fees receivable, since these accounts are no longer recorded in our consolidated financial statements. The determination of fee revenue under our prior revenue recognition policy required significant judgments by management to determine the portion of a straight-line allocation of patient contract amounts that was estimated to be retained by affiliated practices in future periods, as well as the portion of un-reimbursed practice related expenses that was secured by patient fees receivable and therefore recognizable as fee revenue. These complex and data-intensive calculations are not applicable under our new revenue recognition policy. Since December 31, 2003, we have taken certain steps to enhance our internal control over financial reporting. These enhancements include increased automation in determining our patient revenue and patient receivables. We have also taken steps to improve communication between our operations and financial accounting areas, including appointment of a chief financial officer with experience in our operations area. We have also formed a committee that includes representatives of our operations, legal and financial accounting areas to periodically discuss and assess our pending litigation with affiliated practices and assets associated with those practices. We are working to further document and enhance our controls and procedures. We intend to hire additional staff in our financial accounting area and to engage outside consultants to advise our management on additional enhancements to our internal controls. (Emphasis added).

28. Moreover, in connection with the March 31, 2004 Form 10-Q, defendants Verret and Palmisano, Sr. each signed a "Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002" in which they certified the following:

1. I have reviewed this quarterly report on Form 10-Q of Orthodontic Centers of America, 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;

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 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)) 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;

(b) 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

(c) 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 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 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.

May 20, 2004. (Emphasis added).

29. In the March 31, 2004 Form 10-Q, the defendants also represented that OCA's revenue recognition policy regarding patient receivables was as follows:

(a) Patient Receivables and Service Fee Receivables . Effective January 1, 2004, the Company records patient receivables in its consolidated balance sheets. Patient receivables represent amounts patients owe Affiliated Practices, as calculated under the Company's revenue recognition policy, as discussed below. They reflect amounts yet to be received after being recognized as patient revenue. These amounts are expected to be collected within twelve months. Because the Company now consolidates Affiliated Practices, the Company no longer records service fees receivable in its consolidated balance sheets, including the current and financed practice-related expense portion of service fees receivable.

* * *

Revenue Recognition

The Company generally recognizes patient revenues related to services provided to patients on a straight-line basis over the term of treatment (which typically averages about 25 months). Revenues related to teeth retention appliances, commonly known as retainers, are recognized in the final month of treatment when braces are removed and retainers are provided to the patients, in accordance with EITF No. 00-21, "Accounting for Revenue Arrangements with Multiple Deliverables."

Amounts Retained by Practitioners

Amounts retained by practitioners represents amounts retained in accordance with contractual terms of the Service Agreements. Amounts retained by practitioners includes cash advances provided to practitioners to fund certain practice-related matters or to provide practices with unsecured financing which will be repaid from future distributions and which are reflected as an expense in the period such amounts are advanced. Amounts retained by practitioners are reduced by repayments in the period in which repaid. On a monthly or biweekly basis, the Company generally distributes cash draws to practitioners that are intended to approximate calculated amounts retained by the practitioners under their Service Agreements. At the end of each quarter, the Company calculates amounts the practitioners

are entitled to retain in accordance with the Service Agreements. The Company then records a receivable or payable, as applicable, for any overpayment or underpayment. To the extent amounts are payable to the Company, the Company generally reduces the next monthly or biweekly draw to the practitioners.

Patient Receivables

Effective January 1, 2004, patient receivables represent amounts owed from patients of our affiliated practices, as calculated under the Company's revenue recognition policy. The Company provides an allowance for uncollectible amounts based upon a percentage estimate of patient receivables that may not be collected by our affiliated practices. The allowance percentage is determined based on the Company's historical experience in collecting patient receivables on behalf of the Affiliated Practices and write-off experience.

* * *

We believe that the changes required under FIN 46R will enhance the transparency and clarity of our financial reporting. With these changes, our reported earnings should more closely reflect the net cash provided by operating activities reported on our consolidated statements of cash flows. These changes are described in more detail below and in the notes to our consolidated financial statements included in this Report. Briefly, these changes include the following, effective as of January 1, 2004:

- ***Patient revenue*** . We now record patient revenue under patient contracts between affiliated practices and their patients, rather than the fee revenue portion that represented our service fees because we are now consolidating affiliated practices for financial reporting purposes.
- ***Amounts retained by practitioners*** . The portion of patient revenue that is retained by practitioners is now reflected as an expense in our consolidated statements of income (loss).
- ***Revenue recognition*** . We now reflect our affiliated practices' patient activity in our consolidated financial statements. As a result, we now recognize patient revenue based upon a straight-line allocation of patient contract balances over the term of treatment (which averages about 25 months), except that a portion relating to retainers will be recognized in the final month of treatment when braces are removed and retainers are provided to patients, in accordance with EITF Issue No. 00-21, "Accounting for Revenue Arrangements with Multiple Deliverables." This eliminates the recognition of revenue related to retainers over the term of treatment, which resulted in increasing

amounts of unbilled service fees receivable under our prior revenue recognition policy.

• ***Patient receivables*** . We now record patient receivables owed to affiliated practices under their patient contracts because we now consolidate affiliated practices for financial reporting purposes. We no longer record service fees receivable, including service fees receivable relating to retainers. This change will cause our patient receivables to more closely match the actual timing of billing and collection for retainers, which is typically in the final month of treatment. We also no longer record the financed practice-related expense portion of service fees receivable. The impact of these expenses on our statements of income (loss) will more closely reflect the timing of payment and reimbursement for these expenses. . . .

(Emphasis added).

30. The statements made in ¶¶23-29 were materially false and misleading when made because Defendants knowingly or severely recklessly disregarded that:

- (a) the Company was not making the changes necessary so that its financial reporting would comply with Generally Accepted Accounting Principles (“GAAP”) and be more “transparent.”
- (b) the Company was not making progress with respect to improved transparency of its accounting and, in fact, the Company was suffering from significant deficiencies in its internal controls over financial reporting;
- (c) the Company had materially overstated patient revenues and receivables and therefore also materially overstated its reported earnings;
- (d) the internal control weakness noted in the E&Y Letter relating to recordings of patient revenues and receivables were still applicable notwithstanding the Company’s adoption of FIN 46R and changes to its revenue recognition policy;

- (e) certain journal entries in the Company's general ledger were improperly recorded;
- (f) certain data provided to the Company's independent accounting firm had been improperly altered;
- (g) the Company's reported financial results were not prepared in accordance with GAAP;
- (h) the Company's disclosure controls and procedures were not effective and the Company was not taking the steps necessary to correct its material internal control deficiencies, including those raised by E&Y and listed at ¶32, which included, among others,
 - i. material weaknesses in the processes relating to calculation of fee revenue and receivables and evaluation of collectibility of receivables;
 - ii. a lack of segregation of duties in determining revenues and receivables; and
 - iii. a lack of documentation of accounting treatment for certain significant balances;
- (i) the Company did not maintain effective controls over review and approval of journal entries and entries to the Company's general ledger; and
- (j) OCA did not maintain effective controls over access to financial data and management did not adequately oversee or monitor access to financial data by certain of the Company's executives and other employees.

31. In fact, defendants' representations and assurances concerning improvements to its internal accounting and financial disclosure controls and accounting

transparency were nothing more than a ruse to gain the confidence of OCA investors and potential investors and, equally important, to gain the confidence of current and prospective OCA orthodontist affiliates by assuring them that the internal control weaknesses raised by E&Y were either no longer applicable and/or were being appropriately addressed. Moreover, despite the Company's representations in its March 31, 2004 Form 10-Q that the Company was actively addressing the material weaknesses identified by the E&Y Letter, in reality little was being done to address these issues and not only were internal controls over patient receivables and other accounts not being improved, they were in fact deteriorating even further.

- (a) Indeed, a former employee of OCA's accounting department with responsibilities for cash management and collections ("Confidential Witness No. 1" or "CW1") described the very type of internal control problems which would lead to an overstatement of patient receivables. Throughout the Class Period, CW1, who worked at OCA's headquarters in Louisiana, was responsible for handling collections from patients of approximately eight OCA-affiliated practices located in several states and reported to either the Supervisor and/or Director of Corporate Collections. CW1 was one of approximately ten cash management and collections representatives at OCA during the Class Period. Throughout the Class Period, CW1 received almost daily calls from OCA-affiliated practice offices and/or their patients complaining that although patients had submitted payments against invoices from OCA for services, the patients were being told by OCA representatives that such payments were not

received by OCA and, therefore, the amounts due OCA remained outstanding. When CW1 investigated such complaints, CW1 routinely found that although payments were received from the complaining patients, such payments were being recorded in “miscellaneous” accounts and not being recorded as a reduction of the respective patients’ outstanding receivables. Indeed, CW1 (like all other collections representatives) had the ability to, and did, view postings to OCA’s general ledger and therefore monitor the misapplied cash receipts from patients. Throughout the Class Period, notwithstanding that CW1 reported the findings of CW1’s investigation of the aforementioned complaints to superiors, CW1 was never provided with an explanation for the chronic problem. Moreover, based on discussions with colleagues, CW1 noted that fellow cash management and collections representatives were having similar experiences during the Class Period (*i.e.*, finding that cash receipts from patients often were not being applied against outstanding patient receivables).

(i) With respect to internal controls in general, and contrary to OCA managements’ representations, as one of less than twenty accounting department employees during the Class Period, CW1 noted that CW1 did not observe steps by OCA management to improve internal controls and specifically did not observe increased automation in determining patient receivables.

32. On July 26, 2004, more than three months after receiving the E&Y Letter, OCA filed an amended Report on Form 8-K regarding the subject matter of the E&Y Letter. Among other things, the report, for the first time, disclosed numerous areas in which E&Y had identified deficiencies with respect to OCA's internal controls and stated, *inter alia*, that:

.... Ernst & Young provided OCA's Audit Committee with a letter (the "Letter") in which Ernst & Young stated that they believed that there were material weaknesses in internal controls over OCA's financial statement close process for the year ended December 31, 2003. The Letter noted that OCA's financial statement close process included a number of processes and activities, including (i) calculation of fee revenue and receivables, (ii) evaluation of the collectibility of receivables, (iii) evaluation of the recoverability of certain long-lived assets, (iv) evaluation of changes in stock compensation plans and new compensation programs, (v) review of changes in balance sheet and income statement accounts, (vi) calculation and estimate of accruals related to loss contingencies, stock compensation and other liabilities, and (vii) a formal review and approval process for periodic reports. Ernst & Young stated in the Letter that it had observed certain deficiencies in OCA's internal control with respect to these processes and activities in connection with Ernst & Young's audit of OCA's consolidated financial statements for the year ended December 31, 2003. In the Letter, Ernst & Young referenced lack of segregation of duties in determining fee revenue and service fees receivable and other processes and lack of review and approval of calculations, judgments and estimates required to determine certain account balances. In addition, Ernst & Young referenced incomplete analyses in explaining variances or other unusual relationships between certain financial statement accounts and lack of documentation of accounting treatment for certain significant balances. Ernst & Young also referenced inadequate staffing in the accounting department and poor communications between operations and financial personnel. OCA's senior management and Audit Committee are reviewing carefully the Letter and are developing a plan to address the matters described in the Letter.

* * *

Certain items in the Letter may no longer be applicable due to OCA's adoption of Financial Accounting Standards Board Interpretation No. 46R, "Consolidation of Variable Interest Entities – an interpretation of ARB No. 51" ("FIN 46R") and related change in revenue recognition policy, each effective January 1, 2004. OCA's adoption of FIN 46R and the

related changes in accounting were not related to the Letter. Among other things, the accounting changes under FIN 46R eliminated the need to calculate fee revenue and service fees receivable, since these accounts are no longer recorded in OCA's consolidated financial statements. The determination of fee revenue under OCA's prior revenue recognition policy required complex and data-intensive calculations by management to determine the portion of a straight-line allocation of patient contract amounts that was estimated to be retained by affiliated practices in future periods, as well as the portion of unreimbursed practice-related expenses that was secured by patient fees receivable and therefore recognizable as fee revenue. These calculations are not applicable under OCA's new revenue recognition policy.

Since December 31, 2003, OCA also has made certain changes to enhance its internal control over financial reporting. These enhancements include increased automation in determining OCA's patient revenue and patient receivables. OCA has also hired additional accounting staff and taken steps to improve communication between its operations and financial accounting areas, including appointment of a chief financial officer with experience in OCA's operations area. OCA also formed a committee that includes representatives of the OCA's operations, legal and financial accounting areas to periodically discuss and assess OCA's pending litigation with affiliated practices and assets associated with those practices. OCA is working to further document and enhance its controls and procedures. OCA intends to hire additional staff in its financial accounting area and to engage outside consultants to advise our management on additional enhancements to OCA's internal controls. (Emphasis added).

33. These statements made by defendants concerning the lack of applicability of certain concerns raised by E&Y and the Company's attempts to enhance internal controls were materially false and misleading when made and nothing more than a ruse to mitigate the damage to OCA's business and stock price from disclosure of the material internal control weaknesses raised by E&Y. Indeed, as noted in ¶¶31 and 34 below, the Company was not taking adequate or appropriate steps to enhance internal controls and accounting transparency. Moreover, the Company's statements regarding its old policy of revenue recognition ("The determination of fee revenue under OCA's prior revenue recognition policy required complex and data-intensive calculations by management")

implied that its new policy of recognizing patient receivables instead of service fees was easier and less complex than its prior method of revenue calculation. This was also a ruse to justify Defendants' representation that internal control problems raised by E&Y that related to revenue recognition and receivables, critical to OCA's business, were no longer applicable.

34. Notwithstanding their representations to the contrary, as evidenced by the Company's admission of June 7, 2005, not only were internal controls at OCA not being adequately or appropriately improved, they were significantly deteriorating and Defendant's knew or severely recklessly disregarded such fact.

- (a) Indeed, according to another former employee of OCA's accounting department with responsibilities for various aspects of the Company's financial reporting ("Confidential Witness No.2" or "CW2") no readily apparent steps were taken by OCA during the Class Period to truly improve internal controls. CW2 worked at OCA's headquarters in Metairie, Louisiana from June 2004 through May 2005 and reported to Verret. CW2, like CW1, stated that OCA's accounting department was comprised of less than twenty people and, contrary to Defendants' assertions, witnessed what CW2 described as a "lackadaisical" approach by management to financial reporting. CW2 observed that during at least 2004 all members of the accounting department, including CFO Verret, and even non-accounting department employees such as Chief Operating Officer, Palmisano, Jr., not only had access to accounting records and journals, including the Company's General Ledger, but also had the ability

to make entries in such vital Company documents without supervision or controls. Moreover, and contrary to Defendants' assertions, CW2 did not observe enhancements to internal controls such as automating systems, documenting internal control procedures and/or improvements relating to segregation of duties.

- (b) Notably, another former employee of OCA's accounting department with responsibilities for cash management and collections for nearly twenty OCA affiliate practices from June 2004 through January 2005, ("Confidential Witness No. 3" or "CW3"), corroborated what CW1 said concerning the failure by OCA to apply cash received from patients against such patients' respective outstanding receivable balances. CW3 noted that OCA took monies paid directly to OCA by patients for outstanding balances and routinely failed to reduce outstanding patient receivables by such amounts. Like CW1, CW3 received calls on an almost daily basis from patients and affiliate practices who were complaining that although outstanding amounts were being paid by patients directly to OCA (per OCA's agreements with the affiliates) – patients were being told by OCA representatives that receivables from them were still outstanding, thus resulting, in some cases, in delays in patients receiving follow-up services. CW3 repeatedly inquired of supervisors, also members of the accounting department, about the receivables problem but was not given a satisfactory explanation. Moreover, according to CW3, another member of the accounting

department, Jeffrey Adams, prepared Daily A/R Aging Reports (a/k/a Statistical Aging Reports) for management, including but not limited to Palmisano Jr.,¹ which were broken down by client and provided the aging information of invoice and due dates as well as monthly and yearly comparable financial data. These reports provided management with daily updates on the status of outstanding patient receivables and would have shown increasing outstanding balances which purportedly were not being paid.² Finally, like CW1 and CW2, contrary to Defendants' assertions, CW3 (who also confirmed being one of less than twenty accounting department employees during the Class Period) did not observe enhancements to internal controls such as automating systems, documenting internal control procedures and/or increased meetings between Operations and Accounting to improve communications.

35. On August 9, 2004, OCA filed its quarterly report with the SEC on Form 10-Q for the period ended June 30, 2004 (the "June 30, 2004 Form 10-Q"). The Form 10-Q, signed by defendants Palmisano, Sr. and Verret, included the Company's financial results for the period ended June 30, 2004. For the three months ended June 30, 2004, the Company reported patient revenue of \$104.3 million and operating income of \$4.7 million. The Company also reported patient receivables, net of an allowance for

¹ The fact that Palmisano, Jr. received such reports was corroborated by CW2 who stated that Palmisano, Jr. periodically sent CW2 such reports for review during the Class Period.

² According to CW3, the data for the Daily A/R Aging Reports was imported electronically from OCA's General Ledger which was accessible during the Class Period to at least all members of the accounting department and other members of OCA management, including but not limited to Palmisano, Jr.

uncollectible amounts, of \$128.7 million, thus making patient receivables the single largest component of the Company's reported current assets of \$204.7 million. The Company also reported net income of \$2.3 million and net income per share of \$0.05. OCA stated "[t]he accompanying unaudited consolidated financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X."

36. In the June 30, 2004 Form 10-Q defendants also represented the following regarding the Company's internal controls:

ITEM 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures OCA, with the participation of its management, including its Chief Executive Officer and Chief Financial Officer, carried out an evaluation of the effectiveness of the design and operation of its disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934) as of the end of the period covered by this Report. Based upon that evaluation and as of the end of the period covered by this Report, OCA's Chief Executive Officer and Chief Financial Officer concluded that its disclosure controls and procedures are effective in timely alerting them to information required to be disclosed in reports that OCA files with or submits to the Securities and Exchange Commission under the Securities Exchange Act of 1934.

Changes in Internal Control Over Financial Reporting

In April 2004, OCA received a letter dated March 15, 2004 from Ernst & Young LLP, its former independent auditors, stating that they believed that there were material weaknesses in internal controls over OCA's financial statement close process. OCA's senior management and the members of its Audit Committee are developing a plan to address the items cited in the letter from Ernst & Young. Certain items in the letter from Ernst & Young may no longer be applicable due to our adoption of FIN 46R and change in revenue recognition policy effective January 1, 2004. Among other things, these changes eliminated the need to calculate fee revenue and service fees receivable, since these accounts are no longer recorded in our consolidated financial statements. The determination of fee revenue under our prior revenue recognition policy required complex

and data-intensive calculations by management, including determination of the portion of a straight-line allocation of patient contract amounts estimated to be retained by affiliated practices in future periods, and the portion of unreimbursed practice-related expenses that was secured by patient fees receivable and recognizable as fee revenue. These calculations are not applicable under our new revenue recognition policy.

Since March 31, 2004, we have taken certain steps to enhance our internal control over financial reporting. These enhancements include increased automation in determining our patient revenue and patient receivables. We intend to continue to hire additional personnel in our financial accounting area, which we believe will improve segregation of duties with respect to our financial accounting. We also are taking steps to improve communication between our operations and financial accounting areas by having periodic meetings to discuss operational changes and practice transitions, and by appointing representatives of both areas to our Disclosure Committee that considers disclosure to be included in periodic reports we file with the SEC. We also have formed a committee that includes representatives of our operations, legal and financial accounting areas to discuss and assess periodically our pending litigation with affiliated practices and assets associated with those practices. In addition, we have engaged outside consultants to advise our management in evaluating, documenting and testing our internal controls. We continue to further document and enhance our controls and procedures.

In addition, we are in the process of evaluating, documenting and testing our internal control over financial reporting in anticipation of disclosure that will be required to be included in our Annual Reports on Form 10-K (beginning with our Annual Report on Form 10-K for 2004) under rules adopted by the SEC under Section 404 of the Sarbanes-Oxley Act of 2002. These SEC rules require that we include a report by OCA's management regarding its assessment of the effectiveness of our internal control over financial reporting as of the end of the fiscal year, including a statement as to whether or not our internal control over financial reporting is effective, as well as an attestation report by our independent auditors on management's assessment. Management is not permitted to conclude that our internal control over financial reporting is effective if there are one or more material weaknesses in our internal control over financial reporting, and we must disclose any material weaknesses identified by management.

During this evaluation, documentation and testing process, we may identify one or more material weaknesses in our internal control over financial reporting, and we may be unable to remediate those weaknesses before management's assessment. We cannot assure you that our management will conclude that our internal control over financial reporting is effective. In addition, our independent auditors may not be

satisfied with our internal control over financial reporting or the level at which these controls are documented, designed, operated or reviewed, and they may decline to attest to management's assessment or may issue a qualified attestation report. If any of these events were to occur, they could lessen investor confidence in the reliability of our financial statements, which could negatively impact the market price of OCA common stock. They could also negatively impact our ability to affiliate with additional practices. We also expect that the evaluation, documentation and testing process and any required remediation will increase our accounting, legal and other expenses and will divert some of the time and attention of members of our management. (Emphasis Added).

37. Moreover, defendants Verret and Palmisano, Sr. each signed a "Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002" attached to the Report on Form 10-Q for the period ended June 30, 2004 and dated August 9, 2004, in which they made the same certifications set forth in ¶28.

38. The statements made in ¶¶35-37 were materially false and misleading when made for the reasons set forth in ¶¶30, 31 and 34. Moreover, the statements made by defendants concerning the lack of applicability of certain concerns raised by E&Y and the Company's attempts to enhance internal controls also were materially false and misleading when made and nothing more than a ruse to mitigate the damage to OCA's business and stock price from disclosure of the material internal control weaknesses raised by E&Y. Indeed, as noted in ¶¶30, 31 and 34, defendants knew or severely recklessly disregarded that the Company was not taking appropriate or adequate steps to improve internal controls and accounting transparency. Moreover, the Company's statements regarding its old policy of revenue recognition ("The determination of fee revenue under our prior revenue recognition policy required complex and data-intensive calculations by management,") implied that its new policy of recognizing patient receivables instead of service fees was easier and less complex than its prior method of

revenue calculation, thereby providing a false justification for Defendant's representations that internal control problems raised by E&Y which related to patient revenues and receivables were no longer applicable. Moreover, defendants' representations regarding the possibility that management and/or OCA's independent auditor might conclude that OCA's internal control over financial reporting was still ineffective, despite the Company's purported remediation efforts, was materially misleading when made because defendants knew or severely recklessly disregarded that OCA was not taking appropriate or adequate steps to improve its internal controls and accounting transparency.

39. On August 10, 2004 the Company issued a press release stating, among other things, that:

METAIRIE, La. - (BUSINESS WIRE) - Aug. 10, 2004 - Orthodontic Centers of America, Inc. (NYSE: OCA) today announced its financial results for the second quarter and six months ended June 30, 2004.³

Bart F. Palmisano, Sr., OCA's Chief Executive Officer, commented, "We are pleased with our results for the second quarter and first half of 2004. Our base business continued to improve, as comparable practice patient revenue increased in both the second quarter and the first six months of 2004 compared to the same periods of 2003 on a pro forma basis..."

40. On November 15, 2004, the Company issued a press release stating, among other things, that:

METAIRIE, La. - (BUSINESS WIRE) - Nov. 15, 2004 - OCA, Inc. (NYSE: OCA) today provided certain preliminary information about its financial results for the quarter and nine months ended September 30, 2004. The Company has not yet completed its quarterly closing procedures for certain non-cash charges, including a provision to increase the Company's allowance for

³ There results were the same as those reported by the Company on August 9, 2004.

assets associated with inactive practices and depreciation of fixed assets and leasehold improvements, and is delaying the filing of its Form 10-Q for the quarter ended September 30, 2004, until the Company completes the procedures.

For the quarter ended September 30, 2004, the Company currently anticipates that:

-- Patient revenue was \$104.0 million, reflecting strong demand for orthodontic services from the Company's affiliated practices despite weather-related disruptions in Gulf-coast areas in which the Company has a number of affiliated practices.

-- Comparable patient revenue for practices for which the Company recorded revenue throughout the third quarter of 2004 and 2003 increased 2.6% compared to the same period of 2003 on a pro forma basis as if the Company's change in accounting principle under FIN 46R was effective as of January 1, 2003 ("Pro Forma Basis").

-- Earnings per share, excluding provision for assets associated with inactive practices, loss on sale of assets, asset impairments and other non-recurring and extraordinary charges and write-offs, is expected to range from \$0.10 to \$0.13 per share.

For the nine months ended September 30, 2004, the Company currently anticipates that:

-- Patient revenue was \$319.2 million.

-- Comparable patient revenue for practices for which the Company recorded revenue throughout the nine months ended September 30, 2004 and 2003 increased 7.8% compared to the same period of 2003 on a Pro Forma Basis.

-- Earnings per share, excluding the cumulative effect of a change in accounting principle, provision for assets associated with inactive practices, loss on sale of assets, asset impairments and other non-recurring and extraordinary charges and write-offs, is expected to range from \$0.31 to \$0.34 per share.

41. On December 23, 2004, the Company issued a press release stating, among other things, that:

METAIRIE, La. - (BUSINESS WIRE) - Dec. 23, 2004 - OCA, Inc. (NYSE:OCA) announced today its financial results for the third quarter and nine months ended September 30, 2004

For the three months ended September 30, 2004:

-- Patient revenue was \$104.0 million, reflecting strong demand for orthodontic services from the Company's affiliated practices despite weather-related disruptions in Florida and other Gulf-coast areas in which the Company has a number of affiliated practices.

-- The Company recorded a \$13.5 million non-cash charge to increase the allowance for assets associated with inactive practices and a \$1.7 million loss on sale of assets in connection with practices' buyouts of their service agreements, resulting in a net loss of \$3.5 million, or \$0.07 net loss per diluted share. This compares with net income for the third quarter of 2003 of \$4.3 million, or \$0.09 per diluted share, on a pro forma basis as if the Company's change in accounting principle under FIN 46R was effective as of January 1, 2003 ("Pro Forma Basis"), and \$11.9 million, or \$0.24 per diluted share, on an actual basis.

-- Adjusted net income, excluding those charges, was \$6.1 million, or \$0.12 per diluted share. For the third quarter of 2003, adjusted net income was \$4.8 million, or \$0.09 per diluted share, on a Pro Forma Basis, and \$12.4 million, or \$0.25 per diluted share, on an actual basis.

-- The \$13.5 million non-cash provision for assets associated with inactive practices reflects management's assessment of the collectibility of those assets, in light of certain recent settlement payments to OCA and a recent court award to OCA that were significantly less than the net book value of the goodwill, identifiable intangibles and other assets associated with the related inactive practices. It also reflects renewed efforts by the Company to try to settle pending litigation on mutually agreeable terms.

42. On December 23, 2004, OCA filed its quarterly report with the SEC on Form 10-Q for the period ended September 30, 2004 (the "Sept. 30, 2004 Form 10-Q"). The results were in line with those reported earlier in the day, including reported patient revenue of approximately \$104 million and reported patient receivables (net of allowance of uncollectible amounts) of \$124.3 million, thus making patient receivables the single

largest component of the Company's reported current assets of \$198.9 million. The Sept. 30, 2004 Form 10-Q, signed by defendants Palmisano, Sr. and Verret, included the Company's previously reported financial results for the period ended September 30, 2004. Defendants further represented that "The accompanying unaudited consolidated financial statements have been prepared in accordance with generally accepted accounting principles for interim financial information and with the instructions to Form 10-Q and Article 10 of Regulation S-X."

43. With respect to internal controls, defendants essentially reported the same story they had been telling and represented in the Sept. 30, 2004 Form 10-Q the following:

Evaluation of Disclosure Controls and Procedures

OCA, with the participation of its management, including its Chief Executive Officer and Chief Financial Officer, carried out an evaluation of the effectiveness of the design and operation of its disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934) as of the end of the period covered by this Report. Based upon that evaluation and as of the end of the period covered by this Report, OCA's Chief Executive Officer and Chief Financial Officer concluded that its disclosure controls and procedures are effective in timely alerting them to information required to be disclosed in reports that OCA files with or submits to the Securities and Exchange Commission under the Securities Exchange Act of 1934, subject to the matters discussed in the following subsections.

Changes in Internal Control Over Financial Reporting

In April 2004, OCA received a letter dated March 15, 2004 from Ernst & Young LLP, its former independent auditors, stating that they believed that there were material weaknesses in internal controls over OCA's financial statement close process. OCA's senior management has reviewed each of the items cited as material weaknesses in the letter from Ernst & Young and discussed these matters with our Audit Committee. Management determined that certain items in the letter are no longer applicable due to our adoption of FIN 46R and the change in revenue recognition policy effective January 1, 2004. Among other results, these changes eliminated the need to calculate fee revenue and service fees

receivable, since these accounts are no longer recorded in our consolidated financial statements. The determination of fee revenue under our prior revenue recognition policy required complex and data-intensive calculations by management, including determination of the portion of a straight-line allocation of patient contract amounts estimated to be retained by affiliated practices in future periods, and the portion of unreimbursed practice-related expenses that was secured by patient fees receivable and hence currently recognizable as fee revenue. These calculations are not applicable under our new revenue recognition policy. In addition, some of the items cited in the letter from Ernst & Young are being addressed in connection with our ongoing efforts to prepare for the management's assessment of our internal control over financial reporting and related attestation by our independent auditors to be required under rules adopted by the SEC under Section 404 of the Sarbanes- Oxley Act of 2002 ("Section 404"). Since June 30, 2004, we have taken certain steps to enhance our internal control over financial reporting. We intend to add additional resources in our financial accounting area, which we believe will improve segregation of duties with respect to our financial accounting. We have taken steps to improve communication between our operations and financial accounting areas by having periodic meetings to discuss operational changes and practice transitions, and by appointing representatives of both areas to our Disclosure Committee that considers disclosure to be included in periodic reports we file with the SEC. We also have formed a committee that includes representatives of our operations, legal and financial accounting areas to discuss and assess periodically our pending litigation with affiliated practices and assets associated with inactive practices. We continue to further document and enhance our controls and procedures, but we have not yet completed the testing of their operating effectiveness. (Emphasis added).

44. Moreover, defendants Verret and Palmisano, Sr. each signed a "Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002" attached to the Sept. 30, 2004 Form 10-Q in which they made the same certifications set forth in ¶28.

45. On March 17, 2005, after the close of the market, the Company issued a press release stating, among other things, that:

METAIRIE, La.--(BUSINESS WIRE)--March 17, 2005--OCA, Inc. (NYSE:OCA) today announced that it is delaying the filing of its annual report on Form 10-K for the year ended December 31, 2004. The Company has not yet completed the closing procedures required to prepare and finalize its annual financial statements or its assessment of internal control over financial reporting under Section 404 of the Sarbanes-Oxley Act of 2002.

The Company is reviewing its accounting for leases and its depreciation and capitalization of leasehold improvements, equipment and other fixed assets. In addition, the Company is reviewing the appropriateness of capitalization of startup costs and certain balance sheet accounts for its Japanese subsidiary. The Company has identified certain errors and potential errors related to 2004 and prior years, but has not completed its review or made a final determination about the impact of any adjustments or whether these errors or potential errors are material to warrant a restatement of any previously issued financial statements.

The Company currently anticipates that it will file its 2004 Form 10-K by early May 2005; however, the filing could be delayed further if the Company experiences delays in completing its financial statements or assessing its internal controls. The Company is seeking a waiver and extension from the lenders under its credit facility with respect to a covenant requiring delivery of audited 2004 financial statements by a specified date.

Bart Palmisano, Sr., Chief Executive Officer of the Company, commented: "While we are disappointed to delay issuance of our 2004 financial statements, it does not impact the underlying strength of our business or how we continue to provide quality business services to our client practices. We are particularly pleased with our success in developing new centers for our affiliated practices. During 2004, we opened 62 de novo centers, most of which were for high-performing practices seeking to expand. At December 31, 2004, approximately 100 of our affiliated centers had been open less than two years. We believe these de novo centers provide a tremendous opportunity for future growth".

This disclosure, while revealing some of the problems faced by OCA, did not reveal the true extent of the Company's problems with respect to internal controls or its material overstatement of patient receivables during the first three quarters of 2004.

46. The price of OCA's common stock decreased on March 18, 2005 by 6.5% on heavy trading volume.

47. The statements referenced above in ¶¶39-45, were each materially false and misleading when made as they misrepresented and/or omitted the adverse facts which

then existed and disclosure of which was necessary to make the statements made not false and/or misleading for the reasons set forth in ¶¶30, 31 and 34. Moreover, the statements made by defendants concerning the lack of applicability of certain concerns raised by E&Y and the Company's attempts to enhance internal controls also were materially false and misleading when made and nothing more than a ruse to mitigate the damage to OCA's business and stock price from disclosure of the material internal control weaknesses raised by E&Y. Indeed, as noted in ¶¶30, 31 and 34, the Company was not taking adequate and appropriate steps to improve internal controls and accounting transparency. Moreover, the Company's statements regarding its old policy of revenue recognition ("The determination of fee revenue under our prior revenue recognition policy required complex and data-intensive calculations by management,") implied that its new policy of recognizing patient receivables instead of service fees was easier and less complex than its prior method of revenue calculation, and was simply a ruse to justify defendants' representations that internal control deficiencies raised by E&Y relating to patient revenues and receivables were no longer applicable.

48. In fact, the material weaknesses in internal control over financial reporting identified by the E&Y Letter form the very basis of the errors, alteration of documents, lack of documentation, inadequate staffing, incomplete account analysis, and lack of segregation of duties that caused the accounting improprieties at OCA that were disclosed on June 7, 2005. Accordingly, defendants had knowledge throughout the Class Period that as a result of the material weaknesses in internal accounting control, OCA's financial statements that were being publicly disseminated, could not be relied upon to comply with GAAP and SEC Rules and Regulations. Moreover, Ernst & Young specifically

stated to defendants that the financial close process associated with the calculation of fee revenue and receivables, and the evaluation of patient receivables contained deficiencies that were material weaknesses. A material weakness is a condition in the entities' internal accounting system that has been identified as being less than low level risk that errors or irregularities in amounts that would be material to the financial statements may occur and not be detected in a timely period, causing the financial statements being issued to be materially misleading. This is what in fact occurred at OCA, and which had been known or severely recklessly disregarded by defendants during the Class Period.

VII. POST-CLASS PERIOD DISCLOSURES

49. On June 7, 2005, before the market opened, OCA shocked investors by disclosing the following:

The Company anticipates further delay in completing its 2004 financial close process and audit and in filing the Form 10-K and Form 10-Q, and is currently in discussions with its lenders about obtaining an additional extension and waiver

The Company also announced that it has identified certain errors in its calculation of patient receivables reported during 2004, and has determined that the amount of patient receivables reported at each of March 31, June 30 and September 30, 2004 was overstated by material amounts The Company's Audit Committee has concluded that, due to these overstatements, these previously issued quarterly financial statements will need to be restated and should no longer be relied upon. The Company is also reviewing a number of other accounting matters and accounts, and has identified a number of potential prior period financial statement account errors

The Company also announced that its Board of Directors has appointed a Special Committee to review certain journal entries recorded in the Company's general ledger, the circumstances in which they originated and their impact on the Company's financial statements. In addition, the Special Committee is reviewing certain alleged changes in data provided to the Company's independent registered public accounting firm. The Special Committee,

comprised of independent directors Ashton J. Ryan, Jr. and Kevin M. Dolan, is engaging special counsel to advise it in connection with the review. Pending completion of the internal review, the Company has placed Bartholomew F. Palmisano, Jr., the Company's Chief Operating Officer, on administrative leave. (Emphasis added).

50. On June 7, 2005, OCA also filed a Report with the SEC on Form 8-K which further explained the plethora of internal control and financial reporting problems at the Company:

The Company has identified certain errors in its calculation of patient receivables reported during 2004, and has determined that the amount of patient receivables reported at each of March 31, June 30 and September 30, 2004 was overstated by material amounts. The Company continues to review these amounts and their impact on patient revenue for the affected quarters, and has not yet determined the amount by which the accounts were overstated during 2004. The impact of this overstatement would potentially have a material impact on the cumulative effect of change in accounting principle incurred in the first quarter of 2004 in connection with the Company's adoption of Financial Accounting Standards Board Interpretation No. 46R, "Consolidation of Variable Interest Entities — an Interpretation of ARB No. 51" ("FIN 46R"). It is not known if the errors would impact prior years because the Company's revenue recognition policy during 2004 differs significantly from that for periods prior to its adoption of FIN 46R. Patient receivables represent amounts owed to the Company's affiliated practices by their patients or third-party payors, as calculated under the Company's revenue recognition policy. They reflect amounts that are yet to be received by affiliated practices after the Company has recognized the amounts as patient revenue for financial reporting purposes.

In addition, the Company has identified other errors that are discussed under "Accounting Matters" in Item 8.01 below. The Company has not yet finalized its determination of the amount of the errors or the periods to which they relate. These errors affect the Company's quarterly financial statements for the quarterly periods in 2004, and may impact prior years and their quarterly periods. In addition, the errors may also affect financial information for the periods mentioned that the Company included in other disclosures, such as press releases or Form 8-K filings.

Due to these errors, on June 6, 2005, the Audit Committee of the Company's Board of Directors concluded that the financial statements included in the Company's Quarterly Reports on Form 10-Q for each of

the first, second and third quarters of 2004 (collectively, the “Quarterly Financial Statements”), should no longer be relied upon and must be restated. The Audit Committee has discussed these matters with the Company’s independent registered public accounting firm, PricewaterhouseCoopers LLP. The Company has not completed its review of these errors or made a final determination about the impact of adjustments on 2004 financial statements and the previously issued Quarterly Financial Statements. The Company intends to file restated financial statements in amendments to its Form 10-Qs for each of the first, second and third quarters of 2004. (Emphasis added).

The Audit Committee has not made a determination regarding the restatement of any other previously-issued financial statements. However, in connection with the Company’s 2004 audit and preparation for disclosure about internal controls under Section 404 of the Sarbanes-Oxley Act of 2002, the Company and its independent registered public accounting firm have reviewed a number of accounting matters and accounts, and identified potential prior period financial statement account errors. The Company continues to review each of these matters, gather data and refine its estimates. The amount of adjustments related to these items could differ from the Company’s current estimates. These accounting matters are described under “Accounting Matters” in Item 8.01 below.

The manual processes and data validation procedures employed by the Company in evaluating and correcting its financial records have resulted in numerous adjustments to date, and this process is not yet complete. In addition, the Company has not yet completed its financial close process for 2004. Accordingly, the Company currently cannot reasonably predict whether, and if so, to what extent, its prior year financial statements will need to be restated. However, the Company currently believes that it is likely that the ultimate net adjustments discussed under “Accounting Matters” in Item 8.01 will be material to its December 31, 2004 balance sheet and 2004 results of operations, and, therefore, require restatement of certain prior year financial statements. These restatements and other accounting matters do not impact the amounts reported to affiliated practices, which are determined on a cash basis and are not required to be prepared in conformity with generally accepted accounting principles. As a result, amounts required to be reported by the Company will differ from amounts reported by an affiliated practice on a stand-alone basis. (Emphasis added).

51. The 8-K also revealed a long list of other accounting improprieties which had occurred:

The Company also believes that it inappropriately capitalized certain repairs and maintenance and other costs as fixed assets in the periods from 1995 through 2004, and did not write off certain assets associated with closed or deaffiliated offices. In addition, the Company has identified over-depreciation of certain leasehold improvements and underdepreciation of certain fixed assets (which the Company believes to have resulted in a net over-depreciation of these assets) and the Company currently estimates that the aggregate impact of adjustments related to these accounts on the Company's December 31, 2003 balance sheet would be a net decrease of approximately \$1.7 million to \$2.5 million, on an after-tax basis, in property, equipment and improvements. Also, the Company believes that it understated the number of outstanding shares of its common stock by varying amounts during the periods from 1999 through September 30, 2004. The Company currently believes that the cumulative maximum number of shares understated was approximately 500,000; however, the Company has not yet determined the impact on earnings per share for prior periods of any potential adjustments on results of operations of prior periods with respect to this understatement, nor has it determined if common stock and additional paid-in capital amounts reported on the balance sheet as of December 31, 2003 will need to be adjusted.

Further, the Company is currently working with its independent registered public accounting firm to evaluate the difference between the December 31, 2004 inventory balance determined using physical observations and a supplies inventory tracking method implemented by the Company in 2004 (which the Company currently estimates to be approximately \$9.5 million) to the \$13.7 million inventory balance reported at December 31, 2003 using the Company's prior method. In addition, the Company believes that there are certain unreconciled items in its prepaid assets, deposits and accounts payable accounts that relate to periods prior to December 31, 2002, and the Company currently estimates that the net impact of adjustments related to these accounts on its December 31, 2003 balance sheet would be an increase of approximately \$832,000 in prepaid expenses, a decrease of approximately \$790,000 in other assets (long-term), an increase of approximately \$346,000 in accounts payable and a decrease of approximately \$364,000 in retained earnings, all on an after-tax basis. The Company is still working with its current and former independent registered public accounting firms to refine each of these estimates and determine whether these amounts can be adjusted in 2004, or whether they require restatement of prior period financial statements. (Emphasis added).

52. Incredibly, notwithstanding Defendants' assurances and representations that it was actively addressing its internal control problems and that the control

deficiencies raised by E&Y relating to patient revenues and receivables were no longer applicable, OCA admitted in the June 7, 2005 8-K that for the year-ended December 31, 2004 it did not maintain effective control over financial reporting. Indeed, although the defendants maintained throughout the Class Period that the Company was addressing areas of material weakness identified by E&Y in April 2004, and notwithstanding defendants' other representations about OCA's internal controls, many of the internal control weaknesses identified on June 7, 2005 were the same weaknesses identified by E&Y in April 2004 including: 1) a lack of segregation of duties in determining fee revenue and service fees receivable and other processes; 2) incomplete analyses in explaining variances or other unusual relationships between certain financial statement accounts, 3) lack of documentation of accounting treatment for certain significant balances, and 4) inadequate staffing in the accounting department and poor communications between operations and financial personnel :

Internal Controls

Management has done a preliminary assessment of its internal control over financial reporting under Section 404 of the Sarbanes-Oxley Act of 2002, but has not yet finalized that assessment. Internal control over financial reporting is a process designed to provide reasonable assurance about the reliability of financial reporting and preparation of financial statements for external purposes in accordance with generally accepted accounting principles. The Company has identified the material weaknesses listed below, as well as certain significant deficiencies, in its internal control over financial reporting at December 31, 2004. The Company and its independent registered public accounting firm may identify other material weaknesses and significant deficiencies as well. Because of these material weaknesses, the Company believes that management will conclude that the Company's internal control over financial reporting was not effective at December 31, 2004. A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the company's ability to initiate, authorize, record, process or

report external financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of annual or interim financial statements that is more than inconsequential will not be prevented or detected.

The Company believes that, at December 31, 2004, it did not maintain effective controls over the period-end financial reporting process. The Company believes that its period-end review procedures were ineffective as they related to at least the following: independent and timely review of the Company's consolidation, analyses and financial reporting processes; revenue recognition reviews; reviews of allowances for bad debt for patient and affiliated practitioner accounts; review and approval of journal entries to the general ledger; and account reconciliations. The Company believes that it also lacked adequate controls over capitalization, disposition and evaluation of useful lives of long-lived assets. These control deficiencies resulted in audit adjustments and may result in restatement of previously issued financial statements. The Company also believes that, at December 31, 2004, it did not maintain adequate segregation of duties, which impacted the Company's financial reporting controls, revenue controls, expenditure controls and information technology controls. In addition, the Company believes that, at December 31, 2004, it did not maintain effective controls over access to financial applications and data. Certain of the Company's executive officers, information technology staff and users with financial, accounting and reporting responsibilities had access to financial application programs and data. The Company believes that management did not maintain adequate oversight of these employees or effectively monitor access to this information. Because of these material weaknesses, certain controls within the Company's control environment may not have prevented the ability to override other controls, and information critical to an effective review of certain transactions, accounting entries and related entities were not disclosed to the appropriate Company personnel and the Company's independent registered public accounting firm. (Emphasis added).

53. Finally, the 8-K filed on June 7, 2005 disclosed that effective June 1, 2005, the Company had placed Bartholomew F. Palmisano, Jr., its Chief Operating Officer, on administrative leave, pending resolution of an internal review by a Special Committee of the Company's Board of Directors.

54. As a result of OCA's shocking revelations of June 7, 2005, the price of OCA's stock plunged from a closing price of \$4.03 on June 6, 2005 to close on June 7,

2005, on heavy trading volume, at \$2.48 per share, representing a one day stock price decline of more than 38%.

55. On September 8, 2005, W. Dennis Summers and Hector M. Bush resigned from OCA's Board of Directors effective immediately.

53. On November 7, 2005, OCA announced that PWC had resigned as OCA's independent auditors. According to a Report filed by OCA with the SEC on Form 8-K on November 15, 2005:

On Nov. 7, 2005, the company announced that its independent auditors, PriceWaterhouseCoopers LLP ("PWC") had resigned. In the letter by PWC, dated Nov. 1, 2005, the auditors stated that they believed that OCA had not taken timely and appropriate remedial actions in response to the discovery of potential illegal acts at OCA related to alleged alterations of records provided to OCA's contract internal auditors, current independent registered public accountants and prior independent accountants from January 2000 through May 2005, which alleged alterations were disclosed in a Form 8-K filed by OCA with the Securities and Exchange Commission on June 7, 2005. PWC further stated that it believed such failure compromised the ability to complete a thorough and independent investigation into these alleged illegal acts. The NYSE noted from the filing that OCA takes serious issue with the propriety of the PWC letter because, among other things, procedural concerns and certain characterizations of remedial actions. (Emphasis added).

56. On November 8, 2005 the New York Stock Exchange (NYSE) announced its decision to suspend trading and seek delisting of OCA's common stock. OCA advised the NYSE that it would seek to be quoted on the Pink Sheets electronic quotation service following the suspension.

57. On November 22, 2005, OCA filed a Report on Form 8-K which attached a letter from PWC to the SEC dated November 22, 2005. PWC's letter stated the following:

November 22, 2005
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Commissioners:

We have read the statements made by OCA, Inc. (copy attached) (“OCA” or the “Company”), filed with the Commission, pursuant to Item 4.01 of Form 8-K, as part of the Company’s Form 8-K report dated November 1, 2005 and filed on November 7, 2005. We agree with the statements concerning our Firm contained in such Form 8-K, except as follows:

1. With respect to the third paragraph, we believe there are additional reportable events that we have advised the Company of as follows:

a. As further described under Item 4.02 of the Company’s Form 8-K filed on June 7, 2005 (May 31, 2005) errors had been identified in the 2004 quarterly financial statements. Certain of those errors related to prior year financial statements that were audited by other independent accountants. In June 2005, we advised the Company that the prior quarterly financial statements for 2004 should no longer be relied upon.

b. As further described in the Company’s Form 8-K filed on June 7, 2005 (May 31, 2005) under Item 8.01 certain material weaknesses in internal control were identified and reported to management.

c. As further described in the Company’s Form 8-K filed on June 7, 2005 (May 31, 2005) under Item 8.01 in May and June 2005 we advised the Company that alleged irregularities in data provided to us required further investigation by the Audit Committee, that additional audit work would be required and that until the results of the investigation were known, we would be unwilling to rely upon the representations of certain members of the management team. The Form 8-K filed on June 7, 2005 (May 31, 2005) also described the pending internal investigation being performed by the Special Committee of the Board of Directors. Audit procedures were suspended in early June 2005 pending the outcome of the Company’s internal investigation. As a result, we cannot comment on any changes in the Company’s internal control environment subsequent to the date we ceased auditing procedures.

2. With respect to the fourth paragraph, we are not in a position to agree or disagree with any of the Company’s statements.

3. With respect to the fifth paragraph, we disagree with the description contained in the Form 8-K, except that we are not in a position to agree or disagree with the

Company's descriptions of the Board of Directors' conclusions. (Emphasis added).

Very truly yours,
/s/ PricewaterhouseCoopers LLP

58. As of the date of this pleading, OCA has not announced a new auditor to replace PWC. Moreover, OCA has not yet reported its year-end December 31, 2004 financial results.

VIII. OCA'S FALSE FINANCIAL STATEMENTS

59. OCA admitted that it will restate the Company's unaudited financial statements for the fiscal quarters-ended March 31, June 30 and September 30, 2004. At all relevant times during the Class Period, defendants falsely represented that OCA's financial statements were prepared in accordance with GAAP. 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 that are not prepared in conformity with GAAP are presumed to be misleading and inaccurate, despite footnote or other disclosure. 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).

60. The representations by defendants that OCA's financial statements were prepared in accordance with GAAP were materially false and misleading because the defendants engaged in a fraudulent accounting practice which materially inflated the

Company's patient revenues and receivables and therefore its operating results during the Class Period.

61. As noted in detail herein, defendants engaged in fraudulent accounting practices which materially inflated the Company's operating results during Class Period. At the time OCA reported that it had materially more patient receivables than the Company had actually earned, defendants knew or severely recklessly disregarded that OCA's accounting was improper, in direct contravention of GAAP, and could have served no purpose other than to manipulate OCA's reported operating results.

62. The fact that OCA will restate its financial statements is an admission that the financial statements as originally issued were false and that the misstatement of revenues and income was material. Furthermore, by acknowledging a need to restate its financial statements, defendants admit that the facts and circumstances giving rise to the errors contained in the originally issued financial statements were known or should have been known to them at the time the statements were publicly disseminated. Pursuant to GAAP, as set forth in Accounting Principles Board Opinion ("APB") No. 20, the type of restatement announced by OCA was to correct for material errors in its previously issued financial statements. *See* APB No. 20, ¶¶7-13. The restatement of past financial statements is a disfavored method of recognizing an accounting change as it dilutes confidence by investors in the financial statements, it makes it difficult to compare financial statements and it is often difficult, if not impossible, to generate the numbers when restatement occurs. *See* APB No. 20, ¶14. Thus, GAAP provides that financial statements should only be restated in limited circumstances.

63. Due to these accounting improprieties, the Company presented its financial results and statements in a manner which violated GAAP, including the following fundamental accounting 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 and 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 an enterprise, 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 how management of an enterprise has discharged its stewardship responsibility to owners (stockholders) for the use of enterprise resources entrusted to it was violated. To the extent that management offers securities of the enterprise to the public, it voluntarily accepts wider responsibilities for accountability to prospective investors and to the public in general (FASB Statement of Concepts No. 1, ¶50);

- e. The principle that financial reporting should provide information about an enterprise's financial performance during a period was violated. Investors and creditors often use information about the past to help in assessing the prospects of an enterprise. Thus, although investment and credit decisions reflect investors' expectations about future enterprise performance, those expectations are commonly based at least partly on evaluations of past enterprise performance (FASB Statement of Concepts No. 1, ¶42);
- f. The principle that financial reporting should be reliable in that it represents what it purports to represent was violated. That information should be reliable as well as relevant is a notion that is central to accounting (FASB Statement of Concepts No. 2, ¶¶58-59);
- g. The principle of completeness, which means 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, 97).

64. Further, the undisclosed adverse information concealed by defendants during the Class Period is the type of information which, because of SEC regulations, regulations of the national stock exchanges and customary business practice, is

expected by investors and securities analysts to be disclosed and is known by corporate officials and their legal and financial advisors to be the type of information which is expected to be and must be disclosed.

IX. ADDITIONAL SCIENTER ALLEGATIONS

65. 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 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 OCA, their control over, and/or receipt and/or modification of OCA's allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning OCA, participated in the fraudulent scheme alleged herein.

66. Defendants knew or severely recklessly disregarded the falsity and misleading nature of the information which they caused to be disseminated to the investing public. The ongoing fraudulent scheme described in this complaint could not have been perpetrated over a substantial period of time, as has occurred, without the knowledge and complicity of the personnel at the highest level of the Company, including the Individual Defendants.

67. Defendants had the motive and opportunity to perpetrate the fraudulent scheme and course of business described herein because the Individual Defendants were

the most senior officers of OCA, issued statements and press releases on behalf of OCA and had the opportunity to commit the fraud alleged herein.

68. As set forth above, defendants made material misstatements regarding the remediation of the material weakness in the Company’s internal controls. They did so in order to gain the confidence of OCA investors, as well as current and prospective orthodontist affiliates. Despite defendants’ repeated representations in its SEC filings and other public statements that the Company was actively addressing the material weaknesses identified by E&Y on or about April 26, 2004, in reality little was being done to address these issues. Indeed as set forth above, the Company was not taking appropriate or adequate steps to improve its internal controls and, in fact, the state of its internal controls was materially deteriorating.

69. That internal controls were deteriorating, and not being addressed and remedied as represented by Defendants, is not only confirmed by CW1, CW2 and CW3, but is also evidenced by OCA’s admissions in its June 7, 2005 Form 8-K. Indeed, many of the material weaknesses disclosed on June 7, 2005 are almost identical to the list presented to the Company’s Board of Directors by E&Y more than one year earlier in April 2004. Remarkably, however, as demonstrated below, the June 2005 list of material weaknesses is even longer and more serious than the April 2004 list:

Internal Control Failures at OCA Noted by E&Y in April 2004	Internal Control Failures Conceded in June 7, 2005 Form 8-K
<ul style="list-style-type: none"> • Material weaknesses in internal controls over OCA’s financial statement close process including processes and activities relating to: 	<ul style="list-style-type: none"> • OCA admits that it had identified material weaknesses and significant deficiencies in internal controls over financial reporting at December 31, 2004. • OCA admits that at December 31, 2004 it did not maintain effective controls

Internal Control Failures at OCA Noted by E&Y in April 2004	Internal Control Failures Conceded in June 7, 2005 Form 8-K
<ul style="list-style-type: none"> ○ Calculation of fee revenue and receivables; ○ Evaluation of collectibility of receivables; ○ Lack of review and approval of calculations, judgments and estimates required to determine certain account balances. ○ Incomplete analysis in explaining variances or other unusual relationships between certain financial statement accounts. ○ Evaluation of recoverability of certain long-lived assets; ○ Review of changes in balance sheet and income statement accounts; ○ Lack of documentation of accounting treatment for certain significant balances. ○ Formal review and approval process for periodic reports. ○ Calculation and estimate of accruals related to loss contingencies, stock compensation and other liabilities; 	<p>over the period end financial reporting process, including processes and activities relating to:</p> <ul style="list-style-type: none"> ○ Revenue recognition reviews; ○ Reviews of allowances for bad debt for patient and affiliated practitioner accounts; ○ Account reconciliations. ○ Capitalization, disposition and evaluation of useful lives of long-lived assets ○ Analysis and financial reporting processes; ○ Review and approval of journal entries to the general ledger; ○ Independent and timely review of consolidation;

Internal Control Failures at OCA Noted by E&Y in April 2004	Internal Control Failures Conceded in June 7, 2005 Form 8-K
<ul style="list-style-type: none"> ○ Evaluation of changes in stock compensation plans and new compensation programs; • Lack of segregation of duties in determining fee revenue and service fees receivable and other processes. • Inadequate staffing in the accounting department and poor communications between operations and financial personnel. 	<ul style="list-style-type: none"> ○ Understatement of number of outstanding shares of common stock from 1999 through September 30, 2004. • OCA did not maintain adequate segregation of duties which impacted the Company's financial reporting, revenue, expenditure and information technology controls. • OCA did not maintain effective controls over access to financial applications and data and that management did not adequately oversee or monitor access to such information by certain of the Company's executives and other employees with access to financial applications and data. • Because of the above-mentioned material internal control weaknesses, certain controls within OCA's control environment may not have prevented the ability to override other controls and information critical to an effective review of certain transactions, accounting entries and related entities were not disclosed to the appropriate Company personnel and the Company's outside accountants.

In addition to the above, OCA admitted in the June 7, 2005 Form 8-K that:

- OCA inappropriately capitalized certain repairs and maintenance and other costs as fixed assets in the periods from 1995 through 2004;
- OCA did not write-off certain assets associated with closed or de-affiliated offices.

X. LOSS CAUSATION/ECONOMIC LOSS

70. During the Class Period, as detailed herein, defendants engaged in a scheme to deceive the market and a course of conduct that artificially inflated OCA's stock price and operated as a fraud or deceit on Class Period purchasers of OCA stock by misrepresenting the Company's operating condition and future business prospects. Defendants achieved this by making positive statements about OCA's business and financial results while they knew that the Company was suffering from a variety of adverse factors which were then negatively impacting its financial results, as detailed herein. Later, however, when defendants' prior misrepresentations were disclosed and became apparent to the market, the price of OCA stock fell precipitously as the prior artificial inflation came out of OCA's stock price. As a result of their purchases of OCA stock during the Class Period, plaintiff and other members of the Class suffered economic loss, *i.e.*, damages under the federal securities laws.

71. As a direct result of defendants' admissions and the public revelations regarding the truth about the condition of OCA's business and the negative adverse factors that had been impacting OCA's business during the Class Period, the price of OCA's stock declined from a closing price of \$4.03 per share on June 6, 2005 to a closing price of \$2.48 per share, on June 7, 2005. This drop removed the inflation from OCA's stock price, causing real economic loss to investors who purchased the stock during the Class Period.

72. The decline in OCA's stock price at the end of the Class Period was a direct result of the nature and extent of defendants' fraud finally being revealed to investors and the market. The timing and magnitude of OCA's stock price declines

negate any inference that the loss suffered by plaintiff and other Class members was caused by changed market conditions, macroeconomic or industry factors, or Company-specific facts unrelated to the defendants' fraudulent conduct.

XI. FRAUD-ON-THE-MARKET DOCTRINE

73. At all relevant times, the market for OCA's common stock was an efficient market for the following reasons, among others:

- (a) The Company's common stock met the requirements for public listing and was listed and actively traded on the NYSE, a highly efficient market;
- (b) As a regulated issuer, the Company filed periodic public reports with the SEC; and
- (c) The Company regularly issued press releases which were carried by national news wires. Each of these releases was publicly available and entered the public marketplace.

74. As a result, the market for the Company's publicly traded common stock promptly digested current information with respect to OCA from all publicly available sources and reflected such information in the price of the Company's securities. Under these circumstances, all purchasers of the Company's publicly traded common stock during the Class Period suffered similar injury through their purchase of the publicly traded common stock of OCA at artificially inflated prices and a presumption of reliance applies.

XII. NO SAFE HARBOR

75. 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. Many of the specific statements pleaded herein were not identified as “forward-looking statements” when made. To the extent there were any forward-looking statements, 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. Alternatively, to the extent that the statutory safe harbor does 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 particular speaker knew that the particular forward looking statement was false, and/or the forward-looking statement was authorized and/or approved by an executive officer of OCA who knew that those statements were false when made.

FIRST CLAIM FOR RELIEF
**For Violation of Section 10(b) of the Exchange Act
and Rule 10b-5 Promulgated Thereunder Against All Defendants**

76. Plaintiff incorporates ¶¶1-75 by reference.

77. During the Class Period, defendants disseminated or approved the false statements specified above, which they knew or severely recklessly disregarded were materially false and misleading in that they contained material misrepresentations and failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

78. Defendants violated Section 10(b) of the Exchange Act and Rule 10b-5 in that they:

- (a) Employed devices, schemes and artifices to defraud;

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

(c) Engaged in acts, practices, and a course of business that operated as a fraud or deceit upon plaintiff and others similarly situated in connection with their purchases of OCA publicly traded common stock and sale of put options during the Class Period.

79. Plaintiff and the Class have suffered damages in that, in reliance on the integrity of the market, they paid artificially inflated prices for OCA's publicly traded common stock and put options. Plaintiff and the Class would not have purchased OCA common stock or sold put options at the prices they paid, or at all, if they had been aware that the market prices had been artificially and falsely inflated by defendants' misleading statements.

80. As a direct and proximate result of these defendants' wrongful conduct, plaintiff and the other members of the Class suffered damages in connection with their purchases of OCA common stock and sales of put options during the Class Period.

SECOND CLAIM FOR RELIEF
For Violation of Section 20(a) of the Exchange Act
Against the Individual Defendants

81. Plaintiff incorporates ¶¶1-75 by reference.

82. The Individual Defendants acted as controlling persons of OCA within the meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions, participation in and/or awareness of the Company's operations and/or intimate knowledge of the 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.

83. In particular, the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, are 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.

84. As set forth above, OCA and the Individual Defendants each violated Section 10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their positions each as a controlling person, the Individual Defendants are liable pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of OCA's and the Individual Defendants' wrongful conduct, plaintiff and other members of the Class suffered damages in connection with their purchases of the Company's common stock and sales of put options during the Class Period.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment as follows: declaring this action to be a proper class action; awarding damages, including interest; awarding reasonable costs,

including attorneys' fees; and such equitable/injunctive relief as the Court may deem proper.

JURY DEMAND

Plaintiff demands a trial by jury.

Dated: January 31, 2006

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