

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 95593 / August 24, 2022

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4324 / August 24, 2022

ADMINISTRATIVE PROCEEDING
File No. 3-20998

In the Matter of

**Farber Hass Hurley LLP; Michel
Abedian, CPA; and Michael
Hurley, CPA,**

Respondents.

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

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that public proceedings be, and hereby are, instituted against Farber Hass Hurley LLP (“FHH”), Michel Abedian, CPA (“Abedian”), and Michael Hurley, CPA (“Hurley”) (each a “Respondent” and collectively “Respondents”) pursuant to Section 4C of the Securities Exchange Act of 1934¹ (the “Exchange Act”) and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice.²

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

The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found . . . (1) not to possess the requisite qualifications to represent others; (2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or (3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations issued thereunder.

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

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

II.

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

III.

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

SUMMARY

1. This matter involves repeated failures by FHH, an accounting firm, and its partners Abedian and Hurley, in conducting custody examinations of two SEC-registered investment advisers pursuant to Section 206(4) of the Advisers Act and Rule 206(4)-2 thereunder (the “Custody Rule”). During the relevant period, the advisers had custody of client funds or securities and were required by the Custody Rule to have an independent public accountant conduct annual surprise examinations to verify those funds and securities. Respondents conducted the examinations for the two advisers for the years 2017 through 2020 (“Custody Examinations”), and filed reports on Form ADV-E with the SEC (“Custody Examination reports”), but failed to perform sufficient and appropriate examination procedures as a basis for those reports. Specifically, Abedian, as engagement partner, failed to confirm account balances and transactions directly with the custodial clients, and failed to reconcile confirmations received from the qualified custodians that held client assets to the adviser’s books and records or to perform alternative procedures, while Hurley, who conducted engagement quality control reviews of all the Custody Examinations and knew or should have known about the deficiencies, failed to ensure that sufficient and appropriate examination procedures were performed and that the examination reports were appropriate in the circumstances. As a result, Respondents engaged in improper professional conduct under Section 4C of the Exchange Act and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice.

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

Respondents

2. **Farber Hass Hurley LLP** is a California limited liability partnership and accounting firm registered with the PCAOB. FHH has five offices, including one in Chatsworth, California, and provides accounting, tax, auditing and consulting services to a variety of clients including several registered investment advisers and public companies. FHH was engaged to perform the Custody Examinations for two investment advisers for 2017 through 2020. FHH resigned from both engagements in September 2021.

3. **Michel Abedian**, age 48, resides in La Crescenta, California. Abedian is an equity partner of FHH and a certified public accountant licensed in California since 2004. He was the engagement partner for all of the Custody Examinations FHH performed for the two adviser clients from 2017 through 2020.

4. **Michael Hurley**, age 69, resides in Porter Ranch, California. Hurley is a non-equity partner of FHH and a certified public accountant licensed in California since 1981, in Arizona since 2002, and in Hawaii since 2016. Hurley was involved in establishing FHH's quality control policies and was responsible for monitoring compliance with these policies. Hurley performed engagement quality control reviews for all of the Custody Examinations FHH performed for the two adviser clients from 2017 through 2020.

Relevant Entities

5. **Adviser A** is a California limited liability company and an SEC-registered investment adviser that provides investment management services to high-net-worth clients.

6. **Adviser B** is a Georgia corporation located in El Segundo, California and an SEC-registered investment adviser that provides non-discretionary real estate investment advisory services to two clients.

Facts

Background

7. The Custody Rule, Rule 206(4)-2, requires registered investment advisers with custody of client funds or securities to implement certain controls designed to protect those client assets from loss, misappropriation, misuse, or the adviser's insolvency, including maintaining these funds and securities with a qualified custodian and obtaining an annual surprise custody examination by an independent public accountant to verify client assets. An adviser has custody if it holds, directly or indirectly, client funds or securities, or has any authority to obtain possession of them, including when acting as a trustee of a trust that gives the adviser access to

client funds or securities. *Rule 206(4)-2(d)(2)*

8. During the relevant period, Adviser A had custody of between \$9 million and \$20 million of funds and securities for between four and twelve clients by virtue of serving as a trustee for these clients. FHH was first engaged by Adviser A in November 2018 to perform a surprise examination for 2018 and, because Adviser A had failed to obtain an examination for 2017, to conduct one retroactively for 2017. FHH continued to conduct Custody Examinations for the adviser for 2019 and 2020.

9. During the relevant period, Adviser B had custody of at least \$10 million of funds of one client because it had access to client cash and bank accounts, and retained FHH to conduct Custody Examinations for years 2017 through 2020.

10. In September 2021, FHH resigned its engagement from both advisers.

Respondents Engaged in Improper Professional Conduct in Performing the Custody Examinations of the Advisers

11. An accountant should conduct the Custody Examination, in accordance with American Institute of Certified Public Accountants' ("AICPA") standards for attestation engagements and compliance examinations, which are promulgated in AT-C §105A "*Concepts Common to all Attestation Engagements*," AT-C §205A "*Examination Engagements*," and AT-C §315 "*Compliance Attestation*." In conducting such examinations, the objectives of the accountant are to obtain reasonable assurance about whether the entity complied with the specified requirements in all material respects, and to express an opinion thereon. (*AT-C §315, ¶ 06*)

12. AT-C § 315, ¶13 provides that when conducting examinations, the accountant should obtain an understanding of the specified requirements. AT-C § 315, ¶13a provides further that the accountant's procedures to obtain that understanding should include consideration of laws, regulations, rules, contracts, and grants that pertain to the specified requirements, including published requirements. To comply with the requirements of AT-C § 315, ¶13 and AT-C § 315, ¶13a, the accountant should conduct the examinations pursuant to SEC guidance set forth in *Release No. IA-2969, Commission Guidance Regarding Independent Public Accountant Engagements Performed Pursuant to Rule 206(4)-2 Under the Investment Advisers Act of 1940* (Dec. 30, 2009) ("IA-2969"), which identifies procedures which should be included in the performance of custody examinations. To obtain reasonable assurance to support an opinion, accountants should obtain sufficient appropriate evidence to reduce attestation risk to an acceptably low level and thereby enable the accountant to draw reasonable conclusions on which to base the accountant's opinion. (*AT-C §205A, ¶19 and AT-C§315, ¶ 06*). IA-2969 specifically provides that the independent accountant's procedures should normally include (i) confirmation of

client funds and securities with qualified custodians and reconciliation of confirmations received from the custodians to the adviser's records, and (ii) confirmation of client funds, securities and account transactions directly with custodial clients and reconciliation of confirmations received from the clients to the adviser's records.

13. During the relevant period, Abedian, as the engagement partner, conducted the Custody Examinations of the two advisers, Hurley performed the engagement quality control reviews on all of them, and FHH issued examination reports that were filed with the SEC on Forms ADV-E. In all of the Custody Examination reports, FHH claimed that it had examined each adviser's compliance, or assertion of such compliance, with paragraph (a)(1) of Rule 206(4)-2 and Rule 204-2(b) in accordance with the Custody Rule and that the examinations were conducted in accordance with the AICPA Attestation Standards. However, as discussed below, in conducting the Custody Examinations, Abedian failed to confirm balances and transactions with the custodial clients, and failed to reconcile confirmations received from the custodians to the adviser's books and records or to perform alternative procedures, while Hurley failed to ensure that sufficient procedures were performed and the examination reports were appropriate in the circumstances, and that the Custody Examinations were conducted in accordance with AICPA attestation standards and applicable regulatory requirements.

Abedian

14. In conducting the Custody Examinations, Abedian failed to design and perform the procedures set forth in IA- 2969 and otherwise failed to obtain sufficient appropriate evidence to support FHH's opinion.

15. Abedian failed to reconcile confirmations received from qualified custodians to the adviser's books and records. For Adviser A's Custody Examinations, Abedian obtained confirmations from the qualified custodians but failed to reconcile these confirmations to the adviser's books and records. He also failed to document any procedures performed or conclusions reached with regard to these confirmations. With respect to Adviser B's Custody Examinations, Abedian obtained reconciliations prepared by the adviser but failed to perform sufficient procedures to verify the legitimacy of significant reconciling items or to document conclusions reached regarding these items. As a result, Abedian neither verified that the funds held by the custodians reconciled to the adviser's books and records nor performed alternative procedures.

16. When performing the Custody Examinations of Adviser A for 2017 and 2018, Abedian failed to send confirmation letters to custodial clients requesting that they confirm account balances and transactions, even though he knew at the time that the qualified custodians did not send account statements to the custodial clients during most of the period. For all other examinations, Abedian requested that custodial clients confirm that they received periodic

statements directly from the qualified custodians and that such statements show account balances and transactions, but failed to request that clients confirm their agreement with account balances and account transactions. His confirmation requests did not comply with the procedures set forth in IA-2969, which provide that an accountant should obtain records to verify balances and transactions directly with custodial clients. Abedian also failed to perform any alternative procedures to verify the client's balances and transactions as understood by the clients.

17. Abedian did not act with due professional care. He failed to exercise professional skepticism (*AT-C §105A, ¶43*) and professional judgment (*AT-C §105A, ¶45*) in planning and performing the Custody Examinations, when he failed to perform procedures set forth in IA-2969, and when he did not consider contradictory evidence in planning and conducting the 2019 and 2020 Adviser A Custody Examinations. Specifically, Abedian knew that in 2017 and 2018 Adviser A had various internal control and books and records deficiencies, but did not consider these deficiencies in designing attestation procedures and conducting the 2019 and 2020 Custody Examinations of Adviser A. At the time, he knew the adviser's books and records were not accurately reconciled to the confirmations obtained from qualified custodians in either year, and that at least one client did not receive statements directly from the qualified custodian in 2019, but without considering these deficiencies and contradictory evidence, Abedian accepted the adviser's representation that the books and records were accurate and that all previously identified internal control deficiencies were resolved. This contributed to his failure to obtain sufficient appropriate evidence.

Hurley

18. Hurley failed to meet professional standards for engagement quality control reviews. As the quality control reviewer, he should have performed an objective evaluation of the significant judgments made by the engagement team and the conclusions reached in formulating the report and considered whether the report was appropriate. (*AT-C §105A, ¶42, A65*) He reviewed the Custody Examination work papers, including the confirmations, and he knew or should have known about the deficiencies in Abedian's work. Specifically, he knew or should have known that Abedian did not perform the confirmation and reconciliation procedures set forth in IA-2969 or alternative procedures. Nevertheless, he failed to ensure that sufficient procedures were performed, that the examination was conducted in accordance with AICPA attestation standards and regulatory requirements, and that the examination reports were appropriate in the circumstances. This was in spite of the fact that Hurley was involved in establishing FHH's quality control policies and was responsible for monitoring compliance with these policies.

FHH

19. Although FHH established a system of quality control policies which was intended to provide it with assurance that the firm and its personnel comply with professional standards and regulatory requirements and to determine that reports issued by the firm are appropriate in the circumstances, it did not effectively monitor compliance with those policies.

20. Given Abedian's failure to perform appropriate procedures and failure to obtain sufficient evidence, FHH's opinions expressed in all of the Custody Examination reports lacked reasonable basis in violation of AT-C §205A, ¶19 and AT-C §315, ¶06.

21. FHH also violated AT-C §105A, ¶13, which provides that accountants should not represent compliance with attestation standards unless all AT-C sections relevant to the engagement were complied with. FHH falsely claimed in all of the Custody Examination reports that it had examined each adviser's compliance, or assertion of such compliance, with paragraph (a)(1) of Rule 206(4)-2 and Rule 204-2(b) in accordance with the Custody Rule and that the Custody Examinations were conducted in accordance with AICPA attestation standards, when they were not.

Findings

22. Based on the foregoing, the Commission finds that FHH, Abedian, and Hurley engaged in improper professional conduct pursuant to Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice.

Remedial Action

In determining to accept Respondents' Offer, the Commission considered the Respondents' remedial actions, including their voluntarily ceasing to conduct surprise custody examinations of registered investment advisers.

IV.

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

Accordingly, pursuant to Section 4C of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice, it is hereby ORDERED, effective immediately, that:

- A. Respondent FHH is hereby censured.
- B. Respondents Abedian and Hurley are denied the privilege of appearing or practicing before the Commission as an accountant.
- C. After two years from the date of the Order, Respondent Abedian may request that the Commission consider Abedian's reinstatement by submitting an application to the attention of the Office of the Chief Accountant.
- D. After one year from the date of the Order, Respondent Hurley may request that the Commission consider Hurley's reinstatement by submitting an application to the attention of the Office of the Chief Accountant.
- E. In support of any application for reinstatement to appear and practice before the Commission as a preparer or reviewer, or a person responsible for the preparation or review, of financial statements of a public company to be filed with the Commission, other than as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Exchange Act, Respondent shall submit a written statement attesting to an undertaking to have Respondent's work reviewed by the independent audit committee of any public company for which Respondent works or in some other manner acceptable to the Commission, as long as Respondent practices before the Commission in this capacity and will comply with any Commission or other requirements related to the appearance and practice before the Commission as an accountant.
- F. In support of any application for reinstatement to appear and practice before the Commission as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Exchange Act, as a preparer or reviewer, or as a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission, Respondent shall submit a statement prepared by the audit committee(s) with which Respondent will be associated, including the following information:
 - 1. A summary of the responsibilities and duties of the specific audit committee(s) with which Respondent will be associated;

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

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

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

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

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

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

possession, civilly or criminally, with having committed an act of moral turpitude, except for any charge concerning the conduct that was the basis for the Order.

5. That Respondent's conduct is not at issue in any pending investigation of the Commission's Division of Enforcement, the PCAOB's Division of Enforcement and Investigations, any criminal law enforcement investigation, or any pending proceeding of a State Board of Accountancy, except to the extent that such conduct concerns that which was the basis for the Order.
6. That Respondent has complied with any and all orders, undertakings, or other remedial, disciplinary, or punitive sanctions resulting from any action taken by any State Board of Accountancy, or other regulatory body.

J. Respondent shall also provide a detailed description of:

1. Respondent's professional history since the imposition of the Order, including
 - (a) all job titles, responsibilities and role at any employer;
 - (b) the identification and description of any work performed for entities regulated by the Commission, and the persons to whom Respondent reported for such work; and
2. Respondent's plans for any future appearance or practice before the Commission.

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

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

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

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

By the Commission.

Vanessa A. Countryman
Secretary