UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Administrative Proceedings
July 7, 2020

File No. 3-18292 In the Matter of **Administrative Law Judges**

Anton & Chia, LLP,
Gregory A. Wahl, CPA,
Michael Deutchman, CPA,
Georgia Chung, CPA, and
Tommy Shek, CPA ("Respondents")

Honorable Judge Jason S Patil:

Please find our Motion to Object to the Divisions' Proposed Facts.

CC: Joseph Lindell

Dated: July 7, 2020

Respectfully submitted: /s/ Gregory A. Wahl

Pro se Respondents, on behalf of Respondents (Wahl, Chung, Deutchman)

Opening Statement:

The Division has had sufficient time to review the Respondents Proposed Findings of Fact and Conclusions of Law and Final Briefs. Why has the Division not sent someone to negotiate a settlement offer with Wahl, Chung, and Deutchman? We are demanding this now. Pennant Management, Inc.

Wahl reviewed the Divisions Proposed Findings of Fact and has summarized in detail where the statements made are not factual and / or don't even comply with US GAAP and GAAS and / or they intentionally left out key facts related to US GAAP and GAAS. If Wahl did not reply to each fact it does not mean that Respondents believe or agree to the Divisions' facts. It's simply a matter of resources and time with the objective of verifying material facts, however, to the dismay of Wahl and Respondents the Division has lied and / or has manipulated various easily verifiable facts (**TR 6189 Lines 2-5**).

For example, the Division **replaces key words such as "shall" with the word "must" or "should" with "requires"** in US GAAP and GAAS which is not just dishonest it's clearly intentional to misrepresent and overstate the facts! The Division changed words in US GAAP and GAAS in their briefs to try and win this case is a severe injustice. The Division further makes representations that auditing standards apply to reviews to completely mischaracterize the standards that Respondents "shall" have followed.

As it turns out, "**shall**" is **not a word of obligation**. The Supreme Court of the United States ruled that "**shall**" really means "may" – quite a surprise to attorneys who were taught in law school that "**shall**" means "**must**". In fact, "**must**" is the only word that imposes a legal obligation that something is mandatory. "**Should"** is the simple past tense for "**shall**". ***Required*:** stipulated as **necessary to be done**,

made, or provided. By changing US GAAP and GAAS to say "**must**" and even "Required" changes the entire legal standard that Respondents to appear guilty when they clearly are not.

Hard to believe the US government would do this. Not only did they submit this as evidence to the court. The Division publicized this scheme in its OIP on December 4, 2017 and their pre-trial briefs.

US GAAP is the authoritative standards for public companies to comply with when completing financial reporting. An auditor's role is to review their client's compliance with US GAAP and to comply with the Authoritative Standards under US GAAS, which in this case is the PCAOB standards. The Division intentionally deceived this court and the general public by manipulating and intentionally changing US GAAP and GAAS standards in the OIP, pre-trial briefs, Devor's report, in testimony and in the their post hearing briefs.

The changes to US GAAP and GAAS throughout the Division's Proposed Finding of Fact ("PFF") and the OIP are pervasive, leading Respondents to believe this is a systemic problem within the Division of Enforcement and cannot be considered a mistake due to the sheer volume of the mischaracterizations and changes in the PPF and OIP.

The Divisions' actions are clearly intentional deception to secure an unlawful and unfair gain and to deprive Honest Hardworking American's their constitutional legal rights. The Division lied about the law, used incorrect case law in their briefs to create more lies, then intentionally lied about and changed US GAAP and GAAS in their briefs, the OIP and their Proposed Finding of Fact, for this, the cost of settlement with Wahl, Chung and Deutchman just went up. For the Divisions willful conduct to fraudulently change US GAAP and GAAS, "treble" damages should be awarded to Honest Hardworking Americans!

Remember Anton & Chia: The Weissmann strategy: In a follow-up case in U.S. District Court, Weissmann also was successful at arguing that auditing firm Arthur Andersen LLP had covered up for Enron. In that case, which resulted in the destruction of Andersen, he convinced the district judge to instruct the jury that they could convict the firm regardless of whether its employees knew they were violating the law. That ruling was later unanimously overturned by the Supreme Court in Arthur Andersen LLP v. United States, in which the court held that "the jury instructions failed to convey the requisite consciousness of wrongdoing."

Definitions:

CannaVEST Corp. is “CannaVEST”.

Premier Holding Corporation is “Premier”.

Accelera Innovations, Inc. is “Accelera”.

CannaVEST, Premier and Accelera are “Registrants”.

Anton & Chia, LLP is “A&C”.

United States Securities and Exchange Commission is “SEC” and / or “Division”.

THE RESPONDENT’S PROPOSED FINDINGS of FACT and CONCLUSIONS OF LAW (“P.F.F”) for example **P.F.F#1**.

Division Proposed Findings of Fact (“Lie”) if not factual will be denoted as **Lie #1, Lie #2,** and so on.

The Audit Firm and the Respondents

1. **Anton & Chia, LLP** was a PCAOB-registered auditing firm since 2009, and a California limited liability partnership headquartered in Newport Beach, California, with additional offices in San Diego and Westlake Village, California. It was founded in 2009 by Georgia Chung, and thereafter was co-owned by Chung and Greg Wahl.[1]

Lie #1: This is an incorrect statement. Anton & Chia, LLP had more offices than the California offices, there was an office in Dallas, Texas; 32 international affiliate offices in Mexico City, Bogota, Columbia and 30 offices in Hong Kong and throughout Mainland China. Anton & Chia, LLP also had offices in Vancouver, White Rock, Nanaimo and Cobble Hill British Columbia, Canada (**TR 3271 Lines 1-14; TR 3895 Lines 6-15 & Lines 23-25; TR 3896 Lines 1-7**).

2. **Gregory Anton Wahl** was Anton & Chia's managing partner and 90% owner.[2] He is a licensed CPA in California and New York, and a chartered accountant in British Columbia, Canada. Wahl obtained his CPA license in September 2009.[3] He has no post-college education or any valuation credentials.[4]

Lie #2a: The ownership structure is incorrect. Wahl and Chung owned 45% each and a Trust owned the remaining 10%. This was never stipulated by Respondents.

Lie #2b: The Chartered Accountant designation is a post-college or post graduate designation (**TR 5527 Lines 16-25; TR 5528 Lines 1-25; TR 5529 Lines 1-25; TR 5530 Lines 1-4**).

Lie #2c: Wahl's entire undergraduate degree was in accounting and finance. Wahl graduated with Honors in Finance where his thesis was "How International Diversification Reduces Systemic Risk and Increases Investor Returns" and he had significant mathematical training in econometrics which is the quantitative application of statistical and mathematical models using data to develop theories or test existing hypotheses in economics and to forecast future trends from historical data (**TR 2474 Lines 18-20; TR 5526 14-15; TR 5527 1-15**).

3. Wahl worked as an auditor for approximately 18.5 years. He started his auditing career at KPMG in Canada, which had a "very good" training program. He spent 2.5 years as a staff accountant, 2.5 years as a senior accountant, 2 years as a manager, and approximately 11 years as a partner. During his time as an auditor, Wahl had a "good understanding" of PCAOB standards.[5]

Lie #3a: Wahl said they had "very good training" not a training program. Training implies that it was on going continuous professional development, which KPMG provided. Not just one "program" as the Division is alluding to.

Lie #3b: Wahl's career description is not factually correct. Wahl has audited public companies over an 18.5 year career, 15 years in accordance with PCAOB standards which is 15 more years than any of the Divisions team members.

Lie #3c: Wahl never said he had a "good' understanding of PCAOB standards. Wahl said he was "very diligent". Read the transcript below.

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[1] Ex. 840 (Stipulated Facts) ¶ 21.

[2] Ex. 839.6 (Prior Testimony Designations) 156 (July 26, 2016 Wahl Inv. Test at 23:1-7) ("Q Okay. And when did you begin to work at Anton & Chia? A Effectively – no. January 1, 2010. Q And what was your position or role when you began to work at Anton & Chia? A I took over as 90 percent owner and the managing partner of the firm.").

[3] Tr. (Vol. XVI Wahl) 3845:2-4 ("September 2009 is when I got my California license. I was licensed as a CPA.").

[4] Tr. (Vol. XX Wahl) 4911:5-16 ("Q Okay. But nothing beyond that, right? You don't have an MBA, right? A I do not have an MBA. Q You are not a chartered financial analyst, right? A I am not. Q You are not a certified valuation analyst, correct? A I am not. Q And you have no special valuation or appraisal credentials, correct? A I don't.").

[5] Tr. (Vol. XVI Wahl) 3844:11-17 ("Q And how many years of accounting experience do you have? A Public accounting, in terms of doing audits, reviews, it's roughly 18, 18 and a half years. And then in the last year and a half I've done predominantly consulting advisory for companies."); *Id.* at 842:2-3843:1 ("I was hired by KPMG when I was 25, January 1999. … It was in their new Westminster officer and moved to Burnaby, Canada. … But I chose KPMG because they – the office that I went to was their top office in the country. And KPMG in Vancouver at this time has, like, 67 – 60 to 70 percent of the known marketplace in terms of clientele. So they had a very big presence. And then they had very good training and took it really seriously to develop their staff."); *id.* at 3844:18-24 ("Q How many of those years would you say you worked as a partner versus a staff accountant versus a senior accountant? A Two and a half years roughly as a staff accountant, two and a half years as a senior accountant roughly, two years as a manager and about 11 years as a partner."); Ex. 839.6 (Prior Testimony Designations) 46 (July 2, 2019 Wahl AP Dep. Tr. 43:16-22) ("Q. Did you understand the PCAOB standards during your 19-year

4. As relevant here, Wahl served as the engagement partner for Accelera's 2013 and 2014 audits and interim reviews in 2014 and 2015, Premier's 2013 audit, and CannaVEST's 2013 interim reviews.[6] Wahl is currently working as a consultant with NorAsia, a firm owned by Chung.[7]

Lie #4a: This is incorrect. Wahl was also engagement partner for the 2013 interim reviews for Accelera.

Lie# 4b: Wahl works and has ownership in multiple companies. Not just NorAsia.

5. **Michael Deutchman** was an Anton & Chia audit partner from August 2014 until August 2016, when he resigned from the firm. He has been a CPA for 48 years and has served as an engagement partner on at least 40 public companies.[8] He was the engagement quality review partner ("EQR") for Accelera's 2014 year-end audit and the interim reviews for the first and second quarters of 2015.[9] He was the engagement partner for the third quarter 2014 quarterly review.[10]

6. **Georgia Chung** was Anton & Chia's co-owner with Wahl. Chung is a licensed CPA in California and Colorado. Chung obtained her Colorado CPA license in January 2005, and her California CPA license in July 2006.[11] Chung served as the EQR for CannaVEST's first quarter of 2013 interim review.

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career as an auditor? A. Of course. Q. Did you feel like you had a good understanding of PCAOB standards when you served as an auditor? A. I think I was very diligent.").

[6] Jan. 5, 2018 Answer of Respondents Anton & Chia, LLP, Gregory A. Wahl, CPA, and Georgia Chung, CPA ("Wahl Answer") ¶ 10.

[7] Tr. (Vol. XX Wahl) 4926:17-4927:3 (Q You're currently working at NorAsia Consulting and Advisory, correct? A When I'm not in trial, yes. Q Okay. And NorAsia is owned by your wife Georgia Chung? A Yes. … Q Okay. But are you an employee of NorAsia? A I'm a consultant that works with NorAsia.").

[8] Tr. (Vol. IV Deutchman) 1096:4-10 ("A. So I've been an engagement partner on at least 40 public companies over the last ten years … Q. What about your whole career? How long have you been in the space? A. I've been a CPA 48 years.").

[9] Jan. 5, 2018 Answer of Respondent Michael Detuchman ("Deutchman Answer") ¶ 12 (admitting that he "was an A&C audit partner from August 2014 until August 2016, which he resigned from the firm. He was the AQR for Accelera's 2014 year end audit and the interim reviews for the third quarter of 2014 and the first and second quarter of 2015.").

[10] Tr. (Vol. III Deutchman) 638:25-2 ("That is correct," to inquiry, "You were the engagement partner on the third quarter 2014 interim review for Accelera."); Ex. 1.4 (Q3 2014 Planning Memo workpaper) 3.

[11] Ex. 875(Chung background questionnaire) at 9.

Anton & Chia Internal Controls

7. Anton & Chia "grew very quick."[12] It started in 2010 with just Wahl and Chung, plus two consultants.[13] By 2013, Anton & Chia had three partners, ten professional staff, and 88 issuer audit clients.[14] By 2015, it had eight partners, 33 professional staff, and approximately 117 issuer clients.[15] By 2016, Anton & Chia had approximately 75 employees throughout eight offices,[16] 4 partners, and approximately 80-90 issuer clients.[17] As of early 2016, Anton & Chia provided services for over 100 public companies and brokerage firms.[18]

Lie# 7a: This is incorrect and inconsistent with **Lie#1** where A&C started in 2009.

Lie# 7b: This is incorrect See Response to **Lie#1** A&C had more than 8 offices (**TR 3895 Lines 6-15 & Lines 23-25; TR 3896 Lines 1-7**).

8. These audit clients were only part of Anton & Chia's business. At times which were the subject of the OIP, Anton & Chia, together with its Canadian affiliate, serviced over 2,000 clients in small and middle markets worldwide.[19]

Lie# 8a: This is an incorrect statement. The only clients that were subject the OIP were CannaVEST, Accelera, & Premier. No other clients were subject to the OIP.

Lie# 8b: It was not a Canadian affiliate. Wahl owned 50% of the Canadian Firm and controlled the firm which operated with A&C as one firm.

9. Wahl planned to grow Anton & Chia to the point where each partner had a $2.5 million to $3.5 million book of business.[20] Wahl wanted to grow the firm to $20 million in the short term.[21]

Lie #9: This is not a factual statement. Wahl testified to the $2.5MM to $3.5M was a "benchmark". Read the transcript below.

[12] Ex. 839.6 (Prior Testimony Designations) 32 (July 2, 2019 Wahl Dep. at 29:8-10).

[13] Ex. 839.6 (Prior Testimony Designations) 156 (July 26, 2016 Wahl Inv. Test at 23:8-10) ("At that time [2010], was it just the two of you or were there other employees as well? A. We had two consultants, plus my wife.").

[14] Ex. 83 at 2 (2013 PCAOB Inspection Report of Anton & Chia).

[15] Ex. 81 at 2 (2015 PCAOB Inspection Report of Anton & Chia); Tr. (Vol. XXI Wahl) 5006:16-18 ("Q So what did you think the right number was for the issuer audit opinions? A I remember 117 for some reason.").

[16] Ex. 839.6 (Prior Testimony Designations) 156 (July 26, 2016 Inv. Test at 23:25-24:4).

[17] Ex. 82 at 2 (2016 PCAOB Inspection Report of Anton & Chia); Tr. (Vol. XXI Wahl) 5007:9-13 ("Q And the number of issuer audit clients is 105 there. I think you previously testified that was high? A Yeah. I believe for the same reason. I believe it was in the 80 to 90 range.").

[18] Feb. 23, 2018 Motion to Dismiss at 3 ("As of early 2016, the Firm provided services for over 100 public companies and brokerage firms.").

[19] Feb. 23, 2018 Motion to Dismiss at 3 ("At times which are the subject of the OIP, together with its Canadian affiliate …, the Firm serviced over 2000 clients in small and middle markets worldwide.").

[20] Tr. (Vol. XXI Wahl) 5008:9-21 ("Q … you wanted the average partner book modeled on the high side of 3 million; is that right? A …when I looked at the larger firms, a lot of the partners would have a book of 2.5 to 3.5 million. And so that was kind of the benchmark.").

[21] Tr. (Vol. XXI Wahl) 5009:5-11 ("Q And did you want to grow it into a $20 million firm? A I think 20 million was the short-term time – was the short-term goal.").

10. Wahl also spent a significant amount of time managing Anton & Chia itself.[22] He managed all eight offices and personnel.[23] Starting in 2014, Wahl begin to transition into more of an administrative and business development role, stepping away from auditing.[24] By 2016, Wahl had stepped away from client engagements altogether and focused exclusively on running the firm.[25]

LIE #10: Wahl was the Managing Partner of A&C, which is like being CEO and Chairman of a small American Business. Wahl took all facets of A&C very seriously (**TR 3895 Lines 6-15 & Lines 23-25; Lines 3896 Lines 1-7**).

11. Anton & Chia operated in the small cap space, and most of its clients were "fairly risky."[26] For example, in 2013, only 12 to 13 of Anton & Chia's 88 issuer audit clients were operating companies.[27]

LIE# 11: This is not correct A&C had over 2,000 clients. 88 issuer clients was less than 5% of the total client portfolio and is not "most" of its clients. 95% of A&C's clients were not in the small cap space.

12. Anton & Chia had "a lot of [staff] turnover," due to "long hours," "stress," and a client base with poor controls.[28]

LIE# 12: This is not correct see **P.F.F#54** to **P.F.F#92 (**See **TR 3893 Lines 17-18; 21-25; TR 3894 Lines 1-25; TR 3895 Lines 1-5).**

13. Anton & Chia's compliance consultant Shane Garbutt testified that Anton & Chia

had fairly significant turnover at both the staff and partner levels.[29]

Lie# 13: Shane was a consultant and would not have access to human resource records to determine the validity of this statement. Not factual. See **P.F.F#65 to P.F.F#.**

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[22] Ex. 839.6 (Prior Testimony Designations) 33 (July 2, 2019 Wahl Dep. at 30:6-8) ("Q. Did you also spend significant time managing … Anton & Chia itself? A. Yes.").

[23] Ex. 839.6 (Prior Testimony Designations) 156 (July 26, 2016 Wahl Inv. Test at 24:3-14) ("A We have eight offices … Q And you manage all those offices and all those personnel? A Yes.").

[24] Tr. (Vol. VIII Shek) 2466:2-10 (in response to question whether Wahl "took [his] job seriously," Shek responded, "I would say for the first two years, yes. And after that, I think you were just more busy in acquiring new business working with other partners in, like, trying to get more clients, too.").

[25] Tr. (Vol. XXI Wahl) 5010:23-5011:5 ("Q I'm sorry. So the work would have occurred in 2016, right? I think you had stepped away from being engagement partner on Accelera at that point, and Gandhi was the engagement partner on the '15 audit? A Well, I had stepped away from pretty much all of the clients, and I focused more on running the firm.").

[26] Tr. (Vol. XXI Wahl) 5096:10-14 ("Q Okay. Do you deny that Accelera was one of your riskier clients? A I mean, when you operate in a small cap space, I mean, most of the clients are fairly risky.").

[27]Tr. (Vol. XXI Wahl) 5002:21-5003:4 (Q I'm sorry. The number of issuer audit clients here [in Ex. 83] is estimated at 88. What's your view of that number? A I think it's a little bit misleading. I think there's maybe only 12 to 13 operating companies, and the rest were, I think, like small reporting companies with really nominal assets. There weren't a lot of larger clients in there if I remember correctly.").

[28] Tr. (Vol. VIII Shek) 2216:25-2217:9; *see also* Ex. 839.6 (Prior Testimony Designations) 157 (July 26, 2016 Wahl Inv. Test at 25:18-24) ("A. You know, the staff – you know, deal with the millennials and it's a bit of a challenge. You know, we've had probably – I would say our average [rate of staff turnover] is in the 14 to 16-month range with the younger staff….").

[29] Tr. (Vol. XI Garbutt) 3030:25-3033:10, 3037:12-25.

14. Garbutt also testified that Wahl had about a $3 million revenue target for each Anton & Chia partner, which is an unusually high revenue target for partners working in the micro-cap space. Garbutt further testified that it would be challenging for a partner managing a $3 million revenue target to maintain quality audits and interim reviews in the microcap space. Such a partner would have to rely a fair bit on his or her audit managers and senior accountants. But Anton & Chia had difficulties keeping its audit managers and senior accountants, as turnover was high.[30]

LIE #14a: This is not a factual statement. Wahl testified to the $2.5MM to $3.5M was a "benchmark". Read the transcript below.

LIE #14b: Shane was a consultant and would not have access to human resource records to determine the validity of this statement. Not factual. See **P.F.F#65 to P.F.F#73.**

Applicable GAAP Standards

Respondents for **LIE #15** to **LIE #110** have bold and underlined the differences in US GAAP or GAAS where the Division and Devor changed. In some cases, it's totally different where it's not just a few words but entire sections.

A. The GAAP Standard for Business Combinations – ASC 805

15. Generally accepted accounting principles ("GAAP") ASC 805 defines a business combination as a "transaction or other event in which an acquirer obtains control of one or more businesses."[31]

LIE#15: ASC 805-10-20 A Business Combination: A transaction or other event in which an acquirer obtains controls or one or more businesses.

ASC 805-10-20: Acquirer: The entity that obtains controls of the acquiree. However, in a business combination in which a variable interest entity (VIE) is acquired, the primary beneficiary of that entity is the acquirer.

Of course the Division leaves out the definition of the acquirer which provides the full scope of determination of a business combination.

16. Before consolidating the results of the purported acquiree in its financial statements, the purported acquirer first must assess whether it has obtained control of the other company.[32] Under ASC 805, control is identified as "[t]he direct or indirect ability to determine the direction of management and policies through ownership, contract, or otherwise."[33] It further states that the "usual condition for a controlling financial interest is ownership of a majority voting interest, and, therefore, as a general rule ownership by one reporting entity, directly or indirectly, of more than 50 percent of the outstanding voting shares of another entity is a condition pointing toward consolidation."[34]

THE DIVISION'S MAJOR LIE #16:

ASC 805-10-20: Business Combination: A transaction or other event in which an acquirer obtains control of one or more businesses.

The Division then misses three steps in the acquisition method 1a) with consideration 1b without consideration and 2) variable interest entities which is in Respondents **P.F.F#666**.

1) **THE ACQUISITION METHOD:**

a) WITH CONSIDERATION (ASC 805-10-25-1)

b) ***WITHOUT CONSIDERATION (ASC 805-10-25-11)***

2) **VARIABLE INTEREST ENTITIES (ASC 810-10-15-14):**

1) ACQUISITION METHOD:

Paragraph **805-10-25-1** requires an entity to determine whether a transaction or event is a business combination. **In a business combination, an acquirer might obtain control of an acquiree in a variety of ways**, including any of the following:

a. **By transferring cash, cash equivalents, or other assets (including net assets that constitute a business)**

b. **By incurring liabilities**

c. By issuing equity interests

d. By providing more than one type of consideration

e. **Without transferring consideration, including by contract alone (see paragraph 805-10-25-11).**

Consolidation is handled under ASC810 which the Division misleads everyone in believing that this is only under ASC 805. The Division conveniently leaves out the most critical areas of ASC 805, which are paragraphs ASC 805-10-25-1 which clearly state that there are a "variety" of methods to obtain control. **The non-disclosure of ASC 805-10-25-1 is clearly misleading to the court.**

[30] *Id.* at 3038-3040:7.
[31] Ex. 88.1 (Devor Report) ¶ 161 (citing ASC 805-10-20).
[32] *Id.* ¶ 162.
[33] *Id.* ¶ 163 (citing ASC 805-10-20).
[34] *Id.* ¶ 163 (citing ASC 805-20-20).

17. The date when an acquirer obtains control of the acquiree (the acquisition date) is "the date on which **the acquirer legally transfers the consideration**, **acquires the assets, and assumes the liabilities of the acquiree**."[35]

Lie #17: Here is **ASC 805-10-25-6**, "the acquirer shall identify ***the acquisition date***, which is the date on which it obtains ***control of the acquiree***."

Again the division intentionally skips **ASC 805-10-25-6** and **ASC 805-10-25-7** but then the intentionaly cite an incorrect paragraph **ASC 805-20-25-7**.

Here is ASC 805-20-25-7 in its raw format.

ASC 805-20-25-7; Identifiable Assets and Liabilities, and Any Noncontrolling Interest 25 Recognition:

In some situations, GAAP provides for different accounting depending on how an entity classifies or designates a particular asset or liability.

18. After identifying the acquirer and acquisition date, the acquisition method requires the acquirer to: (1) determine the fair value of the consideration (*i.e.*, the purchase price) as of the acquisition date; (2) recognize and measure the fair value of the net tangible and identifiable intangible assets acquired, the liabilities assumed, and any non-controlling interest in the acquiree as of the acquisition date; and (3) recognize and measure goodwill or a gain from a bargain purchase."[36]

LIE#18: The paragraph is falsly created by the Division it questions with all of their vast resources that they cant simply provide the actual paragraph instead of paraprashing US GAAP to their mischaracterized benefit.

Here is **ASC 805-10-05-4** in its native format. Paragraph **805-10-25-1** "requires that a business combination be accounted for by applying what is referred to as the acquisition method. The acquisition method requires all of the following steps:

a. Identfying the acquires

b. Determining the acquisition date

c. Recognizing and measuring the identifiable assets acquired, the liabilites assumed, and any non controlling interest in acquiree

d. Recognizing and measuring goodwill or a gain from a bargain purchase"

Here is **ASC 805-30-30-1**; **ASC 805-30-30-7; ASC 805-20-25-1**; and **ASC 805-20-30-1** in their Native Formats.

ASC 805-30-30-1: "The acquirer shall recognize goodwill as of the acquisition date, measured as the excess of (a) over (b):

a: The aggregate of the following:

1. The consideration transferred measured in accordance with this Section, which generally requires acquisition – date fair value (see paragraph 805-30-30-7).

2. The fair value of any non controlling interest in the acquiree.

3. In a business combination achieved in stages, the acquisition – date fair value of the acquiree's previously held equity interes in the acquiree.

b: The net of the acquisition – date amounts of the identifiable assets acquired and the liabilities assumed measured in accordance with this Topic."

IDENTIFIABLE INTANGIBLE ASSETS:

ASC 805-20-25-10, "The acquirer shall recognize separately from goodwill the identifiable intangible assets acquired in a business combination. An intangible asset is identifiable if it meets either the separability criterion or the contractual – legal criterion described in the definition of identifiable."

ASC 805-20-30-1: The acquirer shall measure the identifiable assets acquired, the liabilities assumed, and any noncontrolling interest in the acquiree at their acquisition-date fair value.

19. Goodwill represents "the value of an enterprise after taking into account the value of identifiable assets, **such as contracts**."[37]

LIE #19a. The definition of goodwill determined by the Division is not consistent with **ASC 805-30-30-1**, plus **ASC 805-30-30-1** doesn't mention "**contracts**". Here is **ASC 805-30-30-1** in its native format below.

ASC 805-30-30-1: "The acquirer shall recognize goodwill as of the acquisition date, measured as the excess of (a) over (b):

a: The aggregate of the following:

1. The consideration transferred measured in accordance with this Section, which generally requires acquisition – date fair value (see paragraph 805-30-30-7).

2. The fair value of any non controlling interest in the acquiree.

3. In a business combination achieved in stages, the acquisition – date fair value of the acquiree's previously held equity interes in the acquiree.

b: The net of the acquisition – date amounts of the identifiable assets acquired and the liabilities assumed measured in accordance with this Topic."

ASC 805 defines goodwill as an "asset representing the future economic benefits arising from other assets acquired in a business combination … that are not individually identified and separately recognized."[38]

LIE #19b. Here is the ASC 805-30-20 Glossary definition in its native format.

"Goodwill: An asset representing the future economic benefits arising from other assets acquired in a business combination **or** an acquisition by a not-for-profit entity that are not individually identified and separated separately recognized."

Accelera, Cannavest and Premier were **not** not-for-profit entities therefore the Division is again mischaracterizing the definitions used by US GAAP they blended ASC 805-30-20 Glossary for their own benefit.

20. An identifiable asset can be tangible or intangible. For an intangible asset to be identifiable, it must meet "**either the separability criterion or the contractual-legal criterion described in the definition of identifiable**."[39] Such criteria are defined as follows:

LIE# 20a. ASC 805-20-25-2: "To qualify for recognition as part of applying the acquisition method, ***the identifiable*** asset acquired and liabilities assumed must meet the definitions of assets and liabilities in FASB Concepts ***Statement No. 6 Elements of Financial Statements***, at the acquisition date…….. costs the acquirer expects but is not obligated to incur in the future……."

The Division is creating their own definistion of **ASC 805-20-25-2**. **ASC 805-20-25-2** does not mention "**or the contractual-legal-criterion described in the definition of identifiable**". Again further mischaracterization and intentional changes of US GAAP by the Division.

e. It is separable, that is, capable of being separated or divided from the entity and sold, transferred, licensed, rented, or exchanged, either individually or together with a related contract, identifiable asset, or liability, regardless of whether the entity intends to do so; or

[35] *Id.* ¶ 164 (citing ASC 805-20-25-7).
[36] *Id.* ¶ 427 (citing ASC 805-10-05-4); *id.* ¶ 642 (citing ASC 805-30-30-7, 805-30-30-1, 805-20-25-10, 805-20-30-1).
[37] *Id.* ¶ 428. *See also* 805-30-30-1.
[38] *Id.* ¶ 428 (citing ASC 805-30-20).
[39] *Id.* ¶ 429 (citing ASC 805-20-55-2).

f. It arises from contractual or other legal rights, regardless of whether those rights are transferable or separable from the entity or from other rights and obligations.[40]

An asset is identifiable if it meets the either of the following criteria:

a) It is separable, that is, capable of being separated or divided from the entity and sold, transferred, licensed, rented, or exchanged, either individually or together with a related contract, identifiable or liability, regardless of whether the entity intends to do so.

b) It arises from contractual or other legal rights, regardless of whether those rights are transferrable or separable from the entity or from other rights and obligations.

21. If a business combination involves "the acquisition of identifiable assets (or an assumption of a liability, or a non-controlling interest of the acquiree), with certain exceptions not applicable here, the acquirer **must** measure the assets at their 'acquisition-date fair values.'"[41]

LIE#21 a) ASC 805-20-30-1 doesn't say "**Must**" **ASC 805-20-30-1** it says "**Shall**". Here is **ASC 805-20-30-1** in its native format: The acquirer **shall** measure the identifiable assets acquired, the liabilities assumed, and any

noncontrolling interest in the acquiree at their acquisition-date fair value.

ASC 805 explicitly states that **customer contracts** are one type of intangible asset that are identifiable and, therefore, should be recognized and measured if acquired in a business combination.[42]

LIE# 21b. ASC 805, which is **ASC 805-20-55-3**, **doest not** explicitly state that customer contracts are one type of intangible asset that are identifiable and, therefore, should be recognized and measured if acquired in a business combination.

ASC 805-20-55-3 in its native format: "The separability criterion means that an acquired intangible asset is capable of being separated or divided from the acquiree and sold, transferred, licensed, rented, or exchanged, either individually or together with a related contract. An intangible asset that the acquirer would be able to sell, license, or otherwise exchange for something else of value meets the separability criteria even if the aquirer does not intend to sell, license, or oherewise exchange it."

22. Fair value is "the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date."[43]

23. Market participants are "buyers and sellers in the principal (or most advantageous) market for the asset or liability that have all of the following characteristics," including, "(b) [t]hey are knowledgeable, having a reasonable understanding about the asset or liability and the transaction using all available information, including information that might be obtained through due diligence efforts that are usual and customary."[44]

Lie#23: Not the full definition which makes the above misleading. Here is the native definition of **ASC 805-10-20 Glossary**:

"Market Participation: Buyers and Sellers in the principal (or most advantageous) market for the asset or liability that have all of the following characteristics:

a) They are **independent** of each other that is they are not related parties, **although the price in a related – party transaction may be used as an input to a fair value measurement if the reporting entity has evidence that the transaction was entered into at market terms**.

b) They are knowledgeable, having a reasonable understanding

about the assets or liability and the transaction using all available information, including information that might be obtained through due diligence efforts that are usual and customary.

c) The are able to enter into a transaction for the asset or liability

d) They are willing to enter into a transaction for the asset or liability, that is, **they are motivated but not forced or otherwise compelled to do so**."

24. Orderly transaction is "a transaction that assumes exposure to the market for a period before the measurement date to allow for marketing activities that are usual and customary for transactions involving such assets or liabilities."[45]

Lie#24: Again the Division takes out critical information in the definition. Here is the native definition of **ASC 805-10-20 Glossary**:

"Orderly Transaction: A transaction that assumes exposure to the market for a period before measurement date to allow for marketing

activities that are usual and customary for transactions involving such assets or liabilities; **it is not a forced transaction.”**

[40] *Id.* ¶ 429 (quoting ASC 805-20-20).
[41] *Id.* ¶ 430 (quoting ASC 805-20-30-1).
[42] *Id.* ¶ 430 (citing ASC 805-20-55-3).
[43] ASC 805-10-20.
[44] *Id.*
[45] *Id.*

B. The GAAP Standard for Receivables – ASC 310

25. ASC 310 governs the accounting for notes receivable. ASC 310 states that receivables "may arise from credit sales, loans, or other transactions," and "may be in the form of loans, notes, and other types of financial instruments and may be originated by an entity or purchased from another entity."[46]

Lie# 25 a) Receivables may arise from credit sales, loans or other transaction. Receivables may be in the form of loans, notes, and other types of financial instruments and may be originated by an entity or purchased from another entity.

When the face value of a note is materially different from its fair value, ASC 310 **requires** the company to record the receivable at **fair value**.[47]

Lie# 25b) This is an incorrect statement, as **ASC 310** only provides "**guidance**" to record receivables and the native version of **ASC 310** says "**shall**"; "**may**"; that"**these methods are preferable"** or **at an amount that reasonably approximates** either cash, present value or fair value not "**requires**".

In fact under **ASC 310-10-30-1** to **ASC 310-10-30-4** and **ASC 310-10-30-6** provide for the note to be recorded at its cash exchange value or its present value, which is not to be confused with its fair value. Present value is not the same as fair value.

Here are **ASC 310-10-30-1** to **ASC 310-10-30-4** in its native format:

Certain Receivables

30-1 "The following provides initial measurement **guidance** for certain notes receivable, specifically those exchanged for cash and those exchanged for property, goods, or services. Such notes may be originated by an entity or purchased from a third party."

Notes Exchanged for Cash

30-2 "As indicated in paragraph 835-30-25-4, when a note is received solely for cash and no other right or privilege is exchanged, **it is presumed to have a present value at issuance measured by the cash proceeds exchanged**. If cash and some other rights or privileges are

exchanged for a note, the value of the rights or privileges **shall** be given accounting recognition as described in paragraph 835-30-25-6.

Notes Exchanged for Property, Goods, or Services

30-3 As indicated in paragraph 835-30-25-8, notes exchanged for property, good, or services are valued and accounted for at the **present value** of the consideration exchanged between the contracting parties at the date of the transaction in **a manner similar** to that followed for a **cash transaction**.

30-4 As indicated in paragraph 835-30-25-2, if determinable, the established exchange price (which, presumable, is the same as the price for a cash sale) of property goods, or services acquired or sold in consideration for a note **may** be used to establish the **present value of the note**. That paragraph explains that, when notes are traded in an open market, the market rate of interest and quoted prices of the notes provide the evidence of the present value. The paragraph notes that

these methods are preferable means of establishing the present value of the note.

Here is **ASC 310-10-30-6** in its native format:

30-6 Paragraph 835-30-25-11 explains that, in the absence of established exchange prices for the related property, goods, or services or evidence of the fair value of the note (as described in paragraph 835-30-25-2), **present value of a note that stipulates either no interest or a rate of interest that is clearly unreasonable shall be determined by discounting all future payments on the notes using an imputed rate of interest as described in Subtopic 835-30**. Paragraph 835-30-25-11 explains that this determination **shall** be made at the time the note is acquired; any subsequent changes in prevailing interest rates **shall** be ignored.

Here is **ASC 310-10-30-5** in Native Format**:** As indicated in paragraph **835-30-25-10**; in circumstances where interest is not stated, the statement amount is unreasonable, or the stated face amount of the note is materially different from the cash sales price for the same or

similar items or from the fair value of the note at the date of the transaction, the note, the sales price, and the cost of the property, goods or services exchanged for the note **shall** be recorded at the fair value of the property, goods, or services or **at an amount that reasonably approximates** the fair value of the note, **which is more clearly determinable**.

26. After the initial transaction and measurement, ASC 310 **requires a company to periodically measure receivables for impairment to ensure that the recorded amounts still reflect the likelihood of collection**. ASC 310 further provides that a receivable is impaired when available information indicates that it is probable that an asset has been impaired at the date of the financial statements and the amount of loss can be reasonably estimated.[48]

Lie#26 ASC 310 does not require a company to periodically measure receivables for impairment. Here is the native language for **ASC 310-10-35-8**:

Subptopic **450-20** requires recognition of a loss when both of the following conditions are met:

a. Information available **before** the financial statements are issued or are available to be issued (as discussed in Section 855-10-25)

indicates that it is **probable** that an asset has been impaired at the date of the financial statements.

b. The amount of the loss can be reasonably estimated.

Again the Division manipulate the wording in US GAAP to mischaracterize the facts in this case.

C. The GAAP Standard for Fair Value – ASC 820

27. ASC 820 defines "acquisition-date fair value" fair value as "the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date."[49]

LIE#27: The Division is blending ASC 820 and ASC 805 which is incorrect.

ASC 820-10-20 defines fair value as "the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date.

Here is **ASC 805-20-30-1** in its native format: The acquirer **shall** measure the identifiable assets acquired, the liabilities assumed, and any noncontrolling interest in the acquiree at their acquisition-date fair value.

Here is **ASC 820-10—5-1B** in its native format: Fair value is a market-based measurement, not an entity-specific measurement. For some assets and liabilities, observable market transactions or market information might be available. For other assets and liabilities, observable market transactions and market information may not be available. However, the objective of the fair value measurement in both cases is the same – **to estimate the price** at which an orderly transaction to sell the asset or to transfer the liability would take place between market participants at the measurement date under current market conditions at the measurement date under current market conditions (that is, and exit price at the measurement date from the perspective of a market participant that holds assets or owes the liability).

Here is **ASC 820-10—35-9A** in its native format: The Price: Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction in the principal (or most advantageous) market af the measurement date under current market conditions (that

is an exit price) regardless of **whether that price is directly observable or estimated using another valuation technique**.

28. An "orderly transaction" is a "transaction that assumes exposure to the market for a period before the measurement date to allow for marketing activities that are usual and customary for transactions involving such assets."[50] Circumstances that may indicate that a transaction is not orderly include, but are not limited to: "(a) there was not adequate exposure to the market for a period before the measurement date to allow for marketing activities that are

[46] *Id.* ¶ 418 (citing ASC 310-05-4).
[47] *Id.* ¶ 418 (citing ASC 310-10-30-5).
[48] *Id.* ¶ 421 (citing ASC 310-10-35-8).
[49] *Id.* ¶ 643 (quoting ASC 820-10-20); *see also id.* (citing ASC 805-20-30-1); *id.* ¶ 420 (citing ASC 820-10-20); *see also* ASC 820-10-05-1B and ASC 820-10-35-9A.
[50] *Id.* ¶ 644 (quoting ASC 820-10-20); *id.* (citing ASC 805-10-20).

usual and customary for transactions involving such assets or liabilities under current market conditions; or (b) there was a usual and customary marketing period, but the seller marketed the asset or liability to a single market participant."[51]

LIE #28. Of course the Division and Devor left this out of their briefs, per **ASC 820-10-35-54I, "……<u>Circumstances that may indicate…</u>"**

Here is **ASC 820-10—35-54I** in its native format: **Identifying Transactions That Are Not Orderly**

35-54I The determination of whether a transaction is orderly (or is not orderly) is more difficulty if there has been a significant decrease in the volume or level of activity for the asset or liability in relation to normal market activity for the asset or liability (or similar assets or liabilities). In such circumstances, it is not appropriate to conclude that all transactions in that market are not orderly (that is, forced liquidations or distress sales). **<u>Circumstances that may indicate</u>** that a transaction is not orderly included the following:

a. There was not adequate exposure to the market for a period before the measurement date to allow for marketing activities that are usual

and customary for transactions involving such assets or liabilities under current market conditions.

b. There was a usual and customary marketing period, but the seller marketed the asset or liability to a single market participant.

c. The seller is in or near bankruptcy or receivership (that is, the seller is distressed).

d. The seller was required to sell to meet regulatory or legal requirements (that is, the seller was forced).

e. The transaction price is an outlier when compared with other recent transactions for the same or a similar asset or liability.

A reporting entity shall evaluate the circumstances to determine whether, on the weight of the evidence available, the transaction is orderly.

29. "If the evidence indicates that a transaction is not orderly, a reporting entity shall place little, if any, weight (compared with other indications of fair value) on that transaction price."[52]

Lie #29. There is no paragraph **ASC 805-10-35-54J** its **ASC 820-10-35-54J**.

The above Division paragraph is a sliver of the paragraph ASC 820-10-35-54J and of course they leave all the pertinent information from the US GAAP standard.

ASC 820-10-35-54J c. **If a reporting entity does not have sufficient information to conclude whether a transaction is orderly, it shall take into account the transaction price**. However, that transaction price may not represent fair value (that is, the transaction price is not necessarily the sole or primary basis for measuring fair value or estimating market risk premium). When a reporting entity does not have sufficient information to conclude whether particular transactions are orderly, the reporting entity shall place less weight on those transactions when compared with other transactions that are known to be orderly.

A reporting entity need not undertake exhaustive, efforts to determine whether a transaction is orderly, but it shall not ignore information that is reasonably available. When a reporting entity is a reporting entity is a party to a transaction, it is presumed to have sufficient information to conclude whether the transaction is orderly.

Here is **ASC 820-10-35-54J** in its full native format:

Identifying Transactions That Are Not Orderly

35-54I The determination of whether a transaction is orderly (or is not orderly) is more difficulty if there has been a significant decrease in the volume or level of activity for the asset or liability in relation to normal market activity for the asset or liability (or similar assets or liabilities). In such circumstances, it is not appropriate to conclude that all transactions in that market are not orderly (that is, forced liquidations or distress sales). Circumstances that may indicate that a transaction is not orderly included the following:

f. There was not adequate exposure to the market for a period before the measurement date to allow for marketing activities that are usual and customary for transactions involving such assets or liabilities under current market conditions.

g. There was a usual and customary marketing period, but the seller marketed the asset or liability to a single market participant.

h. The seller is in or near bankruptcy or receivership (that is, the seller is distressed).

i. The seller was required to sell to meet regulatory or legal requirements (that is, the seller was forced).

j. The transaction price is an outlier when compared with other recent transactions for the same or a similar asset or liability.

A reporting entity shall evaluate the circumstances to determine whether, on the weight of the evidence available, the transaction is orderly.

Level 1 Inputs

35-40 Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that the reporting entity can access at the measurement date.

35-54J A reporting entity shall consider all of the following when measuring fair value or estimation market risk premiums:

a. If the evidence indicates the transaction is not orderly, a reporting entity shall place little, if any, weight (compared with other indications of fair value) on that transaction price.

b. If the evidence indicates that a transaction is orderly, a reporting entity shall take into account that transaction price. The amount of weight placed on that transaction price when compared with other indications of fair value will depend on the facts and circumstances, such as the following:

    1. The volume of the transaction
    2. The comparability of the transaction to the asset or liability being measured
    3. The proximity of the transaction to the measurement date.

c. If a reporting entity does not have sufficient information to conclude whether a transaction is orderly, it shall take into account the transaction price. However, that transaction price may not

represent fair value (that is, the transaction price is not necessarily the sole or primary basis for measuring fair value or estimating market risk premiums). When a reporting entity does not have sufficient information to conclude whether particular transactions are orderly, the reporting entity shall place less weight on those transactions when compared with other transactions that are known to be orderly.

A reporting entity need not undertake exhaustive efforts to determine whether a transaction is orderly, but it shall not ignore information that is reasonably available. When a reporting entity is a party to a transaction, it is presumed to have sufficient information to conclude whether the transaction is orderly.

30. Level 1 inputs are "quoted prices (unadjusted) in active markets for identical assets or liabilities that the reporting entity can access at the measurement date."[53]

31. An active market is "a market in which transactions for the asset or liability take place with sufficient frequency and volume to provide pricing information on an ongoing basis."[54]

32. Level 2 inputs are "inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly."[55]

33. Level 3 inputs are “unobservable inputs for the asset or liability.”[56] An example of a Level 3 input “would be a financial forecast (for example, of cash flows or earnings).”[57]

Lie#33: The footnote has a typo its missing 820. It also mischaratcterizes the level three inputs for a reporting unit.

Here is the native paragraph **ASC 820-10-55-22(e)**: A level 3 input would be a financial forecast (for example, of cash flows or earnings) developed using the reporting entity’s own data if there is no reasonably available information that indicates that market participants would use different assumptions.

D. The GAAP Standard for Goodwill – ASC 350

34. An acquiring company must "measure and recognize any goodwill from a business combination only *after* it determines and recognizes (1) the fair value of any identifiable assets it acquired, including intangible assets, (2) liabilities assumed, and (3) any non-controlling interest in the acquiree."[58]

[51] *Id.* ¶ 644 (citing ASC 820-10-35-54I).
[52] ASC 805-10-35-54J.
[53] ASC 820-10-20; ASC 820-10-35-40.
[54] ASC 820-10-20.
[55] ASC 820-10-20; ASC 820-10-35-47.
[56] ASC 820-10-20; ASC 820-10-35-52; ASC 820-10-35-53.
[57] ASC-10-55-22(e).

LIE #34a. 25-1 As of the acquisition date, the acquirer shall recognize, separately from goodwill, the identifiable assets acquired, the liabilities assumed, and any noncontrolling interest in the acquiree. Recognition of identifiable assets acquired and liabilities assumed is subject to the conditions specified in paragraphs **805-20-25-2** through **25-3.**

LIE #34b. Here is ASC 805-30-30-1 in its native format. The definition of goodwill determined by the Division is not consistent with **ASC 805-30-30-1**, plus **ASC 805-30-30-1** doesn't mention "contracts".

ASC 805-30-30-1: The acquirer shall recognize goodwill as of the acquisition date, measured as the excess of (a) over (b):

a: The aggregate of the following:

1. The consideration transferred measured in accordance with this Section, which generally requires acquisition – date fair value (see paragraph 805-30-30-7).

2. The fair value of any non controlling interest in the acquiree.

3. In a business combination achieved in stages, the acquisition – date fair value of the acquiree's previously held equity interes in the acquiree.

b: The net of the acquisition – date amounts of the identifiable assets acquired and the liabilities assumed measured in accordance with this Topic.

LIE #34c. Here is the ASC 805-30-20 Glossary definition in its native format.

Goodwill: An asset representing the future economic benefits arising from other assets acquired in a business combination **or** an acquisition by a not-for-profit entity that are not individually identified and separated separately recognized.

35. After its initial recognition, goodwill must be presented in accordance with ASC 350, which requires that the "[g]oodwill of a reporting unit shall be tested for impairment on an annual basis."[59]

Lie #35a. This is the actual standard. **ASC 350-20-35-28**: When to Test Goodwill for impairment: Goodwill of a reporting unit

shall be tested for impairment on an annual basis and between annual tests in circumstances (see paragraph 350-20-25-30). The annual goodwill impairment test may be performed any time during the fiscal year provided the test is performed at the same time every year. Different reporting units may be tested for impairment at different times.

Additionally, goodwill "shall be tested for impairment if an event occurs or circumstances change that indicate that the fair value of the entity (or the reporting unit) may be below its carrying amount (a triggering event)."[60]

Lie #35b. Below is the actual standard and of course they leave this paragraph completely out of the Divisions proposed facts which further overstates and mischaracterizes their statements. **"…If an entity determines that there are no triggering events, then further testing is unnecessary**."

It also says **"entity"** not the auditor. US GAAP is the responsibility of management not the auditor.

ASC 350-20-35-66: When to Test Goodwill for Impairment. Goodwill of an entity (or a reporting unit) shall be tested for impairment if an event occurs or circumstances change that indicate that the fair value of the entity (or the reporting unit) may be below its carrying amount (a triggering event) Paragraph 350-20-35-3C (a) through (g) includes examples of those events or circumstances. Those examples are not all – inclusive and an entity shall consider other relevant events and circumstances that affect the fair value or carrying amount of the entity (or of a reporting unit) in determining whether to perform the goodwill impairment test. **If an entity determines that there are no triggering events, then further testing is unnecessary**.

36. GAAP permits companies to assess goodwill using either a qualitative or quantitative test.[61]

Lie #36: ASC 350-20-35-1 "Goodwill **shall** not be amortized. Instead, goodwill **shall** be tested for impairment at a level of reporting referred to as a reporting unit. (Paragraphs 350-20-35-33 through 35-

46 provide guidance on determining reporting units.) 350-20-35-2 Impairment is the condition that exists when the carrying amount of goodwill exceeds its implied fair value. The fair value of goodwill can be measured only as a residual and cannot be measured directly.

350-20-35-3 *An entity **may** first assess qualitative factors, as described in paragraphs 350-20-35-3A through 35-3G, to determine whether it is necessary to perform the two-step goodwill impairment test discussed in **paragraphs 350-20-35-4 through 35-19. If determined to be necessary**, the two-step impairment test shall be used to identify potential goodwill impairment and measure the amount of a goodwill impairment loss to be recognized (if any).*

37. Under a qualitative test, companies **must determine** "whether it is more likely than not (*i.e.*, greater than 50%) that the fair value of an entity or reporting unit is less than its carrying amount."[62] In making this evaluation, "'**an entity shall assess relevant events and circumstances**.'"[63]

LIE # 37: ASC 350-20-35-3A says **"may assess"** not **"must determine"** and entire quoted component **"an entity shall assess relevant events and circumstances"** is not even in this paragraph and is completely

fabricated. **ASC 350-20-35-3A** is provided in native format below: **Qualitative Assessment 350-20-35-3A**: "An entity **may assess** qualitative factors to determine whether it is more likely than not (that is, a likelihood of more than 50 percent) that the fair value of a reporting unit is less than its carrying amount, including goodwill. If it's not more likely than not then you don't need to do the two step impairment analysis."

Under ASC 350, examples of qualitative events and/or circumstances that could result in the impairment of goodwill include, but are not limited to: (1) macroeconomic conditions; (2) industry and market considerations; (3) cost factors; and (4) overall financial performance.[64]

Subsequent Measurement Qualitative Assessment 350-20-35-3C: "In evaluating whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount, an entity shall assess relevant events and circumstances. Examples of such events and circumstances include the following:

b. Industry and market considerations such as a deterioration in the environment in which an entity operates, an increased competitive

environment, a decline in market-dependent multiples or metrics (consider in both absolute terms and relative to peers), a change in the market for an entity's products or services, or a regulatory or political development

d. Overall financial performance such as negative or declining cash flows or a decline in actual or planned revenue or earnings compared with actual and projected results of relevant prior periods."

350-20-35-3D "If, **after assessing the totality of events or circumstances such as those described in the preceding paragraph, an entity determines that it is not more likely than not that the fair value of a reporting unit is less than its carrying amount, then the first and second steps of the goodwill impairment test are unnecessary.**"

38. If a company does not use this qualitative option, or if it determines that the fair value of the entity or its reporting unit is less than its carrying amount, the company is "**required**" to perform a two-step quantitative goodwill impairment test.[65]

Lie #38. ASC 350-20-35-3 does not say any of this**.** Here is **ASC 350-20-35-3** in its native format: *An entity **may** first assess qualitative factors, as*

described in paragraphs 350-20-35-3A through 35-3G, to determine whether it is necessary to perform the two-step goodwill impairment test discussed in ***paragraphs 350-20-35-4 through 35-19.*** ***If determined to be necessary****, the two-step impairment test shall be used to identify potential goodwill impairment and measure the amount of a goodwill impairment loss to be recognized (if any).*

No the Company is not necessarily required **350-20-35-3D** "If, after assessing the totality of events or circumstances such as those described in the preceding paragraph, an entity determines that it is not more likely than not that the fair value of a reporting unit is less than its carrying amount, **then the first and second steps of the goodwill impairment test are unnecessary.**"

Qualitative Assessment 350-20-35-3A: An entity may asses qualitative factors to determine whether it is more likely than not (that is, a likelihood of more than 50 percent) that the fair value of the reporting unit is less than its carrying amount, including goodwill.

350-20-35-3B: An entity has an unconditional option to bypass the qualitative assessment described in the preceding for any reporting unit in any period and proceed directly to performing the first step of the goodwill impairment test. An entity may resume performing the qualitative assessment in any subsequent period.

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[58] *Id.* ¶ 431.
[59] *Id.* ¶ 432 (citing ASC 350-20-35-28).
[60] *Id.* ¶ 432 (citing ASC 350-20-35-66).
[61] *Id.* ¶ 433.
[62] *Id.* ¶ 434 (citing ASC 350-20-35-3 & 3A).
[63] *Id.* ¶ 435 (quoting ASC 350-20-35-3A).
[64] *Id.* ¶ 435 (citing ASC 350-20-35-3C).
[65] *Id.* ¶ 436 (citing ASC 350-20-35-3).

39. The purpose of the two-step quantitative goodwill impairment test is "to determine whether the carrying value of the entity or reporting unit is consistent with its fair value as of the measurement date."[66] If the carrying value of an entity or reporting unit exceeds the fair value of its goodwill as of the measurement date, GAAP requires that "an impairment loss shall be recognized in an amount equal to that excess."[67]

Lie #39. ASC 350.20.35-11: If the carrying amount of the reporting until goodwill exceeds the implied fair value of the goodwill, an impairment loss shall be recognized in an amount equal to that excess. The loss recognized cannot exceed the carrying amount of goodwill.

40. If a goodwill impairment loss is recognized, the reporting entity must disclose in the notes to the financial statements, "a description of the facts and circumstances leading to the impairment," and "the amount of the impairment loss and the method of determining the fair value of the associated reporting unit."[68]

Lie #40. The Division left out paragraph c below. **ASC 350-20-50-2** is in its full native format below:

ASC 350-20-50-2: Goodwill Impairment Loss: For each goodwill impairment loss recognized, all the following shall be disclosed in the notes to the financial statements that include the period in which the impairment loss is recognized:

a) A description of the facts and circumstances leading to the impairment.

B) the amount of the impairment loss and the method of determining the fair value of the associated reporting unit (whether based on quoted market prices, prices of comparable businesses or non profit activities, a present value or other valuation technique, or a combination thereof).

c) if a recognized impairment loss is an estimate that has not yet been finalized (see paragraphs 350-20-35-18 through 35-19), that fact and the reasons therefore and, in subsequent periods, the nature and amount of any significant adjustments made to the initial estimate of the impairment loss.

E. The GAAP Standard for Errors in Prior Reporting Periods – ASC 250

41. ASC 250 states that "any error in the financial statements of a prior period discovered after the financial statements are issued or are available to be issued should be reported as an error correction, by restating the prior-period financial statements."[69]

Lie#41: The Divisions mischaracterizes the US GAAP pronouncements because it doesn't provide a clear response to the full standards that are applicable to goodwill and business combinations. **ASC 805-10-25-13 to 19** clearly state that transactions record provisional amounts for up to 12 months based on "management's best estimate".

ASC 805-10-S25-19 Recognition the Native Paragraph States: After the measurement period ends (i.e. 12 months), the acquirer shall revise the accounting for a business combination only to correct the error in accordance with TOPIC 250 (ASC 250).

Under **ASC 250 -10-50-5 Change in Estimate Used in Valuation Technique** (ASC "250") "The disclosure provisions of this subtopic for a change in accounting estimate are not required for revisions resulting from a change in a valuation techniques used to measure fair value or its application when the resulting measurement is fair value in accordance with Topic 820. This would not also include **ASC 805-10-25-15** and **ASC 805-10-30-1** to **ASC 805-10-30- 3** and **ASC 805-10-25-13 to 19.**

Applicable GAAS Standards

42. An external auditor has two responsibilities. First, an auditor must plan and perform an audit to obtain reasonable assurance that the financial statements are free of material misstatement. Second, an auditor **must** express an opinion on whether the financial statements are presented fairly, in all material respects, in conformity with GAAP.[70]

Lie #42: The Division and Devor needs to update his boiler plate templates to reflect the actual auditor standards. **AU 110.01** and **.02** do not state the representations in **paragraph 42**. Native copy provided below:

AU 110: Responsibilities and Functions of the Independent Auditor

.01 The objective of the ordinary audit of financial statements by the independent auditor is the expression of an opinion on the fairness with which they present, in all material respects, financial position, results of operations, and its cash flows in conformity with generally accepted accounting principles. The auditor's report is the medium through which he expresses his opinion or, if circumstances require, disclaims an opinion. In either case, he states whether his audit has been made in accordance

with the standards of the PCAOB. These standards require him to state whether, in his opinion, the financial statements are presented in conformity with generally accepted accounting principles and to identify those circumstances in which such principles have not been consistently observed in the preparation of the financial statements of the current period in relation to those of the preceding period.

Distinction Between Responsibilities of Auditor and Management

.02 The auditor has a responsibility to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud.[1] Because of the nature of audit evidence and the characteristics of fraud, the auditor is able to obtain reasonable, but not absolute, assurance that material misstatements are detected.[2] The auditor has no responsibility to plan and perform the audit to obtain reasonable assurance that

misstatements, whether caused by errors or fraud, that are not material to the financial statements are detected.

.03 The financial statements are management's responsibility. The auditor's responsibility is to express an opinion on the financial statements. Management is responsible for adopting sound accounting policies and for establishing and maintaining internal control that will, among other things, initiate, record, process, and report transactions (as well as events and conditions) consistent with management's assertions embodied in the financial statements. The entity's transactions and the related assets, liabilities, and equity are within the direct knowledge and control of management. The auditor's knowledge of these matters and internal control is limited to that acquired through the audit. Thus, the fair presentation of financial statements in conformity with generally accepted accounting principles[3] is an implicit and integral part of management's responsibility. The independent auditor may make suggestions about the form or content of the financial statements or draft them, in whole or in part, based on information from management during the performance of

the audit. **However, the auditor's responsibility for the financial statements he or she has audited is confined to the expression of his or her opinion on them**.

43. The Public Company Accounting Oversight Board ("PCAOB") has promulgated standards by which an auditor must plan, conduct, and report on an audit. These standards are "a measure of audit quality and the objectives to be achieved in an audit." Auditors have a "responsibility to their profession to comply with these standards."[71]

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[66] *Id.* ¶ 437.
[67] *Id.* ¶ 437 (quoting ASC 350-20-35-11).
[68] ASC 350-20-50-2.
[69] *Id.* ¶ 651 (quoting ASC 250-10-45-23).
[70] Ex. 88.1 (Devor Report) ¶ 37 (citing AU 110.01, -.02).

Lie #43 AU 150.01 does not say the previous statements. Here is AU **150.01** in Native Format:

AU Section 150

Generally Accepted Auditing Standards

.01 An independent auditor plans, conducts, and reports the results of an audit in accordance with generally accepted auditing standards (GAAS). Auditing standards provide a measure of audit quality and the objectives to be achieved in an audit. Auditing procedures differ from auditing standards. Auditing procedures are acts that the auditor performs during the course of an audit to comply with auditing standards.

44. The PCAOB and the American Institute of Certified Public Accountants ("AICPA") have approved and adopted ten high-level generally accepted auditing standards to which auditors must adhere throughout the conduct of all audits. The ten standards fall into three categories: (1) general standards; (2) standards of fieldwork; and (3) standards of reporting. Specifically:

General Standards

- The audit is to be performed by a person or persons having

adequate technical training and proficiency as an auditor.

- In all matters relating to the assignment, an independence in mental attitude is to be maintained by the auditor or auditors.

- Due professional care is to be exercised in the performance of the audit and the preparation of the report.

Standards of Field Work

- The work is to be adequately planned and assistants, if any, are to be properly supervised.

- A sufficient understanding of internal control is to be obtained to plan the audit and to determine the nature, timing, and extent of tests to be performed.

- Sufficient appropriate evidential matter is to be obtained through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an opinion regarding the financial statements under audit.

[71] *Id.* ¶ 38 (citing AU 150.01).

Standards of Reporting

- The report shall state whether the financial statements are presented in accordance with generally accepted accounting principles.

- The report shall identify those circumstances in which such principles have not been consistently observed in the current period in relation to the preceding period.

- Informative disclosures in the financial statements are to be regarded as reasonably adequate unless otherwise stated in the report.

- The report shall contain either an expression of opinion regarding the financial statements, taken as a whole, or an assertion to the effect that an opinion cannot be expressed. When an overall opinion cannot be expressed, the reasons therefor should be stated. In all cases where an auditor's name is associated with financial statements, the report should contain a clear-cut indication of the character of the auditor's work, if any, and the degree of responsibility the auditor is taking.[72]

45. In the auditor's report, the auditor expresses an opinion on both the scope of his or her work and the fairness of the presentation of the financial statements (and often, the effectiveness of the entity's system of internal control over financial reporting). The audit report also identifies any circumstances in which the financial statements are not presented in accordance with GAAP.[73]

Lie #45: The paragraphs cited in footnote 73 are not consistent with the content that Division is referencing in the previous paragraph.

Here is **AU 150.02** Standards of Reporting in its raw format.

[73] *Id.* ¶ 41 (citing AU 110.01, 150.02).

1. The report shall state whether the financial statements are presented in accordance with generally accepted accounting principles (GAAP).
2. The report shall identify those circumstances in which such principles have not been consistently observed in the current period in relation to the preceding period.
3. Informative disclosures in the financial statements are to be regarded as reasonably adequate unless otherwise stated in the report.
4. The report shall contain either an expression of opinion regarding the financial statements, taken as a whole, or an assertion to the effect that an opinion cannot be expressed. When an overall opinion cannot be expressed, the reasons therefor should be stated**. In all cases where an auditor's name is associated with financial statements**, the report should contain a clear-cut indication of the character of the auditor's work, if any, and the degree of responsibility the auditor is taking.

AU Section 110

Responsibilities and Functions of the Independent Auditor

.01

The objective of the ordinary audit of financial statements by the independent auditor is the expression of an opinion on the fairness with which they present, in all material respects, financial position, results of operations, and its cash flows in conformity with generally accepted accounting principles. The auditor's report is the medium through which he expresses his opinion or, if circumstances require, disclaims an opinion. In either case, he states whether his audit has been made in accordance with generally accepted auditing standards. These standards

[73] *Id.* ¶ 41 (citing AU 110.01, 150.02).

require him to state whether, in his opinion, the financial statements are presented in conformity with generally accepted accounting principles and to identify those circumstances in which such principles have not been consistently observed in the preparation of the financial statements of the current period in relation to those of the preceding period.

This entire paragraph 45 by the Division is a fraudulent paragraph:

1) Auditors do not express an opinon on the scope of their work. The SEC EDGAR system will not accept an audit opinion that is unqualified. It will not accept a scope limitation or an adverse audit opinion.
2) Auditors for small micro cap companies do not provide any conclusions relating to the effectiveness of the entity's system of internal control over financial reporting.
3) The SEC's EDGAR system will not accept any audit reports where the financial statements don't comply with U.S. GAAP. This is relevant for a private company not a public company. The public company standards are relevant for this case.

[73] *Id.* ¶ 41 (citing AU 110.01, 150.02).

46. In this case, the following PCAOB standards (among others) applied to Anton & Chia's work:

A. AU 230 – Due Professional Care in the Performance of Work

47. The exercise of due professional care and professional skepticism are the "**overarching obligations** to which an auditor **must** adhere when performing procedures underlying the expression of an audit opinion."[74]

[72] *Id.* ¶ 39 (quoting AU 150.02).

[73] *Id.* ¶ 41 (citing AU 110.01, 150.02).

LIE #47a. AU 150.02 and **AU 722.01** do not mention "**overarching obligations**". Here is AU 150.02 Standards of Reporting in its raw format.

1. The report **shall** state whether the financial statements are presented in accordance with generally accepted accounting principles (GAAP).
2. The report **shall** identify those circumstances in which such principles have not been consistently observed in the current period in relation to the preceding period.
3. Informative disclosures in the financial statements are to be regarded as reasonably adequate unless otherwise stated in the report.
4. The report **shall** contain either an expression of opinion regarding the financial statements, taken as a whole, or an assertion to the effect that an opinion cannot be expressed. When an overall opinion cannot be expressed, the reasons therefor should be stated**. In all cases where an auditor's name is associated with financial statements**, the report should contain a clear-cut indication of the character of the auditor's work, if any, and the degree of responsibility the auditor is taking.

Here is **AU 722.01** in its raw format.

The purpose of this section is to establish standards and provide guidance on the nature, timing, and extent of the procedures to be performed by an independent accountant when conducting a review of *interim financial information* (as that term is defined in paragraph .02 of this section). The general standards[1A] are applicable to a review

of interim financial information conducted in accordance with this section. This section provides guidance on the application of the field work and reporting standards to a review of interim financial information, to the extent those standards are relevant.

AU722.01 and AU150.02 don't say anything about "due care". The SEC and Devor should revise its templates. AU 230 makes no reference to a review……..only an audit.

The concept of due professional care, which is defined in AU 230, is in essence "'what the independent auditor does and how well he or she does it.'"[75]

LIE #47b. AU230.03 *Cooley on Torts*, a legal treatise, describes the obligation for due care as follows:

Every man who offers his services to another and is employed assumes the duty to exercise in the employment such skill as he possesses with reasonable care and diligence. In all these employments where peculiar skill is requisite, if one offers his services, he is understood as holding himself out to the public as possessing **the degree of skill commonly**

possessed by others in the same employment, and if his pretentions are unfounded, he commits a species of fraud upon every man who employs him in reliance on his public profession. But no man, whether skilled or unskilled, undertakes that the task he assumes shall be performed successfully, and without fault or error; he undertakes for good faith and integrity, **but not for infallibility**, and he is liable to his employer for negligence, bad faith, or dishonesty, but **not for losses consequent upon pure errors of judgment**.

.04 The matter of due professional care concerns what the independent auditor does and how well he or she does it. The quotation from *Cooley on Torts* provides a source from which an auditor's responsibility for conducting an audit with due professional care can be derived.

Without the actual background the SEC's idea of due care is materially taken out of context. AU **230.03** does not say "**requires**".

[73] *Id.* ¶ 41 (citing AU 110.01, 150.02).

AU **230.03** also does not say the word "**auditor**" it says "**by others in the same employment**"

48. "Due professional care is 'the degree of skill commonly possessed' by other auditors."[76] "Due professional care generally requires an auditor to exercise 'reasonable care and diligence' and 'professional skepticism' **when performing audit procedures throughout the audit process and when rendering opinions.**"[77]

Lie #48: The paragraphs cited do not state "when performing audit procedures throughout the audit process and when rendering opinions.

AU230.03 *Cooley on Torts*, a legal treatise, describes the obligation for due care as follows:

Every man who offers his services to another and is employed assumes the duty to exercise in the employment such skill as he possesses with reasonable care and diligence. In all these employments where peculiar skill is requisite, if one offers his services, he is understood as holding himself out to the public as possessing the degree of skill commonly possessed by others in the same employment, and if his pretentions are unfounded, he commits a species of fraud upon every man who employs him in reliance on his public profession. But no man, whether skilled or unskilled, undertakes that the task he assumes shall be performed successfully, and without fault or error; he undertakes for good faith and integrity, but not for infallibility, and he is liable to his employer for negligence, bad faith, or dishonesty, but not for losses consequent upon pure errors of judgment.

[73] *Id.* ¶ 41 (citing AU 110.01, 150.02).

05 An auditor should possess "the degree of skill commonly possessed" by other auditors and should exercise it with "reasonable care and diligence" (that is, with due professional care).

.06 Auditors should be assigned to tasks and supervised commensurate with their level of knowledge, skill, and ability so that they can evaluate the audit evidence they are examining. The engagement partner should know, at a minimum, the relevant professional accounting and auditing standards and should be knowledgeable about the client. The engagement partner is responsible for the assignment of tasks to, and supervision of, the members of the engagement team.[4]

Professional Skepticism

.07 Due professional care requires the auditor to exercise *professional skepticism*. Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence. The auditor uses the knowledge, skill, and ability called for by the profession of public accounting to diligently perform, in good faith and with integrity, the gathering and objective evaluation of evidence.

.08 Gathering and objectively evaluating audit evidence requires the auditor to consider the competency and sufficiency of the evidence. Since evidence is gathered and evaluated throughout the audit, professional skepticism should be exercised throughout the audit process.

49. Professional skepticism as an attitude that includes a "questioning mind" and "critical assessment of audit evidence." "The auditor uses the knowledge, skill, and ability called for by the profession of public accounting to diligently perform, in good faith and with integrity, the gathering

[73] *Id.* ¶ 41 (citing AU 110.01, 150.02).

and objective evaluation of evidence."[78] "Gathering and objectively evaluating audit evidence requires the auditor to consider the competency and sufficiency of the evidence."[79]

AU 230.07 Due professional care requires the auditor to exercise *professional skepticism*. Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence. The auditor uses the knowledge, skill, and ability called for by the profession of public accounting to diligently perform, in good faith and with integrity, the gathering and objective evaluation of evidence.

50. Auditors "'should be assigned to tasks and supervised commensurate with their level of knowledge, skill, and ability so that they can evaluate the audit evidence they are examining.'"[80] Furthermore, the engagement partner is "'responsible for the assignment of tasks to, and supervision of, the members of the engagement team.'"[81]

.06 Auditors should be assigned to tasks and supervised commensurate with their level of knowledge, skill, and ability so that they can evaluate the audit evidence they are examining. The engagement partner should know, at a minimum, the relevant professional accounting and auditing standards and should be knowledgeable about the client. The engagement partner is responsible

for the assignment of tasks to, and supervision of, the members of the engagement team.[4]

.08 Gathering and objectively evaluating audit evidence requires the auditor to consider the competency and sufficiency of the evidence. Since evidence is gathered and evaluated throughout the audit, professional skepticism **should** be exercised throughout the audit process.

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[74] *Id.* ¶ 44; *see also id.* ¶ 44 n.11 (citing AU 722.01, 150.02) ("Professional care and professional skepticism also applies to reviews of interim financial statements performed in accordance with AU 722.").
[75] *Id.* ¶ 44 (citing AU 230).
[76] *Id.* ¶ 45 (quoting AU 230.03).
[77] *Id.* ¶ 45 (quoting AU 230.05, -.07, -.08).
[78] *Id.* ¶ 46 (citing AU 230.07).
[79] *Id.* ¶ 46 (citing AU 230.08).
[80] *Id.* ¶ 47 (quoting AU 230.06).
[81] *Id.* ¶ 47 (quoting AU 230.06; footnote omitted).

[73] *Id.* ¶ 41 (citing AU 110.01, 150.02).

51. Under AU 230, "'[t]he auditor neither assumes that management is dishonest nor assumes unquestioned honesty.'"[82]

.09 The auditor neither assumes that management is dishonest nor assumes unquestioned honesty. In exercising professional skepticism, the auditor should not be satisfied with less than persuasive evidence because of a belief that management is honest.

B. AU 210 – Training and Proficiency of the Independent Auditor

52. An audit **must** be performed by those who have "adequate technical training and proficiency as an auditor."[83]

LIE #52: Here the Division switches out "**is to be**" with "**must**". Here is **AU 210.01** in Native format. The first general standard is:

The audit **is to be** performed by a person or persons having adequate technical training and proficiency as an auditor.

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

AU 210.02 This standard recognizes that however capable a person may be in other fields, including business and finance, **he cannot meet the requirements of the auditing standards without proper education and experience in the field of auditing**.

This is exactly why the Respondents are so insulted and disgusted by this case. How are the SEC attorneys and Devor expected to analyze and critique our case, they have No "**experience"** in the field of auditing in accordance with PCAOB standards for small public companies (or microcap companies) which are the three registrants in this case (**TR 668 Lines 18-22**).

53. "The junior assistant **must** obtain his professional experience with the proper supervision and review of his work by a more experienced superior. An engagement partner **must** exercise 'seasoned judgment' in the supervision and review of the work done and judgments exercised by subordinates."[84]

Lie #53: Of course the Division doesn't cite that there **is flexibility in the extent of the nature of the supervision and review**. Based on the

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

nature and extent of supervision and review must necessarily reflect wide variances in practice. The engagement partner must exercise seasoned judgment in the varying degrees of his supervision and review of the work done and judgments exercised by his subordinates, who in turn must meet the responsibilities attaching to the varying gradations and functions of their work.

AU230.03 In the performance of the audit which leads to an opinion, the independent auditor holds himself out as one who is proficient in accounting and auditing. The attainment of that proficiency begins with the auditor's formal education and extends into his subsequent experience. The independent auditor must undergo training adequate to meet the requirements of a professional. This training must be adequate in technical scope and should include a commensurate measure of general education. The junior assistant, just entering upon an auditing career, must obtain his professional experience with the proper supervision and review of his work by a more experienced superior. **The nature and extent of supervision and review must**

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

necessarily reflect wide variances in practice. The engagement partner must exercise seasoned judgment in the varying degrees of his supervision and review of the work done and judgments exercised by his subordinates, who in turn must meet the responsibilities attaching to the varying gradations and functions of their work.

54. An independent auditor must be "proficient in accounting and auditing" and "**must** have the ability to exercise independent judgment with respect to the information obtained during the course of an audit."[85]

Lie #54: No AU 210 doesn't say this. See below in native format.

AU 210.05 In the course of his day-to-day practice, the independent auditor encounters a **wide range of judgment** on the part of management, varying from true objective **judgment** to the occasional extreme of deliberate misstatement. He is retained to audit and report upon the financial statements of a business because, through his training and experience, he has become **skilled** in accounting and auditing and

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

has acquired the ability to consider objectively and to **exercise independent judgment** with respect to the information recorded in books of account or otherwise disclosed by his audit.

C. AU 311 – Planning and Supervision and AU 314 – Understanding the Entity and Its Environment and Assessing the Risk of Material Misstatement

55. AU 311 provides guidance for auditors "to ensure audits are adequately planned and **appropriately** supervised."[86]

AU 311.01 The first standard of field work requires that "the work is to be adequately planned and assistants, if any, are to be **properly** supervised." This section provides guidance to the independent auditor conducting an audit in accordance with generally accepted auditing standards on the considerations and procedures applicable to planning and supervision, including preparing an audit program, obtaining knowledge of the entity's business, and dealing with differences of opinion among firm personnel. Planning and supervision continue throughout the audit, and the related procedures frequently overlap.

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

[82] *Id.* ¶ 48 (quoting AU 230.09).
[83] *Id.* ¶ 49 (citing AU 210.01, 210.02).
[84] *Id.* ¶ 50 (quoting AU 230.03).
[85] *Id.* ¶ 51 (citing AU 210.05).
[86] *Id.* ¶ 52 (citing AU 311.01).
[87] *Id.* ¶ 52 (citing AU 311.03, .09); *see also id.* ¶ 52 n.12 (citing (AU 314.41) ("Internal controls is the process, effected by an entity's Board, management, and/or other personnel, designed to provide reasonable assurance regarding the achievement of the entity's objectives in the following categories: (1) reliability of financial reporting, (2) effectiveness and efficiency of operations, and (3) compliance with applicable laws and regulations.").

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

"Planning an audit involves obtaining an understanding of the entity and its **environment**, including its **internal control**."[87]

Lie #55: Here is **AU 311.03** and **.09** there native formats and it does not say this. **AU 311.03** makes no mention of "**internal control"** and it doesn't even mention the word "**environment**". **AU311.09** discusses processing of accounting information and computer systems. Not internal controls.

Planning AU 311.03 Audit planning involves developing an overall strategy for the expected conduct and scope of the audit. The nature, extent, and timing of planning vary with the size and complexity of the entity, experience with the entity, and knowledge of the entity's business. In planning the audit, the auditor should consider, among other matters:

a. Matters relating to the entity's business and the industry in which it operates (see paragraph .07).

b. The entity's accounting policies and procedures.

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

c. The methods used by the entity to process significant accounting information (see paragraph .09), including the use of service organizations, such as outside service centers.

d. Planned assessed level of control risk. (See section 319.)

e. Preliminary judgment about materiality levels for audit purposes.

f. Financial statement items likely to require adjustment.

g. Conditions that may require extension or modification of audit tests, such as the risk of material error or fraud or the existence of related party transactions.

h. The nature of reports expected to be rendered (for example, a report on consolidated or consolidating financial statements, reports on financial statements filed with the SEC, or special reports such as those on compliance with contractual provisions).

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

AU 311.09 The auditor should consider the methods the entity uses to process accounting information in planning the audit because such methods influence the design of the internal control. The extent to which computer processing is used in significant accounting applications, [fn 2] as well as the complexity of that processing, may also influence the nature, timing, and extent of audit procedures. Accordingly, in evaluating the effect of an entity's computer processing on an audit of financial statements, the auditor should consider matters such as—

a. The extent to which the computer is used in each significant accounting application.

b. The complexity of the entity's computer operations, including the use of an outside service center. [fn 3]

c. The organizational structure of the computer processing activities.

d. The availability of data. Documents that are used to enter information into the computer for processing, certain computer files, and other evidential matter that may be required by the auditor may exist only for a short period or only in computer-

[88]

readable form. In some computer systems, input documents may not exist at all because information is directly entered into the system. An entity's data retention policies may require the auditor to request retention of some information for his review or to perform audit procedures at a time when the information is available. In addition, certain information generated by the computer for management's internal purposes may be useful in performing substantive tests (particularly analytical procedures). [fn 4]

e. The use of computer-assisted audit techniques to increase the efficiency of performing audit procedures. [fn 5] Using computer-assisted audit techniques may also provide the auditor with an opportunity to apply certain procedures to an entire population of accounts or transactions. In addition, in some accounting systems, it may be difficult or impossible for the auditor to analyze certain data or test specific control procedures without computer assistance.

From this understanding, the auditor "assess[es] the risks of material misstatement of the financial statements" and "design[s] the nature, timing, and extent of further audit procedures."[88]

Lie #55: Here is **AU311.09** discusses processing of accounting information and computer systems. It discusses "such methods influence the design of the internal controls." However, **AU 314.01** does say this.

.09 The auditor should consider the methods the entity uses to process accounting information in planning the audit because such methods influence the design of the internal control. The extent to which computer processing is used in significant accounting applications, [fn 2] as well as the complexity of that processing, may also influence the nature, timing, and extent of audit procedures. Accordingly, in evaluating the effect of an entity's computer processing on an audit of financial statements, the auditor should consider matters such as—

a. The extent to which the computer is used in each significant accounting application.

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

b. The complexity of the entity's computer operations, including the use of an outside service center. [fn 3]

c. The organizational structure of the computer processing activities.

d. The availability of data. Documents that are used to enter information into the computer for processing, certain computer files, and other evidential matter that may be required by the auditor may exist only for a short period or only in computer-readable form. In some computer systems, input documents may not exist at all because information is directly entered into the system. An entity's data retention policies may require the auditor to request retention of some information for his review or to perform audit procedures at a time when the information is available. In addition, certain information generated by the computer for management's internal purposes may be useful in performing substantive tests (particularly analytical procedures). [fn 4]

e. The use of computer-assisted audit techniques to increase the efficiency of performing audit procedures. [fn 5] Using computer-

[88] *Id*

assisted audit techniques may also provide the auditor with an opportunity to apply certain procedures to an entire population of accounts or transactions. In addition, in some accounting systems, it may be difficult or impossible for the auditor to analyze certain data or test specific control procedures without computer assistance.

56. In establishing the overall audit strategy, "the auditor is required to consider important factors or areas where special audit consideration may be necessary and that will determine the focus of the audit team's efforts, such as recent significant entity-specific developments or complex or unusual transactions."[89]

Lie #56 AU 311.14 and **AU 314.03** are in their native formats below. The paragraphs don't say this. US GAAS does say it but I am not telling the Division where it does. What happened to Devor?

AU 311.14 The auditor with final responsibility for the audit and assistants should be aware of the procedures to be followed when differences of opinion concerning accounting and auditing issues exist among firm personnel involved in the audit. Such procedures should enable an assistant to document his disagreement with the

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

conclusions reached if, after appropriate consultation, he believes it necessary to disassociate himself from the resolution of the matter. In this situation, the basis for the final resolution should also be documented. [Paragraph renumbered by the issuance of Statement on Auditing Standards No. 48, July 1984.]

AU 314.03 Obtaining an understanding of the entity and its environment is an essential aspect of performing an audit in accordance with generally accepted auditing standards. In particular, that understanding establishes a frame of reference within which the auditor plans the audit and exercises professional judgment about assessing risks of material misstatement of the financial statements and responding to those risks throughout the audit, for example when:

• Establishing materiality for planning purposes and evaluating whether that judgment remains appropriate as the audit progresses. • Considering the appropriateness of the selection and application of accounting policies and the adequacy of financial statement disclosures.

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

• Identifying areas where special audit consideration may be necessary, for example, related-party transactions, the appropriateness of management's use of the going-concern assumption, complex or unusual transactions, or considering the business purpose of transactions.

• Developing expectations for use when performing analytical procedures.

• Designing and performing further audit procedures to reduce audit risk to an appropriately low level.

• Evaluating the sufficiency and appropriateness of audit evidence obtained, such as evidence related to the reasonableness of management's assumptions and of management's oral and written representations.

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

57. The auditor must develop an audit plan "which should include a description of the nature, timing, and extent of planned risk assessment procedures sufficient to assess the risk of material misstatement as determined under AU 314."[90]

LIE #57 Footnote 90, **AU 311** pertains to Planning and Supervision. There is no paragraph **21 in AU 311.** Plus the paragraph is citing **AU 314** not **AU 311.**

58. If the auditor determines that there are weaknesses in an entity's control environment, the auditor should "consider an appropriate response and modify the audit procedures performed."[91]

Lie #58: Nope **AU 314.75** doesn't state what is discussed in **Lie #58**.

AU 314.75 The existence of a satisfactory control environment is a positive factor when the auditor assesses the risks of material misstatement of the financial statements. Although an effective control environment is not an absolute deterrent to fraud because of the limitations of internal control, it may help reduce the risks of fraud. Because of the pervasive effect of the control environment on assessing the risks of material misstatement, the auditor's preliminary judgment about its effectiveness often influences the nature, timing,

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

and extent of the further audit procedures to be performed. For example, weaknesses in the control environment may lead the auditor to perform more substantive procedures as of the date of the balance sheet rather than at an interim date, modify the nature of the tests of controls or substantive procedures to obtain more persuasive evidence, or increase the number of locations to be included in the scope of the audit. Conversely, an effective control environment may allow the auditor to have some degree of increased confidence in internal control and the reliability of evidence generated internally within the entity and thus, for example, allow the auditor to perform tests of controls and substantive procedures at an interim date rather than at the balance sheet date. However, the control environment ordinarily is not specific enough to prevent or detect material misstatements in account balances, classes of transactions, or disclosures and related assertions. The auditor, therefore, should consider the effect of other components of internal control in conjunction with the control environment when assessing the risks of

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

material misstatement, for example, the monitoring of controls and the operation of specific control activities.

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

D. AU 315 – Communications between Predecessor and Successor Auditors

59. AU 315 **requires** the successor auditor to make "specific and reasonable inquiries of the predecessor auditor regarding matters that will assist the successor auditor in determining whether to accept an engagement." Such matters include, among other things, "(a) information that might bear on the integrity of management, (b) disagreements with management as to accounting principles, auditing procedures, or other similar significant matters, (c) communications regarding fraud, illegal acts by clients, and internal control-related matters and (d) the predecessor auditor's understanding as to the reasons for the change of auditors."[92]

Lie #59: Here is **AU 315.09** and **AU 722.04** in raw format and it says "**should**" not "**required**" same with **AU 722.04**.

AU 315.09 The successor auditor **should** make specific and reasonable inquiries of the predecessor auditor regarding matters that will assist the successor auditor in determining whether to accept the engagement. Matters subject to inquiry **should** include—

- Information that might bear on the integrity of management.
- Disagreements with management as to accounting principles, auditing procedures, or other similarly significant matters.

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

• Communications to those charged with governance regarding fraud and illegal acts by clients.[4] [4] [Footnote deleted to reflect conforming changes necessary due to the issuance of Statement on Auditing Standards No. 114.] AU §315.04 Communications Between Predecessor and Successor Auditors 1713

• Communications to management and those charged with governance regarding significant deficiencies and material weaknesses in internal control.5

• The predecessor auditor's understanding as to the reasons for the change of auditors. The successor auditor may wish to consider other reasonable inquiries. [Revised, May 2006, to reflect conforming changes necessary due to the issuance of Statement on Auditing Standards No. 112. Revised, April 2007, to reflect conforming changes necessary due to the issuance of Statement on Auditing Standards No. 114.]

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

AU 722.04 Section 315, *Communications Between Predecessor and Successor Auditors*, requires a successor auditor to contact the entity's predecessor auditor and make inquiries of the predecessor auditor in deciding whether to accept appointment as an entity's independent auditor. Such inquiries **should** be completed before accepting an engagement to perform an initial review of an entity's interim financial information.

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

60. AU 315 also **requires** the successor auditor "to obtain sufficient appropriate evidential matter, as in any audit **or review work**." Such evidential matter may include, among other things, "the results of inquiry of the predecessor auditor and the results of the successor

[89] *Id.* ¶ 53 (citing AU 311.14, 314.03).
[90] *Id.* ¶ 54 (citing AU 311.21).
[91] *Id.* ¶ 55 (citing AU 314.75).
[92] *Id.* ¶ 56 (citing AU 315.09); *see also* AU 722.04.

[88] *Id.* ¶ 52 (citing AU 311.09, 314.01).

auditor's review of the predecessor auditor's working papers relating to the most recently completed audit."[93]

LIE #60: AU 315.12: says its not "**required"**. It says that it's a matter of professional judgment. Plus AU 315 is an audit standard and makes no reference to interim reviews. The statements made by the Division are not factual.

Successor Auditor's Use of Communications

AU 315.12 The successor auditor must obtain sufficient appropriate audit evidence to afford a reasonable basis for expressing an opinion on the financial statements he or she has been engaged to audit, including evaluating the consistency of the application of accounting principles. **The audit evidence used in analyzing the impact of the opening balances on the current-year financial statements and consistency of accounting principles is a matter of professional judgment.** Such audit evidence may include the most recent audited financial statements, the predecessor auditor's report thereon, the results of inquiry of the predecessor auditor, the results of the

successor auditor's review of the predecessor auditor's working papers relating to the most recently completed audit, and audit procedures performed on the current period's transactions that may provide evidence about the opening balances or consistency. For example, evidence gathered during the current year's audit may provide information about the realizability and existence of receivables and inventory recorded at the beginning of the year. The successor auditor may also apply appropriate auditing procedures to account balances at the beginning of the period under audit and to transactions in prior periods. [As amended, effective for audits of financial statements for periods ending on or after June 30, 2001, by Statement on Auditing Standards No. 93. Revised, March 2006, to reflect conforming changes necessary due to the issuance of Statement on Auditing Standards No. 105.]

E. AU 316 – Consideration of Fraud in a Financial Statement Audit

61. PCAOB standards consider fraud as "'an intentional act that results in a material

misstatement in financial statements that are the subject of an audit.'"[94] Under PCAOB standards, "**fraud can result if a company makes material misstatements due to aggressive applications of accounting rules that are rationalized by management.**"[95]

Lie #61: AU316.06 is an audit standard and does not apply to reviews. AU 316.06, does not say the following: "**fraud can result if a company makes material misstatements due to aggressive applications of accounting rules that are rationalized by management.**" Here is AU 316.05 and AU 326.06 in their Native Format below.

Description and Characteristics of Fraud

AU316.05 **Fraud is a broad legal concept and auditors do not make legal determinations of whether fraud has occurred.** Rather, the auditor's interest specifically relates to acts that result in a material misstatement of the financial statements. The primary factor that distinguishes fraud from error is whether the underlying action that results in the misstatement of the financial statements is intentional or unintentional. ***For purposes of the section,*** **fraud** ***is an intentional act that results in a material misstatement in financial statements that are the subject of an audit***.

.06 Two types of misstatements are relevant to the auditor's consideration of fraud—misstatements arising from fraudulent financial reporting and misstatements arising from misappropriation of assets.

- *Misstatements arising from fraudulent financial reporting* are intentional misstatements or omissions of amounts or disclosures in financial statements designed to deceive financial statement users where the effect causes the financial statements not to be presented,

in all material respects, in conformity with generally accepted accounting principles (GAAP). [fn 5] Fraudulent financial reporting may be accomplished by the following:

- Manipulation, falsification, or alteration of accounting records or supporting documents from which financial statements are prepared
- Misrepresentation in or intentional omission from the financial statements of events, transactions, or other significant information
- Intentional misapplication of accounting principles relating to amounts, classification, manner of presentation, or disclosure

Fraudulent financial reporting need not be the result of a grand plan or conspiracy. It may be that management representatives rationalize the appropriateness of a material misstatement, for example, as an aggressive rather than indefensible interpretation of

complex accounting rules, or as a temporary misstatement of financial statements, including interim statements, expected to be corrected later when operational results improve.

- *Misstatements arising from misappropriation of assets* (sometimes referred to as theft or defalcation) involve the theft of an entity's assets where the effect of the theft causes the financial statements not to be presented, in all material respects, in conformity with GAAP. Misappropriation of assets can be accomplished in various ways, including embezzling receipts, stealing assets, or causing an entity to pay for goods or services that have not been received. Misappropriation of assets may be accompanied by false or misleading records or documents, possibly created by circumventing controls. The scope of this section includes only those misappropriations of assets for which the effect of the misappropriation causes the financial statements not to be fairly presented, in all material respects, in conformity with GAAP.

62. While it is management's responsibility to detect and prevent fraud, AU 316 "requires auditors to use **professional judgment** to determine whether fraud risk factors are present." When fraud risk factors exist, "auditors must respond by using their professional judgment and modifying their audit procedures."[96] **A belief that "management is honest**" does not suffice.[97] PCAOB standards provide that "'[i]n exercising professional skepticism, the auditor should not be satisfied with less than persuasive evidence because of a belief that management is honest.'"[98]

Lie #62: Although auditors are required to use "professional judgment" paragraph AU 316.85 makes no reference to "**professional judgment**". In fact, AU 316.85 makes no reference to the Divisions claims in this sentence. **AU 316.85** does not say "**A belief that management is honest does not suffice.**"

Examples of Fraud Risk Factors

AU 316.85

A.1 This appendix contains examples of risk factors discussed in paragraphs 65 through 69 of Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement*. Separately presented are examples relating to the two types of fraud relevant to the auditor's

consideration—that is, fraudulent financial reporting and misappropriation of assets. For each of these types of fraud, the risk factors are further classified based on the three conditions generally present when material misstatements due to fraud occur: (*a*) incentives/pressures, (*b*) opportunities, and (*c*) attitudes/rationalizations. Although the risk factors cover a broad range of situations, they are only examples and, accordingly, the auditor may wish to consider additional or different risk factors. Not all of these examples are relevant in all circumstances, and some may be of greater or lesser significance in entities of different size or with different ownership characteristics or circumstances. Also, the order of the examples of risk factors provided is not intended to reflect their relative importance or frequency of occurrence.

The Importance of Exercising Professional Skepticism

AU 316.13 Due professional care requires the auditor to exercise professional skepticism. See section 230, *Due Professional Care in the*

Performance of Work, paragraphs .07 through .09. Because of the characteristics of fraud, the auditor's exercise of professional skepticism is important when considering the fraud risks. Professional skepticism is an attitude that includes a questioning mind and a critical assessment of audit evidence. The auditor should conduct the engagement with a mindset that recognizes the possibility that a material misstatement due to fraud could be present, regardless of any past experience with the entity and regardless of the auditor's belief about management's honesty and integrity. Furthermore, professional skepticism requires an ongoing questioning of whether the information and evidence obtained suggests that a material misstatement due to fraud has occurred. In exercising professional skepticism in gathering and evaluating evidence, the auditor should not be satisfied with less-than-persuasive evidence because of a belief that management is honest.

63. In the audit of a financial statement, “fraud risk factors trigger heightened scrutiny on the part of the auditor, and the auditor should consider them in identifying and assessing the risks of material misstatement due to fraud.” Under AU 316, “an auditor should respond to identified risks by,

among other things, altering the nature, timing, and extent of the auditing procedures to be performed."[99]

Lie #63: AU 316.02 does not say which is identified in the previous paragraph. Somewhere in AU 316 it might but the Division shouldn't be so lazy and sloppy considering it has 23+ working on this witch hunt.

AU 316.02 The following is an overview of the organization and content of this section:

- *Description and characteristics of fraud.* This section describes fraud and its characteristics. (See paragraphs .05 through .12.)
- *The importance of exercising professional skepticism.* This section discusses the need for auditors to exercise professional skepticism when considering the possibility that a material misstatement due to fraud could be present. (See paragraph .13.)
- *Responding to fraud risks*. This section discusses certain responses to fraud risks involving the nature, timing, and extent of audit procedures, including:

- Responses to assessed fraud risks relating to fraudulent financial reporting and misappropriation of assets (see paragraphs .52 through .56).
- Responses to specifically address the fraud risks arising from management override of internal controls (see paragraphs .57 through .67).

- *Communicating about fraud to management, the audit committee, and others.* This section provides guidance regarding the auditor's communications about fraud to management, the audit committee, and others. (See paragraphs .79 through .82.)
- *Documenting the auditor's consideration of fraud.* This section describes related documentation requirements. (See paragraph .83.)

[93] *Id.* ¶ 57 (citing AU 315.12).
[94] *Id.* ¶ 58 (quoting AU 316.05).
[95] *Id.* ¶ 58 (citing AU 316.06).
[96] *Id.* ¶ 59 (citing AU 316.85).
[97] *Id.* ¶ 59.
[98] *Id.* ¶ 59 (quoting AU 316.13).
[99] *Id.* ¶ 60 (citing AU 316.02).

64. **Auditors also have a responsibility to give "special attention** to significant unusual transactions that are outside the normal course of business for the entity, or that otherwise appear to be unusual **given the auditor's understanding of the entity and its environment**." **This responsibility includes: "(1) gaining an understanding of the business rationale for the transaction and (2) considering whether the transaction may have been entered into to engage in fraudulent financial reporting**."[100]

LIE #64: AU 316.66 does not say the previous statements see below**:**

AU 316.66 ***Evaluating whether the business purpose for significant unusual transactions indicates that the transactions may have been entered into to engage in fraud***. Significant transactions that are outside the normal course of business for the company or that otherwise appear to be unusual due to their timing, size, or nature ("significant unusual transactions") may be used to engage in fraudulent financial reporting or conceal misappropriation of assets.

Note: The auditor's identification of significant unusual transactions should take into account information obtained from: (a) the risk assessment procedures required by Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement* (e.g., inquiring of management and others, obtaining an understanding of the methods used to account for significant unusual transactions, and obtaining an understanding of internal control over financial reporting) and (b) other procedures performed during the audit (e.g., reading minutes of the board of directors meetings and performing journal entry testing).

Note: The auditor should take into account information that indicates that related parties or relationships or transactions with related parties previously undisclosed to the auditor might exist when identifying significant unusual transactions. See paragraphs 14–16 of Auditing Standard No. 18, *Related Parties*. Appendix A of Auditing Standard No.

18, *Related Parties*, includes examples of such information and examples of sources of such information.

65. Auditors must evaluate the following considerations when understanding the business rationale for significant unusual transactions:

- "Whether the form of such transactions is overly complex (for example, involves multiple entities within a consolidated group or unrelated third parties)."[101]

- "Whether management has discussed the nature of and accounting for such transactions with the audit committee or board of directors."[102]

- "Whether management is placing more emphasis on the need for a particular accounting treatment than on the underlying economics of the transaction."[103]

- "Whether transactions that involve unconsolidated related parties, including special purpose entities, have been properly reviewed and approved by the audit committee or board of directors."[104]

- "Whether the transactions involve previously unidentified related parties or parties that do not have the substance or the financial strength to support the transaction without assistance from the entity under audit."[105]

Lie #65: AU 316.67 does not say the following**:**

- "Whether transactions that involve unconsolidated related parties, including special purpose entities, have been properly reviewed and approved by the audit committee or board of directors."[104]

- "Whether the transactions involve previously unidentified related parties or parties that do not have

> the substance or the financial strength to support the transaction without assistance from the entity under audit."[105]

AU 316.67 The auditor should evaluate whether the business purpose (or the lack thereof) indicates that the significant unusual transaction may have been entered into to engage in fraudulent financial reporting or conceal misappropriation of assets. In making that evaluation, the auditor should evaluate whether:

- The form of the transaction is overly complex (e.g., the transaction involves multiple entities within a consolidated group or unrelated third parties);
- The transaction involves unconsolidated related parties, including variable interest entities;
- The transaction involves related parties or relationships or transactions with related parties previously undisclosed to the auditor;[fn 25A]

- The transaction involves other parties that do not appear to have the financial capability to support the transaction without assistance from the company, or any related party of the company;
- The transaction lacks commercial or economic substance, or is part of a larger series of connected, linked, or otherwise interdependent arrangements that lack commercial or economic substance individually or in the aggregate (e.g., the transaction is entered into shortly prior to period end and is unwound shortly after period end);
- The transaction occurs with a party that falls outside the definition of a related party (as defined by the accounting principles applicable to that company), with either party able to negotiate terms that may not be available for other, more clearly independent, parties on an arm's-length basis;
- The transaction enables the company to achieve certain financial targets;

- Management is placing more emphasis on the need for a particular accounting treatment than on the underlying economic substance of the transaction (e.g., accounting-motivated structured transaction); and
- Management has discussed the nature of and accounting for the transaction with the audit committee or another committee of the board of directors or the entire board.

Note: Paragraphs 20–23 of Auditing Standard No. 14, *Evaluating Audit Results*, provide requirements regarding the auditor's evaluation of whether identified misstatements might be indicative of fraud.

.67A

The auditor must evaluate whether significant unusual transactions that the auditor has identified have been properly accounted for and disclosed in the financial statements. This includes evaluating whether the financial statements contain the information regarding significant unusual transactions essential for a fair presentation of the financial

statements in conformity with the applicable financial reporting framework.[fn 25B]

Note: The auditor considers management's disclosure regarding significant unusual transactions in other parts of the company's Securities and Exchange Commission filing containing the audited financial statements in accordance with AU sec. 550, *Other Information in Documents Containing Audited Financial Statements*.

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[100] *Id.* ¶ 61 (citing AU 316.66).
[101] *Id.* ¶ 62(1) (citing AU 316.67).
[102] *Id.* ¶ 62(2) (citing AU 316.67).
[103] *Id.* ¶ 62(3) (citing AU 316.67).
[104] *Id.* ¶ 62(4) (citing AU 316.67).
[105] *Id.* ¶ 62(5) (citing AU 316.67).

F. AU 330 – The Confirmation Process

66. It is generally presumed that "evidence obtained from third-parties provides auditors with more reliable audit evidence than is typically available from within an entity." For that reason, AU 330 presumes that "the auditor will request such third-party evidence (e.g., send a confirmation) when auditing receivables."[106]

67. If a positive confirmation is not returned by the third-party, "the auditor is required to perform additional procedures in order to 'obtain the evidence necessary to reduce audit risk to an acceptably low level.'"[107] At all events, "an auditor is required to either perform alternative procedures, or document why the alternative procedures are not necessary."[108] After performing the alternative procedures, auditors must "'evaluate the combined evidence provided by the confirmations and the alternative procedures to determine whether sufficient evidence has been obtained about all the applicable financial statement assertions.'"[109]

Lie #66 and #67: The Confirmation Process pertains to Trade Accounts Receivable (i.e. for customers). **AU 330.34** is in native format below.

AU 330 is not applicable to the case its only relevant for Trade Accounts Receivable not a Non-Routine Note Receivable (**TR 2471 Lines 7-17)**.

Also footnote 107 identifies **AU336.17** which is incorrect as this paragraph discusses the effective date of AU 336 it does not mention anything related to the confirmation process.

Confirmation of Accounts Receivable

AU 330.34 For the purpose of this section, *accounts receivable* means—

a. The entity's claims against customers that have arisen from the sale of goods or services in the normal course of business, and

b. A financial institution's loans.

Confirmation of accounts receivable is a generally accepted auditing procedure. As discussed in paragraph .06, it is generally presumed that evidence obtained from third parties will provide the auditor with higher-quality audit evidence than is typically available from within the entity. Thus, there is a presumption that the auditor will request the confirmation of accounts receivable during an audit unless one of the following is true:

- Accounts receivable are immaterial to the financial statements.
- The use of confirmations would be ineffective. [fn 4]

- The auditor's combined assessed level of inherent and control risk is low, and the assessed level, in conjunction with the evidence expected to be provided by analytical procedures or other substantive tests of details, is sufficient to reduce audit risk to an acceptably low level for the applicable financial statement assertions. In many situations, both confirmation of accounts receivable and other substantive tests of details are necessary to reduce audit risk to an acceptably low level for the applicable financial statement assertions.

G. AU 333 – Management Representations

68. During the course of an audit, the independent auditor must obtain "written representations from management." Written representations are "'part of the evidential matter the independent auditor obtains.'" However, "'they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit.'"[110]

Reliance on Management Representations

.02 During an audit, management makes many representations to the auditor, both oral and written, in response to specific inquiries or through the financial statements. Such representations from management are part of the evidential matter the independent auditor obtains, but they are not a substitute for the application of those auditing procedures necessary to afford a reasonable basis for an opinion regarding the financial statements under audit. Written representations from management ordinarily confirm representations explicitly or implicitly given to the auditor, indicate and document the continuing appropriateness of such representations, and reduce the possibility of misunderstanding concerning the matters that are the subject of the representations.

[106] *Id.* ¶ 63 (citing AU 330.34).

[107] *Id.* ¶ 64 (quoting AU 330.31); *see also id.* ¶ 64 n.13 (citing AU 336.17) ("AU 336 describes a positive confirmation as one in which the confirmation form either (1) requests the respondent to indicate whether he or she agrees with the information stated on the confirmation form, or (2) without stating the amount on the confirmation form, requests the recipient to fill in the balance or furnish other information.").
[108] *Id.* ¶ 64.
[109] *Id.* ¶ 64 (citing AU 330.33).
[110] *Id.* ¶ 65 (quoting AU 333.02).

69. When assessing audit evidence, "'[i]f a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made.'"[111]

.04 If a representation made by management is contradicted by other audit evidence, the auditor should investigate the circumstances and consider the reliability of the representation made. Based on the circumstances, the auditor should consider whether his or her reliance on management's representations relating to other aspects of the financial statements is appropriate and justified.

H. AU 336 – Using the Work of a Specialist

70. An entity may engage a valuation specialist to measure fair value in accordance with GAAP. AU 336 "provides the requirements for auditors when management utilizes the work of a specialist."[112]

71. When "the specialist's findings are part of the audit evidence relied upon by the auditor," PCAOB standards requires the auditor to perform the following:

- "obtain an understanding of the methods and assumptions used by the specialist,"
- "make appropriate tests of data provided to the specialist, taking into account the auditor's assessment of control risk," and
- "evaluate whether the specialist's findings support the related assertions in the financial statements."[113]

72. Thus, "**auditors cannot blindly accept the results of a specialist, even if the**

specialist is judged to be objective and appropriately qualified." Auditors must review the specialist's work product "to understand and assess the specialist's methodology, significant assumptions used, and data inputs that were provided by management." Auditors also must "assess the overall findings, including any qualifications the specialist raised in such findings, and whether such findings are final."[114]

Lie #72: AU 336.12 doesn't say any of this. See native paragraph below.

Using the Findings of the Specialist AU 336.12 The appropriateness and reasonableness of methods and assumptions used and their application are the responsibility of the specialist. The auditor should (*a*) obtain an understanding of the methods and assumptions used by the specialist, (*b*) make appropriate tests of data provided to the specialist, taking into account the auditor's assessment of control risk, and (*c*) evaluate whether the specialist's findings support the related assertions in the financial statements. Ordinarily, the auditor would use the work of the specialist unless the auditor's procedures lead him or her to believe the findings are unreasonable in the circumstances. If the auditor believes the findings are unreasonable, he or she should

apply additional procedures, which may include obtaining the opinion of another specialist.

AU 336 is not relevant for any of the Registrants identified see Respondents' **P.F.F# 381**. Not including the fact A&C for Premier obtained additional sources of information to confirm management's best estimate.

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[111] *Id.* ¶ 66 (quoting AU 333.04).
[112] *Id.* ¶ 67.
[113] *Id.* ¶ 68 (quoting AU 336.12).
[114] *Id.* ¶ 69.

73. The PCAOB has stated that "auditors who do not properly evaluate a specialist's work may increase the risk that they will not detect a material misstatement, whether caused by error or fraud."[115]

Lie #73: The PCAOB work paper was issued for comment May 28, 2015 and was not even finalized before the audits and reviews in question clearly a mischaracterization of standards applicable at that time of the audit and reviews in 2013. The Division is so desperate and dishonest that they cant focus on their case that is applicable only to US GAAP and GAAS in 2013.

https://pcaobus.org/News/Releases/Pages/May_2015_Specialists.aspx

I. AU 722 – Interim Financial Information

74. Auditors also must perform procedures for interim reviews they conduct. The objective of a review of interim financial information "is to provide the accountant with a basis for communicating whether he or she is aware of any material modifications that should be made to the interim financial information for it to conform with GAAP."[116] A review consists primarily of "performing analytical procedures and making inquiries of persons responsible for financial and accounting matters."[117]

.07

The objective of a review of interim financial information pursuant to this section is to provide the accountant with a basis for communicating

whether he or she is aware of any material modifications that should be made to the interim financial information for it to conform with generally accepted accounting principles. The objective of a review of interim financial information differs significantly from that of an audit conducted in accordance with generally accepted auditing standards. A review of interim financial information does not provide a basis for expressing an opinion about whether the financial statements are presented fairly, in all material respects, in conformity with generally accepted accounting principles. A review consists principally of performing analytical procedures and making inquiries of persons responsible for financial and accounting matters, and does not contemplate (*a*) tests of accounting records through inspection, observation, or confirmation; (*b*) tests of controls to evaluate their effectiveness; (*c*) obtaining corroborating evidence in response to inquiries; or (*d*) performing certain other procedures ordinarily performed in an audit. A review may bring to the accountant's attention significant matters affecting the interim financial information, but it does not provide assurance that the accountant will

become aware of all significant matters that would be identified in an audit. Paragraph .22 of this section provides guidance to the accountant if he or she becomes aware of information that leads him or her to believe that the interim financial information may not be in conformity with generally accepted accounting principles. Likewise, the auditor's responsibility as it relates to management's quarterly certifications on internal control over financial reporting is different from the auditor's responsibility as it relates to management's annual assessment of internal control over financial reporting. The auditor should perform limited procedures quarterly to provide a basis for determining whether he or she has become aware of any material modifications that, in the auditor's judgment, should be made to the disclosures about changes in internal control over financial reporting in order for the certifications to be accurate and to comply with the requirements of Section 302 of the Act.

75. In planning a review of interim financial information, the accountant should

"perform procedures to update his or her knowledge of the entity's business and its internal control in order to (a) aid in the determination of the inquiries to be made and the analytical procedures to be performed and (b) identify particular events, transactions, or assertions to which the inquiries may be directed or analytical procedures applied."[118] The accountant should specifically consider "the nature of any significant financial accounting and reporting matters that may be of continuing significance."[119]

.11 In planning a review of interim financial information, the accountant should perform procedures to update his or her knowledge of the entity's business and its internal control to (*a*) aid in the determination of the inquiries to be made and the analytical procedures to be performed and (*b*)identify particular events, transactions, or assertions to which the inquiries may be directed or analytical procedures applied. Such procedures should include:

- Reading documentation of the preceding year's audit and of reviews of prior interim period(s) of the current year and corresponding quarterly and year-to-date interim period(s) of the prior year to the extent necessary, based on the accountant's judgment, to enable the accountant to identify matters that may affect the current-period interim financial information. In reading

such documents, the accountant should specifically consider the nature of any (*a*) corrected material misstatements; (*b*) matters identified in any summary of uncorrected misstatements; [fn 7] (*c*) identified risks of material misstatement due to fraud, including the risk of management override of controls; and (*d*) significant financial accounting and reporting matters that may be of continuing significance, such as weaknesses in internal control.

- Reading the most recent annual and comparable prior interim period financial information.
- Considering the results of any audit procedures performed with respect to the current year's financial statements.
- Inquiring of management about changes in the entity's business activities.

•Inquiring of management about whether significant changes in internal control, as it relates to the preparation of interim financial information, have occurred subsequent to the preceding annual audit or prior review

of interim financial information, including changes in the entity's policies, procedures, and personnel, as well as the nature and extent of such changes.

76. AU 722 also states that "during an initial review of interim financial information, the accountant **must** obtain sufficient knowledge of the entity's business and its internal

[115] *Id.* ¶ 70 (citing PCAOB Staff Consultation Paper No. 2015-01, The Auditor's Use of the Work of Specialists, at 19-20).
[116] *Id.* ¶ 71 (citing AU 722.07).
[117] *Id.* ¶ 71 (citing AU 722.07).
[118] *Id.* ¶ 72 (citing AU 722.11).
[119] *Id.*

control."[120] To obtain that knowledge, the accountant performing an initial review of interim financial information:

> [M]akes inquiries of the predecessor accountant and reviews the predecessor accountant's documentation for the preceding annual audit and for any prior interim periods in the current year that have been reviewed by the predecessor accountant if the predecessor accountant permits access to such documentation. In doing so, the accountant should specifically consider the nature of any (*a*) corrected material misstatements; (*b*) matters identified in any summary of uncorrected misstatements; (*c*) identified risks of material misstatement due to fraud, including the risk of management override of controls; and (*d*) significant financial accounting and reporting matters that may be of continuing significance, such as weaknesses in internal control.[121]

Lie #76: AU 722.12, is in native format below it does not say "**Must**" it says "**Should**".

AU 722.12 In an initial review of interim financial information, the accountant **should** perform procedures that will enable him or her to obtain sufficient knowledge of the entity's business and its internal control to address the objectives discussed in paragraph .07 of this section. As part of the procedures to obtain this knowledge, the accountant performing an initial review of interim financial information makes inquiries of the predecessor accountant and reviews the predecessor accountant's documentation for the preceding annual audit

and for any prior interim periods in the current year that have been reviewed by the predecessor accountant if the predecessor accountant permits access to such documentation. [fn 8] In doing so, the accountant should specifically consider the nature of any (*a*) corrected material misstatements; (*b*) matters identified in any summary of uncorrected misstatements; (*c*) identified risks of material misstatement due to fraud, including the risk of management override of controls; and (*d*) significant financial accounting and reporting matters that may be of continuing significance, such as weaknesses in internal control. However, the inquiries made and analytical procedures performed or other procedures performed in the initial review and the conclusions reached are solely the responsibility of the successor accountant. If the successor accountant is reporting on the review, the successor accountant should not make reference to the report or work of the predecessor accountant as the basis, in part, for the successor accountant's own report. If the predecessor accountant does not respond to the successor accountant's inquiries, or does not allow the successor accountant to review the

predecessor accountant's documentation, the successor accountant should use alternative procedures to obtain knowledge of the matters discussed in this paragraph.

77. If the accountant has not audited the most recent financial statements, AU 722 **requires** the accountant to perform procedures to obtain knowledge about, but not limited to, "(a) the entity's internal control, as it relates to the preparation of both annual and interim financial information, (b) relevant aspects of the control environment, and (c) the entity risk assessment process, control activities, information and communication, and monitoring."[122]

Lie #77: AU 722.13, is in native format below it does not say "**Requires**" it says "**Should**".

AU 722.13 The accountant who has audited the entity's financial statements for one or more annual periods would have acquired sufficient knowledge of an entity's internal control as it relates to the preparation of annual financial information and may have acquired such knowledge with respect to interim financial information. If the accountant has not audited the most recent annual financial statements,

the accountant **should** perform procedures to obtain such knowledge. Knowledge of an entity's internal control, as it relates to the preparation of both annual and interim financial information, includes knowledge of the relevant aspects of the control environment, the entity's risk assessment process, control activities, information and communication, and monitoring, as those terms are defined in Auditing Standard No. 12, *Identifying and Assessing Risks of Material Misstatement*. Internal control over the preparation of interim financial information may differ from internal control over the preparation of annual financial statements because certain accounting principles and practices used for interim financial information may differ from those used for the preparation of annual financial statements, for example, the use of estimated effective income tax rates for the preparation of interim financial information, which is prescribed by Accounting Principles Board (APB) Opinion No. 28, *Interim Financial Reporting*.

78. During an interim review, "the accountants should tailor their specific inquiries

and analytical and other procedures performed based on the accountants' knowledge of the entity's business and its internal control."[123]

Analytical Procedures, Inquiries, and Other Review Procedures

AU 722.15 Procedures for conducting a review of interim financial information generally are limited to analytical procedures, inquiries, and other procedures that address significant accounting and disclosure matters relating to the interim financial information to be reported. The accountant performs these procedures to obtain a basis for communicating whether he or she is aware of any material modifications that should be made to the interim financial information for it to conform with generally accepted accounting principles. **The specific inquiries made and the analytical and other procedures performed should be tailored to the engagement based on the accountant's knowledge of the entity's business and its internal control.** The accountant's knowledge of an entity's business and its internal control influences the inquiries made and analytical procedures performed. For example, if the accountant becomes aware of a significant change in the entity's control activities at a particular location, the accountant may consider (*a*) making additional inquiries, such as whether management monitored the changes and considered whether they were operating as intended, (*b*) employing analytical procedures with a more precise expectation, or (*c*) both.

79. The accountant **should** "perform inquiries with members of management who have responsibility for financial and accounting matters concerning unusual or complex situations that may have an effect on the interim financial information."[124] Unusual or complex situations would include, for example, "business combinations, the impairment of assets, the

AU 722.18 *Inquiries and other review procedures.* The following are inquiries the accountant **should** make and other review procedures the accountant **should** perform when conducting a review of interim financial information:

a. Reading the available minutes of meetings of stockholders, directors, and appropriate committees, and inquiring about matters dealt with at meetings for which minutes are not available, to identify matters that may affect the interim financial information.

b. Obtaining reports from other accountants, if any, who have been engaged to perform a review of the interim financial information of significant components of the reporting entity, its subsidiaries, or its other investees, or inquiring of those accountants if reports have not been issued. [fn 11]

c. Inquiring of members of management who have responsibility for financial and accounting matters concerning:

- Whether the interim financial information has been prepared in conformity with generally accepted accounting principles consistently applied.

- Unusual or complex situations that may have an effect on the interim financial information. (See Appendix B [paragraph .55] of this section for examples of unusual or complex situations **about which the accountant ordinarily would inquire of management**.)

- Significant transactions occurring or recognized in the last several days of the interim period.

- The status of uncorrected misstatements identified during the previous audit and interim review (that is, whether adjustments had been recorded subsequent to the prior audit or interim period and, if so, the amounts recorded and period in which such adjustments were recorded).

- Matters about which questions have arisen in the course of applying the review procedures.
- Events subsequent to the date of the interim financial information that could have a material effect on the presentation of such information.
- Their knowledge of any fraud or suspected fraud affecting the entity involving (1) management, (2) employees who have significant roles in internal control, or (3) others where the fraud could have a material effect on the financial statements.
- Whether they are aware of allegations of fraud or suspected fraud affecting the entity, for example, received in communications from employees, former employees, analysts, regulators, short sellers, or others.
- Significant journal entries and other adjustments.
- Communications from regulatory agencies.

- Significant deficiencies, including material weaknesses, in the design or operation of internal controls which could adversely affect the issuer's ability to record, process, summarize, and report financial data.

d. Obtaining evidence that the interim financial information agrees or reconciles with the accounting records. For example, the accountant may compare the interim financial information to (1) the accounting records, such as the general ledger; (2) a consolidating schedule derived from the accounting records; or (3) other supporting data in the entity's records. In addition, the accountant should consider inquiring of management as to the reliability of the records to which the interim financial information was compared or reconciled.

e. Reading the interim financial information to consider whether, based on the results of the review procedures performed and other information that has come to the accountant's attention, the

information to be reported conforms with generally accepted accounting principles.

f. Reading other information that accompanies the interim financial information and is contained in reports (1) to holders of securities or beneficial interests or (2) filed with regulatory authorities under the Securities Exchange Act of 1934 (such as Form 10-Q or 10-QSB), to consider whether such information or the manner of its presentation is materially inconsistent with the interim financial information. [fn 12] If the accountant concludes that there is a material inconsistency, or becomes aware of information that he or she believes is a material misstatement of fact, the action taken will depend on his or her judgment in the particular circumstances. In determining the appropriate course of action, the accountant should consider the guidance in section 550, *Other Information in Documents Containing Audited Financial Statements*, paragraphs .04 through .06).

g. Evaluating management's quarterly certifications about internal control over financial reporting by performing the following procedures —

- Inquiring of management about significant changes in the design or operation of internal control over financial reporting as it relates to the preparation of annual as well as interim financial information that could have occurred subsequent to the preceding annual audit or prior review of interim financial information;
- Evaluating the implications of misstatements identified by the auditor as part of the auditor's other interim review procedures as they relate to effective internal control over financial reporting; and
- Determining, through a combination of observation and inquiry, whether any change in internal control over financial reporting has materially affected, or is reasonably likely to

materially affect, the company's internal control over financial reporting.

[120] *Id.* ¶ 73 (citing AU 722.12).
[121] *Id.* ¶ 73 (quoting AU 722.12).
[122] *Id.* ¶ 74 (citing AU 722.13).
[123] *Id.* ¶ 75 (citing AU 722.15).
[124] *Id.* ¶ 76 (citing AU 722.18).

occurrence of infrequent or significant unusual transactions, and changes in related parties or significant new related-party transactions."[125]

Appendix B

Unusual or Complex Situations to Be Considered by the Accountant When Conducting a Review of Interim Financial Information

[The following paragraph is effective for reviews of interim periods within fiscal years beginning on or after December 15, 2014. See PCAOB Release No. 2014-002. For reviews of interim periods within fiscal years beginning before December 15, 2014, click here.]

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B1. The following are examples of situations about which the accountant would ordinarily inquire of management:

- Business combinations
- New or complex revenue recognition methods
- Impairment of assets
- Disposal of a segment of a business
- Use of derivative instruments and hedging activities
- Sales and transfers that may call into question the classification of investments in securities, including management's intent and ability with respect to the remaining securities classified as held to maturity
- Computation of earnings per share in a complex capital structure
- Adoption of new stock compensation plans or changes to existing plans
- Restructuring charges taken in the current and prior quarters

- The occurrence of infrequent transactions
- The occurrence of significant unusual transactions
- Changes in litigation or contingencies
- Changes in major contracts with customers or suppliers
- Application of new accounting principles
- Changes in accounting principles or the methods of applying them
- Trends and developments affecting accounting estimates, [fn 36] such as allowances for bad debts and excess or obsolete inventories, provisions for warranties and employee benefits, and realization of unearned income and deferred charges
- Compliance with debt covenants
- Changes in related parties or significant new related-party transactions
- Material off-balance-sheet transactions, special-purpose entities, and other equity investments
- Unique terms for debt or capital stock that could affect classification

80. Under AU 722, misstatements identified by the accountant, or brought to the accountant's attention, should be evaluated to determine whether material modification should be made to the interim financial information for it to conform to GAAP, and the accountant should consider the nature, cause (if known), and amount of the misstatements, and whether the misstatements originated in the preceding year or interim periods of the current year.[126]

Evaluating the Results of Interim Review Procedures

AU 722.25 A review of interim financial information is not designed to obtain reasonable assurance that the interim financial information is free of material misstatement. However, based on the review procedures performed, the accountant may become aware of *likely misstatements*. In the context of an interim review, a likely misstatement is the accountant's best estimate of the total misstatement in the account balances or classes of transactions on which he or she has performed review procedures. The accountant should accumulate for further evaluation likely misstatements identified in performing the review procedures. The accountant may designate an amount below which misstatements need not be accumulated, based on his or her professional judgment. However, the accountant should recognize that aggregated misstatements of relatively small amounts could have a material effect on the interim financial information.

.26 Misstatements identified by the accountant or brought to the accountant's attention, including inadequate disclosure, [fn 18] should be evaluated individually and in the aggregate to determine whether material modification should be made to the interim financial information for it to conform with generally accepted accounting principles. [fn 19] The accountant should use his or her professional judgment in evaluating the materiality of any likely misstatements that the entity has not corrected. The accountant should consider matters such as (*a*) the nature, cause (if known), and amount of the misstatements; (*b*) whether the misstatements originated in the preceding year or interim periods of the current year; (*c*) materiality judgments made in conjunction with the current or prior year's annual audit; and (*d*) the potential effect of the misstatements on future interim or annual periods.[fn 20]

81. An accountant's interim review documentation should include any findings or issues that in the accountant's judgment are significant, for example, the results of review procedures that indicate that the interim financial information could be materially misstated, including actions taken to address such findings, and the basis for the final conclusions reached. In addition, the documentation

should: (a) enable members of the engagement team with supervision and review responsibilities to understand the nature, timing, extent, and results of the review procedures performed; (b) identify the engagement team member(s) who performed and reviewed the work; and (c) identify the evidence the accountant obtained in support of the conclusion that the interim financial information being reviewed agreed or reconciled with the accounting records.[127]

Lie #81: AU 722.51 and **52** are in their native formats below. The Divisions' proposed lie is just that and does not reference the documentation standards for an interim review. The native version of **AU 721.51** and **.52** are below.

Documentation

AU 722.51 The accountant should prepare documentation in connection with a review of interim financial information, the form and content of which should be designed to meet the circumstances of the particular engagement. Documentation is the principal record of the review procedures performed and the conclusions reached by the accountant in performing the review. fn 34 Examples of documentation are review programs, analyses, memoranda, and letters of representation.

Documentation may be in paper or electronic form, or other media**. The quantity, type, and content of the documentation are matters of the accountant's professional judgment.**

.52 Because of the different circumstances in individual engagements, it is not possible to specify the form or content of the documentation the accountant should prepare. However, the documentation should include any findings or issues that in the accountant's judgment are significant, for example, the results of review procedures that indicate that the interim financial information could be materially misstated, including actions taken to address such findings, and the basis for the final conclusions reached. In addition, the documentation should (*a*) enable members of the engagement team with supervision and review responsibilities to understand the nature, timing, extent, and results of the review procedures performed; (*b*) identify the engagement team member(s) who performed and reviewed the work; and (*c*) identify the evidence the accountant obtained in support of the conclusion that the interim financial information being reviewed agreed or reconciled with the accounting records (see paragraph .18(*d*) of this section).

J. AS 3 – Audit Documentation

82. Auditors **must** follow documentation requirements set by the PCAOB. The requirements apply to "'an audit of financial statements, an audit of internal control over financial reporting, and a review of interim financial information.'"[128]

Lie #82: AS 3.1 is in its native format below. **AS 3.1 "establishes general requirements"** that an auditor "**should**" follow. No "**Must**".

[125] *Id.* ¶ 76 (citing AU 722.55).
[126] AU 722.26.
[127] AU 722.51-722.52.
[128] *Id.* ¶ 77 (quoting AS 3.1).

Introduction

AS3 1. **This standard establishes general requirements** for documentation the auditor **should** prepare and retain in connection with engagements conducted pursuant to the standards of the Public Company Accounting Oversight Board ("PCAOB"). Such engagements include an audit of financial statements, an audit of internal control over financial reporting, and a review of interim financial information. This standard does not replace specific documentation requirements of other standards of the PCAOB.

Audit documentation –also "'referred to as *workpapers* or *working papers*'" – is defined as "'the written record of the basis for the auditor's conclusions that provides the support for the auditor's representations, whether those representations are contained in the auditor's report or otherwise.'"[129] Audit documentation "'is the basis for the review of the quality of work because it provides the reviewer with written documentation of the evidence supporting the auditor's significant conclusions.'"[130]

Objectives of Audit Documentation

AS3 2. *Audit documentation* is the written record of the basis for the auditor's conclusions that provides the support for the auditor's representations, whether those representations are contained in the auditor's report or otherwise. Audit documentation also facilitates the planning, performance, and supervision of the engagement, and is the basis for the review of the quality of the work because it provides the reviewer with written documentation of the evidence supporting the auditor's significant conclusions. Among other things, audit documentation includes records of the planning and performance of the work, the procedures performed, evidence obtained, and conclusions reached by the auditor. Audit documentation also may be referred to as *work papers* or *working papers*.

Note: An auditor's representations to a company's board of directors or audit committee, stockholders, investors, or other interested parties are usually included in the auditor's report accompanying the financial statements of the company. The auditor also might make oral representations to the company or others, either on a voluntary basis

or if necessary to comply with professional standards, including in connection with an engagement for which an auditor's report is not issued. For example, although an auditor might not issue a report in connection with an engagement to review interim financial information, he or she ordinarily would make oral representations about the results of the review.

83. "'[A]udit documentation is one of the fundamental building blocks'" for the integrity of audits.[131]

Lie #83: AS 3 Appendix A. A4 is in its native format below.

AS 3 Appendix A. A4. The Board's standard on audit documentation is one of the fundamental building blocks on which both the **integrity of audits** and the Board's oversight will rest.

"'[T]he quality and integrity of an audit depends, in large part, on the existence of a complete and understandable record of the work the auditor performed, the conclusions the auditor reached, and the evidence the auditor obtained that supports those conclusions.'"[132]

84. Audit documentation in connection with an audit "'should be prepared in

sufficient detail to provide a clear understanding of its purpose, source, and the conclusions reached.'"[133] Audit documentation must "clearly demonstrate that the work was in fact performed." "The documentation must be sufficiently detailed, so that another auditor can understand the nature, timing, extent and results of the procedures performed and evidence obtained." Documentation must also be "sufficiently detailed to determine who performed and reviewed the work."[134]

Audit Documentation Requirement

4. The auditor must prepare audit documentation in connection with each engagement conducted pursuant to the standards of the PCAOB. Audit documentation should be prepared in sufficient detail to provide a clear understanding of its purpose, source, and the conclusions reached. Also, the documentation should be appropriately organized to provide a clear link to the significant findings or issues. [1/] Examples of audit documentation include memoranda, confirmations, correspondence, schedules, audit programs, and letters of representation. Audit documentation may be in the form of paper, electronic files, or other media.

5. Because audit documentation is the written record that provides the support for the representations in the auditor's report, it should:

a. Demonstrate that the engagement complied with the standards of the PCAOB,

b. Support the basis for the auditor's conclusions concerning every relevant financial statement assertion, and

c. Demonstrate that the underlying accounting records agreed or reconciled with the financial statements.

6. The auditor must document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions. [2/] Audit documentation must clearly demonstrate that the work was in fact performed. This documentation requirement applies to the work of all those who participate in the engagement as well as to the work of specialists the auditor uses as evidential matter in evaluating relevant financial statement assertions. Audit documentation must contain sufficient information to enable an

experienced auditor, having no previous connection with the engagement:

a. To understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached, and

b. To determine who performed the work and the date such work was completed as well as the person who reviewed the work and the date of such review.

Note: An *experienced auditor* has a reasonable understanding of audit activities and has studied the company's industry as well as the accounting and auditing issues relevant to the industry.

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[129] *Id.* ¶ 77 (quoting AS 3.2).
[130] *Id.* ¶ 77 (quoting AS 3.2).
[131] *Id.* ¶ 78 (quoting AS 3, Appendix A.A4).
[132] *Id.* ¶ 78 (quoting AS 3, Appendix A.A4).
[133] *Id.* ¶ 70 (quoting AS 3.4).
[134] *Id.* ¶ 79 (citing AS 3.6 ("Audit documentation must contain sufficient information to enable an experienced auditor, having no previous connection with the engagement: (a) To understand the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached . . . .")).

85. Wahl agrees that audit documentation must contain information sufficient to allow an experienced auditor with no prior connection to the work to understand the procedures performed in the audit.[135]

The Division doesn't have anyone on their team that is is an experienced auditor that would understand the the procedures performed in a PCAOB audit or review. Wahl also agrees that the Division should not be changing US GAAP and GAAS as it's the authorative guidance that Honest Hardworking Americans' followed.

86. PCAOB standards provide that auditors should consider "two factors when determining the nature and extent of audit documentation that is required to support an assertion in a financial statement:" (1) "the risk of material misstatement associated with the assertion"; and (2) the extent of judgment that auditors utilize to perform the work and evaluate the results."[136] With respect to the latter factor, "because accounting estimates require greater judgement, auditors must obtain 'more extensive documentation' in order to meet their objectives under PCAOB standards."[137]

7. In determining the nature and extent of the documentation for a financial statement assertion, the auditor should consider the following factors:

- Nature of the auditing procedure;

- Risk of material misstatement associated with the assertion;
- Extent of judgment required in performing the work and evaluating the results, for example, accounting estimates require greater judgment and commensurately more extensive documentation;
- Significance of the evidence obtained to the assertion being tested; and
- Responsibility to document a conclusion not readily determinable from the documentation of the procedures performed or evidence obtained.

Application of these factors determines whether the nature and extent of audit documentation is adequate.

87. Audit documentation "also must include facts or issues that are inconsistent with or contradict the auditor's final conclusions." This documentation includes "procedures performed in response to the contradictory information, and records documenting differences in professional judgment among members of the engagement team or between the engagement team and others consulted."[138]

8. In addition to the documentation necessary to support the auditor's final conclusions, audit documentation must include information the auditor has identified relating to significant findings or issues that is inconsistent with or contradicts the auditor's final conclusions. The relevant records to be retained include, but are not limited to, procedures performed in response to the information, and records documenting consultations on, or resolutions of, differences in professional judgment among members of the engagement team or between the engagement team and others consulted.

88. The PCAOB requires auditors to "'consider all relevant evidential matter even though it might contradict or be inconsistent with other conclusions.'"[139] Further, "'[a]udit documentation must contain information or data relating to significant findings or issues that are inconsistent with the auditor's final conclusions on the relevant matter.'"[140]

A37. Paragraph .25 of AU sec. 326, *Evidential Matter*, states: "In developing his or her opinion, the auditor should consider relevant evidential matter regardless of whether it appears to corroborate or to contradict the assertions in the financial statements." Thus, during the conduct of an audit, the auditor should consider all

relevant evidential matter even though it might contradict or be inconsistent with other conclusions. Audit documentation must contain information or data relating to significant findings or issues that are inconsistent with the auditor's final conclusions on the relevant matter.

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[135] Tr. (Vol. XX Wahl) 4924:23-4925:3 ("Q Audit documentation must contain information sufficient to allow an experienced auditor with no prior connection to the work to understand the procedures performed in the audit, right? A Right.").
[136] *Id.* ¶ 80 (citing AS 3.7).
[137] *Id.* ¶ 80 (citing AS 3.7).
[138] *Id.* ¶ 81 (citing AS 3.8).
[139] *Id.* ¶ 82 (quoting AS 3, Appendix A.A37).
[140] *Id.* ¶ 82 (quoting AS 3, Appendix A.A37).

89. If the auditor finds that "such inconsistent or contradictory information was 'incorrect or based on incomplete information,' it does 'not need to be included in the final audit documentation, provided that the apparent inconsistencies or contradictions were satisfactorily resolved by obtaining complete and correct information.'"[141]

A38. Also, information that initially appears to be inconsistent or contradictory, but is found to be incorrect or based on incomplete information, need not be included in the final audit documentation, provided that the apparent inconsistencies or contradictions were satisfactorily resolved by obtaining complete and correct information. In addition, with respect to differences in professional judgment, auditors need not include in audit documentation preliminary views based on incomplete information or data.

90. If an auditor relies on the work of a specialist, including one retained by the company, "'the auditor must ensure that the specialist's work, as it relates to the audit objectives, also is adequately documented.'"[142]

A33. The Board also believes the reference to *specialists* is an important element of paragraph 6. Specialists play a vital role in audit engagements. For example, appraisers, actuaries, and environmental

consultants provide valuable data concerning asset values, calculation assumptions, and loss reserves. When using the work of a specialist, the auditor must ensure that the specialist's work, as it relates to the audit objectives, also is adequately documented. For example, if the auditor relies on the work of an appraiser in obtaining the fair value of commercial property available for sale, then the auditor must ensure the appraisal report is adequately documented. Moreover, the term *specialist* in this standard is intended to include any specialist the auditor relies on in conducting the work, including those employed or retained by the auditor or by the company.

91. **Without documentation, there is doubt about whether an auditor performed the work at all**. "If audit documentation does not exist for a particular procedure or conclusion related to a significant matter, there is doubt as to whether the necessary work was performed."[143] Additionally, "'[i]f the work was not documented, then it becomes difficult for the engagement team, and others, to know what was done, what conclusions were reached, and how those conclusions were reached.'"[144] The PCAOB explicitly states that "'a deficiency in documentation is a departure from the Board's standards.'"[145]

Lie #91: AS 3 Appendix A10. Totally fabricated opinion, "**Without documentation, there is doubt about whether an auditor performed the work at all**"

AS 3 Appendix A10. Inadequate audit documentation diminishes audit quality on many levels. First, if audit documentation does not exist for a particular procedure or conclusion related to a significant matter, it casts doubt as to whether the necessary work was done. If the work was not documented, then it becomes difficult for the engagement team, and others, to know what was done, what conclusions were reached, and how those conclusions were reached. In addition, good audit documentation is very important in an environment in which engagement staff changes or rotates. Due to engagement staff turnover, knowledgeable staff on an engagement may not be available for the next engagement.

92. The PCAOB also provides that if an audit is being inspected or investigated and a lack of audit documentation is deemed to exist, "'the auditor is required to demonstrate with persuasive other evidence that the procedures were performed, the evidence was obtained, and

appropriate conclusions were reached.'"[146] In these circumstances, an "'oral explanation alone does not constitute persuasive other evidence' but 'may be used to clarify other written evidence.'"[147]

Lie #91: AS 3 Appendix A28. The Division takes this paragraph totally out of context and adds its own opinions.

A28. In paragraph 9 of this standard, if, after the documentation completion date, as a result of a lack of documentation or otherwise, it appears that audit procedures **may** not have been performed, evidence may not have been obtained, or appropriate conclusions may not have been reached, the auditor must determine, and if so demonstrate, that sufficient procedures were performed, sufficient evidence was obtained, and appropriate conclusions were reached with respect to the relevant financial statement assertions. In those circumstances, for example, during an inspection by the Board or during the firm's internal quality control review, the auditor is required to demonstrate with persuasive other evidence that the procedures were performed, the evidence was obtained, and appropriate conclusions were reached. In this and similar

contexts, oral explanation alone does not constitute persuasive other evidence. However, oral evidence may be used to clarify other written evidence.

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[141] *Id.* ¶ 83 (quoting AS 3, Appendix A.A38).
[142] *Id.* ¶ 84 (quoting AS 3, Appendix A.A33).
[143] *Id.* ¶ 85 (citing AS 3, Appendix A.A10).
[144] *Id.* ¶ 85 (quoting AS 3, Appendix A.A10).
[145] *Id.* ¶ 85 (quoting AS 3, Appendix A.A25).
[146] *Id.* ¶ 86 (quoting AS 3, Appendix A.A28).
[147] *Id.* ¶ 86 (quoting AS 3, Appendix A.A28).

K. AS 7 – Engagement Quality Review

93. Auditors also must follow requirements of the PCAOB regarding engagement quality review. Auditors must perform an "engagement quality review and obtain concurring approval before issuing audit reports for audits and completing reviews." The EQR must "evaluate the significant judgments made by the audit team and the related conclusions reached in forming the overall conclusion on the engagement in order to determine whether to provide concurring approval of issuance."[148]

Objective

2. The objective of the engagement quality reviewer is to perform an evaluation of the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report, if a report is to be issued, in order to determine whether to provide concurring approval of issuance. 1/

94. The key qualities required of an EQR are "competence, independence, integrity, and the maintenance of objectivity when performing a review."[149] Specifically, pertaining to objectivity, the EQR "'should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team.'"[150] Pertaining to competency, the EQR must possess the level

of knowledge and competence related to accounting, auditing, and financial reporting required to serve as the engagement partner on the engagement under review.[151]

Qualifications of an Engagement Quality Reviewer

3. The engagement quality reviewer must be an associated person of a registered public accounting firm. An engagement quality reviewer from the firm that issues the engagement report (or communicates an engagement conclusion, if no report is issued) must be a partner or another individual in an equivalent position. The engagement quality reviewer may also be an individual from outside the firm. 2/

4. As described below, an engagement quality reviewer must have competence, independence, integrity, and objectivity.

Note: The firm's quality control policies and procedures should include provisions to provide the firm with reasonable assurance that the engagement quality reviewer has sufficient competence, independence, integrity, and objectivity to perform the engagement quality review in accordance with the standards of the PCAOB.

Competence

5. The engagement quality reviewer must possess the level of knowledge and competence related to accounting, auditing, and financial reporting required to serve as the engagement partner on the engagement under review. [3/]

Independence , Integrity, and Objectivity

6. The engagement quality reviewer must be independent of the company, perform the engagement quality review with integrity, and maintain objectivity in performing the review.

Note: The reviewer may use assistants in performing the engagement quality review. Personnel assisting the engagement quality reviewer also must be independent, perform the assigned procedures with integrity, and maintain objectivity in performing the review.

7. To maintain objectivity, the engagement quality reviewer and others who assist the reviewer should not make decisions on behalf of the

engagement team or assume any of the responsibilities of the engagement team. The engagement partner remains responsible for the engagement and its performance, notwithstanding the involvement of the engagement quality reviewer and others who assist the reviewer.

8. The person who served as the engagement partner during either of the two audits preceding the audit subject to the engagement quality review may not be the engagement quality reviewer. Registered firms that qualify for the exemption under Rule 2-01(c)(6)(ii) of Regulation S-X, 17 C.F.R. § 210.2-01(c)(6)(ii), are exempt from the requirement in this paragraph.

95. The EQR "'should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.'"[152] Along with reviewing significant judgments made by the engagement team, the EQR should **"'evaluate whether appropriate consultations have taken place on difficult or contentious matters.'"**[153]

Lie #95: AS 7.9, 7,14, 7.10, 7.15: as applicable to **Footnote 153** there is nothing in the four paragraphs that say this. They are in native format below:

Engagement Quality Review for an Audit

AS7.09. In an audit engagement, the engagement quality reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report. To evaluate such judgments and conclusions, the engagement quality reviewer should, to the extent necessary to satisfy the requirements of paragraphs 10 and 11: (1) hold discussions with the engagement partner and other members of the engagement team, and (2) review documentation.

10. In an audit, the engagement quality reviewer should:

a. Evaluate the significant judgments that relate to engagement planning, including –

- The consideration of the firm's recent engagement experience with the company and risks identified in connection with the firm's client acceptance and retention process,
- The consideration of the company's business, recent significant activities, and related financial reporting issues and risks, and
- The judgments made about materiality and the effect of those judgments on the engagement strategy.

b. Evaluate the engagement team's assessment of, and audit responses to –

- Significant risks identified by the engagement team, including fraud risks, and
- Other significant risks identified by the engagement quality

reviewer through performance of the procedures required by this standard.

Note: A *significant risk* is a risk of material misstatement that requires special audit consideration.

c. Evaluate the significant judgments made about (1) the materiality and disposition of corrected and uncorrected identified misstatements and (2) the severity and disposition of identified control deficiencies.

d. Review the engagement team's evaluation of the firm's independence in relation to the engagement.

e. Review the engagement completion document [4/] and confirm with the engagement partner that there are no significant unresolved matters.

f. Review the financial statements, management's report on internal control, and the related engagement report.

g. Read other information in documents containing the financial statements to be filed with the Securities and Exchange Commission ("SEC") [5/] and evaluate whether the engagement team has taken appropriate action with respect to any material inconsistencies with the financial statements or material misstatements of fact of which the engagement quality reviewer is aware.

h. Based on the procedures required by this standard, evaluate whether appropriate consultations have taken place on difficult or contentious matters. Review the documentation, including conclusions, of such consultations.

i. Based on the procedures required by this standard, evaluate whether appropriate matters have been communicated, or identified for communication, to the audit committee, management, and other parties, such as regulatory bodies.

Engagement Quality Review Process

14. In an engagement to review interim financial information, the engagement quality reviewer should evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report, if a report is to be issued. To evaluate such judgments and conclusions, the engagement quality reviewer should, to the extent necessary to satisfy the requirements of paragraphs 15 and 16: (1) hold discussions with the engagement partner and other members of the engagement team, and (2) review documentation.

15. In a review of interim financial information, the engagement quality reviewer should:

a. Evaluate the significant judgments that relate to engagement planning, including the consideration of -

   - The firm's recent engagement experience with the company and risks identified in connection with the firm's client acceptance and retention process,

   - The company's business, recent significant activities, and related financial reporting issues and risks, and

   - The nature of identified risks of material misstatement due to fraud.

b. Evaluate the significant judgments made about (1) the materiality and disposition of corrected and uncorrected identified misstatements and (2) any material modifications that should be made to the disclosures about changes in internal control over financial reporting.

c. Perform the procedures described in paragraphs 10.d and 10.e.

d. Review the interim financial information for all periods presented and for the immediately preceding interim period, management's disclosure for the period under review, if any, about changes in internal control over financial reporting, and the related engagement report, if a report is to be issued.

e. Read other information in documents containing interim financial information to be filed with the SEC [8/] and evaluate whether the engagement team has taken appropriate action with respect to material inconsistencies with the interim financial information or material misstatements of fact of which the engagement quality reviewer is aware.

f. Perform the procedures in paragraphs 10.h and 10.i

96. In an audit, the EQR should evaluate whether the audit documentation "'(a) [i]ndicates that the engagement team responded appropriately to significant risks, and (b)

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[148] *Id.* ¶ 87 (citing AS 7.2).
[149] *Id.* ¶ 88 (citing AS 7.4).
[150] *Id.* ¶ 88 (quoting AS 7.7).
[151] ASC 7.5.
[152] *Id.* ¶ 89 (quoting AS 7.9, 7.14).
[153] *Id.* ¶ 89 (quoting AS 7.10, AS 7.15).

[s]upports the conclusions reached by the engagement team with respect to the matters reviewed.'"[154]

7. To maintain objectivity, the engagement quality reviewer and others who assist the reviewer should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team. The engagement partner remains responsible for the engagement and its performance, notwithstanding the involvement of the engagement quality reviewer and others who assist the reviewer.

Evaluation of Engagement Documentation

11. In an audit, the engagement quality reviewer should evaluate whether the engagement documentation that he or she reviewed when performing the procedures required by paragraph 10 -

a. Indicates that the engagement team responded appropriately to significant risks, and

b. Supports the conclusions reached by the engagement team with respect to the matters reviewed.

97. Once the EQR performs his/her review of the interim review or audit, he or she "'may provide concurring approval of issuance only if, after performing with due professional care the review required by [AS 7], he or she is not aware of a significant engagement deficiency.'"[155] The audit firm "may grant permission to the client to use an audit report 'only after the engagement quality reviewer provides concurring approval of issuance.'"[156] This standard suggests that "if the EQR believes that a significant engagement deficiency exists in the audit, the EQR could prohibit the audit firm from providing an audit report to its client for use in its filing with the SEC."[157]

7. To maintain objectivity, the engagement quality reviewer and others who assist the reviewer should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team. **The engagement partner remains responsible for the engagement and its performance,** notwithstanding the involvement of the engagement quality reviewer and others who assist the reviewer.

Concurring Approval of Issuance

12. In an audit, the engagement quality reviewer may provide concurring approval of issuance only if, after performing with due

professional care [6/] the review required by this standard, he or she is not aware of a significant engagement deficiency.

Note: A *significant engagement deficiency* in an audit exists when (1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client.

13. In an audit, the firm may grant permission to the client to use the engagement report only after the engagement quality reviewer provides concurring approval of issuance.[7/]

L. AS 10 – Supervision of the Audit Engagement

98. The engagement partner is responsible for "the audit engagement and its performance" and "to properly supervise the work of engagement team members and ensure compliance with PCAOB standards."[158] The supervision requirements "'also apply to any engagement

team members who assist the engagement partner with the supervision of the work of other engagement team members.'"[159]

Responsibility of the Engagement Partner for Supervision

AS10.03: The **engagement partner**[1] is responsible for the engagement and its performance. Accordingly, the engagement partner is responsible for proper supervision of the work of engagement team members and for compliance with PCAOB standards, including standards regarding using the work of specialists,[2] other auditors,[3] internal auditors,[4] and others who are involved in testing controls.[5] Paragraphs .05-.06 of this standard describe the nature and extent of supervisory activities necessary for proper supervision of engagement team members.[6]

.04 The engagement partner may seek assistance from appropriate engagement team members in fulfilling his or her responsibilities pursuant to this standard. Engagement team members who assist the engagement partner with supervision of the work of other engagement team members also should comply with the requirements in this

standard with respect to the supervisory responsibilities assigned to them.

99. The engagement partner and other engagement team members performing supervisory activities should:

a. Inform engagement team members of their responsibilities, including:

(1) The objectives of the procedures that they are to perform;

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[154] *Id.* ¶ 90 (quoting AS 7.11).
[155] *Id.* ¶ 91 (AS 7.12, 7.17).
[156] *Id.* ¶ 91 (quoting AS 7.13).
[157] *Id.* ¶ 91.
[158] *Id.* ¶ 92 (citing AS 10.3).
[159] *Id.* ¶ 92 (citing AS 10.4).

(2) The nature, timing, and extent of procedures they are to perform; and

(3) Matters that could affect the procedures to be performed or the evaluation of the results of those procedures, including relevant aspects of the company, its environment, and its internal control over financial reporting, and possible accounting and auditing issues;

b. Direct engagement team members to bring significant accounting and auditing issues arising during the audit to the attention of the engagement partner or other engagement team members performing supervisory activities so they can evaluate those issues and determine that appropriate actions are taken in accordance with PCAOB standards.

c. Review the work of engagement team members to evaluate whether:

(1) The work was performed and documented;

(2) The objectives of the procedures were achieved; and

(3) The results of the work support the conclusions reached.[160]

Supervision of Engagement Team Members

.05 The engagement partner and, as applicable, other engagement team members performing supervisory activities, should:

a. Inform engagement team members of their responsibilities,[7] including:

1. The objectives of the procedures that they are to perform;

2. The nature, timing, and extent of procedures they are to perform; and

3. Matters that could affect the procedures to be performed or the evaluation of the results of those procedures, including relevant aspects of the company, its environment, and its internal control over financial reporting,[8] and possible accounting and auditing issues;

b. Direct engagement team members to bring significant accounting and auditing issues arising during the audit to the attention of the engagement partner or other engagement team members performing supervisory activities so they can evaluate those issues and determine that appropriate actions are taken in accordance with PCAOB standards;[9]

Note: In applying due professional care in accordance with AS 1015, each engagement team member has a responsibility to bring

to the attention of appropriate persons, disagreements or concerns the engagement team member might have with respect to accounting and auditing issues that he or she believes are of significance to the financial statements or the auditor's report regardless of how those disagreements or concerns may have arisen.

c. Review the work of engagement team members to evaluate whether:

1. The work was performed and documented;

2. The objectives of the procedures were achieved; and

3. The results of the work support the conclusions reached.

100. To determine the extent of supervision necessary for engagement team members to perform their work, the engagement partner and other engagement team members performing supervisory activities should take into account:

a. The nature of the company, including its size and complexity;

b. The nature of the assigned work for each engagement

team member, including:

(1) The procedures to be performed, and

[160] *Id.* ¶ 93 (quoting AS 10.05).

(2) The controls or accounts and disclosures to be tested;

c. The risks of material misstatement; and

d. The knowledge, skill, and ability of each engagement team member."[161]

.06 To determine the extent of supervision necessary for engagement team members to perform their work as directed and form appropriate conclusions, the engagement partner and other engagement team members performing supervisory activities should take into account:

a. The nature of the company, including its size and complexity;[11]

b. The nature of the assigned work for each engagement team member, including:

    1. The procedures to be performed, and

    2. The controls or accounts and disclosures to be tested;

c. The risks of material misstatement; and

d. The knowledge, skill, and ability of each engagement team member.[12]

Note: In accordance with the requirements of AS 2301.05, the extent of supervision of engagement team members should be commensurate with the risks of material misstatement.

M. AS 12 – Identifying and Assessing Risks of Material Misstatement

101. An auditor must obtain "an understanding of the company and its environment in order to understand the events, conditions, and company activities that might reasonably be expected to have a significant effect on the risks of material misstatement in an entity's financial statements."[162] Obtaining an understanding of the company includes, among other things, "understanding the nature of the company, the relevant industry, and regulatory and other external factors that impact the entity whose financial statements are under audit or review."[163]

Obtaining an Understanding of the Company and Its Environment

AS12.7. The auditor should obtain an understanding of the company and its environment ("understanding of the company") to understand the events, conditions, and company activities that might reasonably be expected to have a significant effect on the risks of material misstatement. Obtaining an understanding of the company includes understanding:

a. Relevant industry, regulatory, and other external factors;

b. The nature of the company;

c. The company's selection and application of accounting principles, including related disclosures;

d. The **company's objectives and strategies** and those related **business risks** that might reasonably be expected to result in risks of material misstatement; and
e. The company's measurement and analysis of its financial performance.

102. To assess the risk of material misstatement related to industry developments, "the accountant should assess whether the company has the proper personnel or expertise to deal with any changes in the industry that might bear on financial reporting."[164]

Selection and Application of Accounting Principles, Including Related Disclosures

.12 As part of obtaining an understanding of the company's selection and application of accounting principles, including related disclosures, the auditor should evaluate whether the company's selection and application of accounting principles are appropriate for its business and consistent with the applicable financial reporting framework and accounting principles used in the relevant industry. Also, to identify and assess risks of material misstatement related to omitted, incomplete, or inaccurate disclosures, the auditor should develop expectations about the disclosures that are necessary for the company's financial statements

to be presented fairly in conformity with the applicable financial reporting framework.

Lie #102 as it pertains to sentence that is denoted with Footnote 164. **AS 12.15** does not say this. **AS 12.15** is in its native format below.

Company Objectives, Strategies, and Related Business Risks

.14 The purpose of obtaining an understanding of the company's objectives, strategies, and related business risks is to identify business risks that could reasonably be expected to result in material misstatement of the financial statements.

Note: Some relevant business risks might be identified through other risk assessment procedures, such as obtaining an understanding of the nature of the company and understanding industry, regulatory, and other external factors.

.15 The following are examples of situations in which business risks might result in material misstatement of the financial statements:

- Industry developments (a potential related business risk might be, *e.g.*, that the company does not have the personnel or expertise to deal with the changes in the industry.)
- New products and services (a potential related business risk might be, *e.g.*, that the new product or service will not be successful.)
- Use of information technology ("IT") (a potential related business risk might be, *e.g.*, that systems and processes are incompatible.)
- New accounting requirements (a potential related business risk might be, *e.g.*, incomplete or improper implementation of a new accounting requirement.)
- Expansion of the business (a potential related business risk might be, *e.g.*, that the demand for the company's products or services has not been accurately estimated.)
- The effects of implementing a strategy, particularly any effects that will lead to new accounting requirements (a potential related

business risk might be, *e.g.*, incomplete or improper implementation of the strategy.)

- Current and prospective financing requirements (a potential related business risk might be, *e.g.*, the loss of financing due to the company's inability to meet financing requirements.)
- Regulatory requirements (a potential related business risk might be, *e.g.*, that there is increased legal exposure.)

Note: Business risks could affect risks of material misstatement at the financial statement level, which would affect many accounts and disclosures in the financial statements. For example, a company's loss of financing or declining conditions affecting the company's industry could affect its ability to settle its obligations when due. This, in turn, could affect the risks of material misstatement related to, *e.g.*, the classification of long-term liabilities or valuation of long-term assets, or it could result in

substantial doubt about the company's ability to continue as a going concern. Other business risks could affect the risks of material misstatement for particular accounts, disclosures, or assertions. For example, an unsuccessful new product or service or failed business expansion might affect the risks of material misstatement related to the valuation of inventory and other related assets.

N. AS 14 – Evaluating Audit Results

103. "'The objective of the auditor is to evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and appropriate to support the opinion to be expressed in the auditor's report.'"[165]

Objective

.02 The objective of the auditor is to evaluate the results of the audit to determine whether the audit evidence obtained is sufficient and

appropriate to support the opinion to be expressed in the auditor's report.

[161] *Id.* ¶ 94 (quoting AS 10.6).
[162] *Id.* ¶ 95 (citing AS 12.7).
[163] *Id.* ¶ 95 (citing AS 12.7).
[164] *Id.* ¶ 96 (citing AS 12.15).
[165] *Id.* ¶ 97 (quoting AS 14.2).

Factors that are relevant to the conclusion on whether sufficient appropriate audit evidence has been obtained include, in part, "(1) the results of audit procedures performed, including whether the evidence obtained supports or contradicts management's assertions and whether such audit procedures identified specific instances of fraud and (2) the appropriateness (*i.e.*, the relevance and reliability) of the audit evidence obtained."[166]

.34 Factors that are relevant to the conclusion on whether sufficient appropriate audit evidence has been obtained include the following:

a. The significance of uncorrected misstatements and the likelihood of their having a material effect, individually or in combination, on the financial statements, considering the possibility of further undetected misstatement (paragraphs .14 and .17-.19 of this standard).

b. The results of audit procedures performed in the audit of financial statements, including whether the evidence obtained supports or contradicts management's assertions and whether such audit procedures identified specific instances of fraud (paragraphs .20-.23 and .28-.29 of this standard).

c. The auditor's risk assessments (paragraph .36 of this standard).

d. The results of audit procedures performed in the audit of internal control over financial reporting, if the audit is an integrated audit.

e. The appropriateness (*i.e.*, the relevance and reliability) of the audit evidence obtained.[20]

104. When an auditor "has not obtained sufficient appropriate audit evidence about a relevant assertion or has substantial doubt about a relevant assertion, **the auditor must perform additional procedures**."[167] If the auditor "is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the financial statements as a whole are free of material misstatement, AU sec. 508 indicates that the auditor should express a qualified opinion or a disclaimer of opinion."[168]

Lie #104: This is the Division's statement, "**the auditor must perform additional procedures."** AS 14.35 does not say this it says "the auditor **should perform procedures to obtain further audit evidence to address the matter." AS 14.35** is in native format below.

.35 If the auditor has not obtained sufficient appropriate audit evidence about a relevant assertion or has substantial doubt about a

relevant assertion, the auditor **should perform procedures to obtain further audit evidence to address the matter.** If the auditor is unable to obtain sufficient appropriate audit evidence to have a reasonable basis to conclude about whether the financial statements as a whole are free of material misstatement, AS 3105 indicates that the auditor should express a qualified opinion or a disclaimer of opinion.

O. AS 15 – Audit Evidence

105. "'Audit evidence is all the information that is used by the auditor in arriving at the conclusions on which the auditor's opinion is based.'"[169] Auditors must plan and perform audit procedures "to obtain sufficient appropriate audit evidence to provide a reasonable basis for the **audit** opinion."[170] "'Sufficiency' is the measure of the quantity of audit evidence." "'Appropriateness' is the measure of the quality of audit evidence (*i.e.*, relevance and reliability)."[171]

AS 15.04 does not say "audit" it says "his or her opinion."

Sufficient Appropriate Audit Evidence

.04 The auditor must plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.

.05 Sufficiency is the measure of the quantity of audit evidence. The quantity of audit evidence needed is affected by the following:

- *Risk of material misstatement (in the audit of financial statements) or the risk associated with the control (in the audit of internal control over financial reporting).* As the risk increases, the amount of evidence that the auditor should obtain also increases. For example, ordinarily more evidence is needed to respond to significant risks.[2]
- *Quality of the audit evidence obtained.* As the quality of the evidence increases, the need for additional corroborating evidence decreases. Obtaining more of the same type of audit evidence, however, cannot compensate for the poor quality of that evidence.

.06 Appropriateness is the measure of the quality of audit evidence, *i.e.*, its relevance and reliability. To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based.

106. The quantity of audit evidence required "**depends in part on risk of misstatement as well as the quality of the audit evidence obtained**." "The greater the risk of misstatement **or the lessor the quality of audit evidence obtained**, the more audit evidence an auditor requires."[172]

Lie #106: This statement is mumbo jumbo. **AS 15.05** does not say this. Its in its native format below.

Sufficient Appropriate Audit Evidence

.04 The auditor must plan and perform audit procedures to obtain sufficient appropriate audit evidence to provide a reasonable basis for his or her opinion.

.05 Sufficiency is the measure of the quantity of audit evidence. The quantity of audit evidence needed is affected by the following:

- *Risk of material misstatement (in the audit of financial statements) or the risk associated with the control (in the audit of internal control over financial reporting).* As the risk increases, the amount of evidence that the auditor should obtain also increases. For

example, ordinarily more evidence is needed to respond to significant risks.[2]

- *Quality of the audit evidence obtained.* As the quality of the evidence increases, the need for additional corroborating evidence decreases. Obtaining more of the same type of audit evidence, however, cannot compensate for the poor quality of that evidence.

.06 Appropriateness is the measure of the quality of audit evidence, *i.e.*, its relevance and reliability. To be appropriate, audit evidence must be both relevant and reliable in providing support for the conclusions on which the auditor's opinion is based.

107. Audit evidence must be "both relevant and reliable to be appropriate to support the conclusions on which the auditor opinion is based." The relevance of audit evidence "refers

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[166] *Id.* ¶ 97 (citing AS 14.34).
[167] *Id.* ¶ 98.
[168] *Id.* ¶ 98 (citing AS 14.35).
[169] *Id.* ¶ 99 (quoting AS 15.2).
[170] *Id.* ¶ 99 (citing AS 15.4).
[171] *Id.* ¶ 99 (quoting AS 15.5, -.6).
[172] *Id.* ¶ 100 (citing AS 15.5).

to its relationship to the assertion or the objective of the control being tested."[173] The reliability of audit evidence "depends on the nature and source of the evidence and the circumstances under which it is obtained."[174]

Relevance and Reliability

.07 *Relevance.* The relevance of audit evidence refers to its relationship to the assertion or to the objective of the control being tested. The relevance of audit evidence depends on:

a. The design of the audit procedure used to test the assertion or control, in particular whether it is designed to (1) test the assertion or control directly and (2) test for understatement or overstatement; and

b. The timing of the audit procedure used to test the assertion or control.

.08 *Reliability.* The reliability of evidence depends on the nature and source of the evidence and the circumstances under which it is obtained. For example, in general:

- Evidence obtained from a knowledgeable source that is independent of the company is more reliable than evidence obtained only from internal company sources.
- The reliability of information generated internally by the company is increased when the company's controls over that information are effective.
- Evidence obtained directly by the auditor is more reliable than evidence obtained indirectly.
- Evidence provided by original documents is more reliable than evidence provided by photocopies or facsimiles, or documents that have been filmed, digitized, or otherwise converted into electronic form, the reliability of which depends on the controls over the conversion and maintenance of those documents.

.09 The auditor is not expected to be an expert in document authentication. However, if conditions indicate that a document may not be authentic or that the terms in a document have been modified but

that the modifications have not been disclosed to the auditor, the auditor should modify the planned audit procedures or perform additional audit procedures to respond to those conditions and should evaluate the effect, if any, on the other aspects of the audit.

108. In representing that financial statements are presented fairly in conformity with GAAP (for instance), "management implicitly or explicitly makes assertions regarding the recognition, measurement, presentation, and disclosure of the various elements of financial statements and related disclosures."[175] **Auditors are required "to obtain audit evidence to address the implicit or explicit assertions that management made in financial statements and related disclosures."**[176]

Lie #108: AS 15.11 does not say the last sentence in the above paragraph, denoted by footnote 176. **AS 15.11** is in Native Format below:

Financial Statement Assertions

.11 In representing that the financial statements are presented fairly in conformity with the applicable financial reporting framework, management implicitly or explicitly makes assertions regarding the recognition, measurement, presentation, and disclosure of the various

elements of financial statements and related disclosures. Those assertions can be classified into the following categories:

- *Existence or occurrence*—Assets or liabilities of the company exist at a given date, and recorded transactions have occurred during a given period.
- *Completeness*—All transactions and accounts that should be presented in the financial statements are so included.
- *Valuation or allocation*—Asset, liability, equity, revenue, and expense components have been included in the financial statements at appropriate amounts.
- *Rights and obligations*—The company holds or controls rights to the assets, and liabilities are obligations of the company at a given date.
- *Presentation and disclosure*—The components of the financial statements are properly classified, described, and disclosed.

109. Inquiries is one type of audit procedure performed to obtain audit evidence.

"Inquiries consists of obtaining information from knowledgeable persons in financial or nonfinancial roles within the company or outside the company. Inquiries of company personnel, by itself, does not provide sufficient audit evidence to reduce audit risk to an appropriately low level for a relevant assertion."[177]

Inquiry

.17 Inquiry consists of seeking information from knowledgeable persons in financial or nonfinancial roles within the company or outside the company. Inquiry may be performed throughout the audit in addition to other audit procedures. Inquiries may range from formal written inquiries to informal oral inquiries. Evaluating responses to inquiries is an integral part of the inquiry process.[9]

Note: Inquiry of company personnel, by itself, does not provide sufficient audit evidence to reduce audit risk to an appropriately low level for a relevant assertion or to support a conclusion about the effectiveness of a control.

110. Further, "'[if] audit evidence obtained from one source is inconsistent with that

obtained from another … the auditor should perform the audit procedures necessary to resolve the matter and should determine the effect, if any, on other aspects of the audit.'"[178]

Lie #110: The Division intentionally takes out a critical component of the paragraph AS 15.29 "**or if the auditor has doubts about the reliability of information to be used as audit evidence" This means its up to the auditor to decide and the statement is consistent with many Supreme Court decisions.**

Inconsistency in, or Doubts about the Reliability of, Audit Evidence

AS 15.29 If audit evidence obtained from one source is inconsistent with that obtained from another, **or if the auditor has doubts about the reliability of information to be used as audit evidence**, the auditor **should** perform the audit procedures necessary to resolve the matter and **should** determine the effect, if any, on other aspects of the audit.

[173] *Id.* ¶ 101 (citing AS 15.7).
[174] *Id.* ¶ 101 (citing AS 15.8).
[175] *Id.* ¶ 102 (citing AS 15.11).
[176] *Id.* ¶ 102 (citing AS 15.11).
[177] *Id.* ¶ 103 (citing AS 15.17).
[178] *Id.* ¶ 104 (quoting AS 15.29).

ACCELERA

A. Accelera-Related Entities and Individuals

111. **Accelera Innovations, Inc.** ("Accelera") was a Delaware corporation with its principal place of business in Frankfort, Illinois. It was incorporated in April 2008 as a shell company. Later, the company claimed to be "a healthcare service company … focused on acquiring companies primarily in the post-acute care patient services and information technology services industries." Its common stock was quoted on OTC Link, operated by OTC Markets Group, Inc. and f/k/a the Pink Sheets ("OTC Link") under ticker ACNV, beginning in January 2014.[179]

112. **Behavioral Health Care Associates, Ltd.** ("BHCA") is a health care provider based in Schaumberg, Illinois specializing in psychiatry and substance abuse treatment.[180]

113. **Geoffrey Thompson** was the Chairman of the Board of Accelera.[181]

114. **John Wallin** was the nominal CEO of Accelera.[182] However, Wallin "wasn't very involved at all" in Accelera.[183]

115. **Timothy Neher** founded and owned the shell company that eventually became Accelera.[184] After he sold the shell, he served as a consultant to Accelera and "interim CFO … on a contract basis" until Daniel Freeman was hired.[185] However, Neher did not have strong accounting or financial skills.[186]

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[179] Ex. 840 (Stipulated Facts) ¶ 24.
[180] Ex. 840 (Stipulated Facts) ¶ 25.
[181] Tr. (Vol. I Freeman) 55:13-14 ("I reported to the Chairman of the Board, Geoff Thompson."); Tr. (Vol. II Boerum) 378:23-24 ("Geoff Thompson was the Chairman of the Board.").
[182] Tr. (Vol. I Freeman) 55:25 ("The CEO was John Wallin.").
[183] Tr. (Vol. I Freeman) 56:8-14.
[184] Tr. (Vol. I Freeman) 56:19-22 ("He was the originally person who formed Accelera and sold the shares to Synergistic."); Ex. 105 (Accelera 2013 Form 10-K) 5.
[185] *Id.*

[186] Tr. (Vol. I Freeman) 80:14-24 ("I didn't think he had strong accounting or financial skills.").

116. **Daniel Freeman** served as the CFO of Accelera from approximately "September of 2014 through March 20 of 2015."[187] He has an MBA, and he is a Certified Public Accountant and a Certified Information Technology Professional.[188] He has thirty years of public accounting experience, including at KPMG.[189]

B. Facts about Accelera's Improper Consolidation of BHCA

1. BHCA Agreements

a. Stock Purchase Agreement

117. Dr. Blaise Wolfrum and Accelera entered into a stock purchase agreement (the "Stock Purchase Agreement" or "SPA") on November 11, 2013.[190]

118. The fourth whereas clause of the Stock Purchase Agreement stated that "Purchaser [Accelera], Seller [Wolfrum], and the Company [BHCA] mutually agree and intend that the Company shall become a wholly owned subsidiary of Purchaser upon receipt of purchase price set forth in Section 1.1.1.1, subject to the terms and conditions of this Agreement."[191]

119. Section 1.1.1.1 of the SPA referred to the first payment due from Accelera to Wolfrum: "Ninety days from the date of closing, as defined in Section 2.1 below, Purchaser shall pay to Seller One Million 00/100 Dollars in lump sum by wire transfer of immediately available funds."[192]

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[187] Tr. (Vol. I Freeman) 54:22-55:4.
[188] Tr. (Vol. I Freeman) 51:25-52:8 ("I have a Master's in Business Administration from the University of Saint Thomas in St. Paul, Minnesota. Q And what other credentials, if any, do you have? A I'm a Certified Public Accountant, I'm a chartered managerial accountant, and I have a CITP, which is a Certified Information Technology Professional.").
[189] Tr. (Vol. I Freeman) 52:12-18 ("My professional background is, I've been in public accounting roughly 30 years. Initially I got my start at KPMG in Des Moines, Iowa. After that I joined a small CPA firm in Rochester, Minnesota. I spent three and a half years in private accounting before returning to public accounting. I was a partner in CPA firms from 1995 until joining Accelera.").
[190] Ex. 184 (Stock Purchase Agreement).
[191] *Id.* at 1.

[192] *Id.* § 1.1.1.1.

120. Section 1.1 of the SPA stated that the stock of BHCA would transfer to Accelera "[u]pon receipt of the payment of the purchase price set forth in Section 1.1.1.1, and subject to the terms and conditions of this Agreement."[193] It further stated that "The Parties agree that [BHCA's] Accounts Receivable and Accounts Payable shall be conveyed, transferred and assigned to Purchaser [Accelera] upon receipt of the payment of the purchase price set forth in Section 1.1.1.1, subject to the terms and conditions of this Agreement."[194]

Lie #120: Exhibit 1217 *which is the first amendment to the stock purchase agreement that was effective February 24, 2014 almost seven weeks* ***BEFORE*** *the first audit was completed that "****Purchaser, Seller*** and Company agree that Article 1.1.1.1 of the Stock Purchase Agreement is hereby deleted in its entirety**." This** *section 1.1.1.1 is the SEC's entire support for an enforcement action. Well 1.1.1.1 is cancelled,* ***DELETED****, much like the SEC's case if they paid attention and read the contracts they would have known that there never could have been an enforcement action against Honest Hardworking Americans.*

121. Section 1.2 of the SPA stated that "[p]rior to seller's receipt of the payment set forth in section 1.1.1.1, each party shall have the right to immediately, upon written notice to the other party, cancel and terminate this agreement in its entirety and be released from any and all obligations set forth herein."[195]

Lie #121 SECOND AMENDMENT TO SPA – TERMINATION OF 1.1.1.1

Exhibit 1218 – Second Amendment to SPA:

A) TERMINATION OF 1.1.1.1:

The Second Amendment to the SPA kicks out the payment but makes no mention to de- consolidating BHCA and confirms the transaction under the SPA. In fact, Accelera further compensates Blaise Wolfrum with additional share based compensation to ensure to maintain his motivation to stay in the Accelera transaction.

> **WHEREAS**, Purchaser, Seller and Company desire to amend the Stock Purchase Agreement to allow Purchaser additional time to make the payment required by Article 1.1.1.1 of the Stock Purchase Agreement.

B) *DELETION OF ARTICLE 1.2:*

> Prior to Seller's receipt of the payment set forth in Section 1.1.1.1, Seller shall have the right to immediately upon written notice to the other party cancel and terminate this Agreement in its entirety and be released from any and all obligations set forth herein.

Based on the effectiveness on March 18, 2014, and the deletion of Article 1.2. Prior to Seller's receipt of the payment set forth in Section 1.1.1.1, Seller shall have the right to immediately

upon written notice to the other party cancel and terminate this Agreement in its entirety and be released from any and all obligations set forth herein.

122. Section 7.18 of the SPA indicated that Accelera would form an LLC "prior to Closing," and that Wolfrum would be appointed as sole manager of that LLC.[196]

Lie #122 Exhibit 1210 Article II the Closing Section 2.1 clearly states, "Closing of the transaction contemplated by this Agreement shall be effective as of November 11, 2013 ("Closing"). Closing obviously occurred since the LLC HMSA was created and Wolfrum was appointed as a manager of the LLC, which Wolfrum executed the agreements. See **Exhibits 1213** and **1214** and the 8-K (**Exhibit 103**) where Accelera publicly disclosed the agreements.

123. Both parties to the SPA understood that Wolfrum would not convey ownership to Accelera until Accelera paid him. Wolfrum understood that Accelera would take ownership of the company once it paid him the money in section 1.1.1.1 of the SPA.[197] Similarly, Accelera's Chief Strategic Officer, Cindy Boerum, understood that, under the Stock Purchase Agreement, Accelera would only obtain the stock of BHCA "[o]nce the payment of $1 million was made."[198]

Lie #123: Cindy Boreum is a nurse (**TR 376 Lines 19-24; TR 427 Lines 2-5 & Lines 11-15; TR 428 Lines 15-20**) (a "gopher") that claimed she had no idea and Blaise Wolfrum is a suspended phychiatrist that admitted he had no knowledge of US GAAP(**TR 310 Lines 7-25 & TR 320 Lines 22-25**). Accelera had primary responsibility for financial reporting and determining whether Accelera should be consolidated or not. Ownership doesn't mean control as described by **ASC 805** and **ASC 820**.

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[193] *Id.* § 1.1.

[194] *Id.*

[195] *Id.* § 1.2.

[196] *Id.* § 7.18.

[197] Tr. (Vol. I Wolfrum) 199:4-17 ("It meant that once they would pay me the money that was described in section 1.1.1.1, that they would then take ownership of the company."); *see also id.* at 199:18-200:11 (Wolfrum understood Section 1.1. to mean that "once the monetary payment would be received by me, that I would then transfer stock to the purchaser.").

[198] Tr. (Vol II Boerum) 382:20-24.

124. Accelera never made any payments to Wolfrum under the Stock Purchase Agreement.[199] Wolfrum never received any payments at all from Accelera.[200] Accordingly, Accelera never obtained the stock of BHCA.[201]

125. Wolfrum's intent in entering into the Stock Purchase Agreement was to sell his company for $4.550 million.[202] Wolfrum did not intend to convey the stock of his company before he was paid.[203]

b. Bill of Sale

126. Wolfrum signed a bill of sale ("Bill of Sale"), which indicated that he would sell and convey the stock of BHCA to Accelera "effective upon the payment of the purchase price set forth in Section 1.1.1.1 of the Purchase Agreement.[204]

127. Wolfrum understood the Bill of Sale to mean that "until I would receive the money, there would be no sale of the company."[205]

c. Promissory Note

128. Accelera signed a $3.55 million promissory note to Wolfrum (the "Promissory Note") on November 11, 2013, which was expressly "effective upon the payment of the purchase

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[199] Tr. (Vol I Wolfrum) 203:2-203:5 ("Q Did you ever receive any money from a seller at any point in time pursuant to the Stock Purchase Agreement? A No."); *see also id.*at 202:19-203:1; Tr. (Vol I Freeman) 62:20-22 ("Q. And again, did Accelera make this payment set forth in section 1.1.1.1? A. No."); Tr. (Vol II Boerum) 382:25-383:2 ("Q And what amount of money, if any, did Accelera pay under the Stock Purchase Agreement? A To my knowledge, nothing.").

[200] Tr. (Vol I Wolfrum) 205:19-25 ("JUDGE PATIL … Wolfrum, did you ever receive any payments at all from Accelera? A. No.").

[201] Tr. (Vol I Wolfrum) 212:18-21 ("Q. And at any time from November 11, 2013, to the present, has Accelera ever taken possession of Behavioral stock? A. No."); *see also* Tr. (Vol I. Freeman) 63:13-16 (answering "[n]o," to question, "[d]id there ever come a time, to your knowledge, Freeman, when Accelera actually acquired the stock of Behavioral?"); Tr. (Vol. II Boerum) 383:3-5 ("Q So did Accelera ever obtain the stock of Behavioral Health Care Associates? A They should not – no.").

[202] Tr. (Vol. I Wolfrum) 203:6-9 ("Q. What was your intent in entering into the stock purchase agreement? A. It was to sell the company for the $4.550 million to Accelera.").

[203] Tr. (Vol. I Wolfrum) 203:10-13 ("Q. Did you ever intend to convey all of the stock in your company, Behavioral Health Care Associates, before you were ever paid for it? A. No.").
[204] Ex. 194 (Bill of Sale).
[205] Tr. (Vol. I Wolfrum) 204:3-12.

price set forth in Section 1.1.1.1 of the Purchase Agreement."[206] In other words, the Promissory Note would only take effect after the initial payment of $1 million, and it would cover the remaining $3.55 million of the agreed-upon purchase price.[207]

129. Under Section 3 of the Promissory Note, the failure of Accelera to make any payment required under the Note would cause Accelera to owe interest of 7% per year.[208] Wolfrum never received any payments of interest under Section 3 of the Promissory Note.[209] Accelera also did not accrue interest under the Promissory Note.[210]

Lie #129 The Amendments to the Stock Purchase Agreement cured each default and provide Wolfrum with compensation in the form of shares. See **Exhibits 1217**, **1218** and **1257**. Management is responsible for reporting appropriate accounting records and accounting policies not Respondents.

130. Wolfrum's understanding was that the Promissory Note would only "take effect then once the first payment was made."[211]

Lie #130 Blaise Wolfrum's legal counsel advised him to sign the legal confirmations, see **Exhibits 1248**, **1249** and **1250 (TR 270 Lines 18-20)**.

d. Stock Powers Certificate

131. Wolfrum signed a Stock Powers Certificate, under which he agreed to sell the

stock of BHCA "effective upon the payment of the purchase price set forth in Section 1.1.1.1 of the Purchase Agreement."[212]

132. Wolfrum's understood the Stock Power Certificate to mean that he would transfer the BHCA stock upon the payment of the purchase price set forth in the SPA.[213]

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[206] Ex. 186 (Promissory Note).

[207] *Id.*; *see also* Tr. (Vol I Freeman) 64:16-65:1 ("[The Promissory Note] was not in effect at that time."); Tr. (Vol. II Boerum 460:14-23 ("Q You also discussed Exhibit 186, the promissory note with Wahl. We hadn't discussed that during your direct examination, so I just wanted to call your attention to the first paragraph of Exhibit 186. Is it your understanding that Exhibit 186 was effective upon the payment of the purchase price set forth in section 1.1.1.1 of the Stock Purchase Agreement? A Yes.").

[208] Ex. 186 (Promissory Note) § 3.

[209] Tr. (Vol. I Wolfrum) 206:3-21 ("Q. Can you take a look at section 3 on the default right here? … Did you ever get any interest? A. No.").

[210] Tr. (Vol. I Freeman) 65:11-16 (responding, "[n]o," to question, "[w]hen you were the CFO of Accelera, did Accelera accrue interest under this promissory note?" because "the transaction had not been completed.").

[211] Tr. (Vol I Wolfrum) 204:13-205:3.

[212] Ex. 189 (Stock Powers Certificate).

[213] Tr. (Vol. I Wolfrum) 206:22-207:9 (A [The Stock Powers Certificate] says that I would be transferring the stock in Behavioral Health Care Associates effective upon the payment of the purchase price set forth in section 1.1.1.1. Q Is this term consistent with your intent not to sell Behavioral until you've been paid under the Stock Purchase Agreement? A Yes.").

e. Written Action of the BHCA Shareholders

133. Wolfrum signed a Written Action of the Shareholders of BHCA on November 11, 2013 which held that "upon Accelera's payment of the purchase price set forth in Section 1.1.1.1 of the Purchase Agreement, Blaise J. Wolfrum, M.D. shall be named President of Behavioral Health Care Associates, a wholly owned subsidiary of Accelera Innovations Inc. and Manager of Accelera Healthcare Management Service Organization."[214]

Lie #133 It was fully disclosed Blaise J. Wolfrum as President of Behavioral Health Care Associates in **Exhibit 114 Page 88 (F-15)** and **EXHIBIT 132 page 49 and 51** where Wolfrum was also listed as a director since 2013. Wolfrum already signed as manager of Accelera Healthcare Management Service Organization (**See Exhibits 1213 and 1214**), which was further disclosed with the Form 8-K (**Exhibit 103**).

134. The Written Action of the Shareholders of BHCA further stated that Wolfrum "shall continue to hold the positions of CEO" of BHCA "until Accelera's payment of the purchase price set forth in Section 1.1.1.1 of the Purchase Agreement."[215]

Lie #134 Under **Exhibit #188 paragraph 4e**, Accelera ("Pledgor") shall operate the business in a similar manner until the $4.5MM is paid.

4 (e) **Operation of the Business**, Pledgor shall conduct the Business of the Company in a commercially reasonable manner, including but not

limited to, consistent with past practices in terms of salary, bonuses, hiring and firing of officers, executives, and other management type positions, until the Purchase Price is paid in full. This same paragraph in the **SPA EXHIBIT 1210 SECTION 5.4.**

135. Wolfrum understood the Written Action of the Shareholders of BHCA to mean that he would be named president of Accelera's subsidiary and manager of its management service organization only after Accelera made the first payment under the SPA.[216]

Lie #135 It was fully disclosed Blaise J. Wolfrum as President of Behavioral Health Care Associates in **Exhibit 114 Page 88 (F-15)** and **EXHIBIT 132 page 49 and 51** where Wolfrum was also listed as a director since 2013. Wolfrum already signed as manager of Accelera Healthcare Management Service Organization (**See Exhibits 1213 and 1214**), which was further disclosed with the Form 8-K (**Exhibit 103**).

f. Stock Pledge and Escrow Agreement

136. Accelera and Wolfrum entered into a Stock Pledge and Escrow Agreement (the "Escrow Agreement") on November 11, 2013, which was to be "effective upon the payment of purchase price set forth in Section 1.1.1.1 of the Purchase Agreement."[217]

Lie #136 Wolfrum legally doesn't have control of BHCA's shares**. Exhibit# 188** clearly states that BHCA shares are held in escrow (**TR 275 Lines 12-14**) until the payment of the $4.5MM promise to pay, similarly under **Exhibit 1210 section 5.4**, where under **Exhibit #188 paragraph 4e**, Accelera ("Pledgor") shall operate the business in a similar manner until the $4.5MM is paid.

4 (e) **Operation of the Business**, Pledgor shall conduct the Business of the Company in a commercially reasonable manner, including but not limited to, consistent with past practices in terms of salary, bonuses, hiring and firing of officers, executives, and other management type positions, until the Purchase Price is paid in full. This same paragraph in the **SPA EXHIBIT 1210 SECTION 5.4.**

Accelera can determine hiring, firing, salary, etc. but it needs to be consistent with **past practices**.

137. Under the Escrow Agreement, once Accelera made the initial payment of $1

million, the shares of BHCA would be placed into an escrow account and held as security until Accelera paid the full $4.55 million.[218]

Lie #137 Wolfrum legally doesn't have control of BHCA's shares**. Exhibit# 188** clearly states that BHCA shares are held in escrow (**TR 275 Lines 12-14)** until the payment of the $4.5MM promise to pay, similarly under **Exhibit 1210 section 5.4**, where under **Exhibit #188 paragraph 4e**, Accelera ("Pledgor") shall operate the business in a similar manner until the $4.5MM is paid.

4 (e) **Operation of the Business**, Pledgor shall conduct the Business of the Company in a commercially reasonable manner, including but not limited to, consistent with past practices in terms of salary, bonuses, hiring and firing of officers, executives, and other management type positions, until the Purchase Price is paid in full. This same paragraph in the **SPA EXHIBIT 1210 SECTION 5.4.**

Accelera can determine hiring, firing, salary, etc. but it needs to be consistent with **past practices**.

[214] Ex. 191 (Unanimous Written Action of the Shareholders of BHCA) 1.

[215] *Id.*
[216] Tr. (Vol. I Wolfrum) 208:2-10 ("It says that after payment of the purchase price set forth in Section 1.1.1.1, that I would be named the president of Behavioral Health Care Associates as a wholly owned subsidiary with Accelera, and then manager of their management service organization."); *see also id.* at 08:17-24.
[217] Ex. 188 (Escrow Agreement) 1.
[218] *Id.* § 2; *see also* Tr. (Vol I Wolfrum) 210:3-19 (Wolfrum understood the Stock Pledge and Escrow Agreement to mean that "after [he] received the first million dollars, the stock would go into an escrow account called BW

138. Wolfrum himself controlled the putative escrow agent, BW Holdings, LLC[219]

Accelera never placed any BHCA stock into escrow.[220] But even if the stock had gone into escrow, under the Escrow Agreement, Wolfrum – as the escrow agent – would have controlled it until after the entire $4.55 million purchase price was paid.[221]

Lie #138 There is no evidence that BW Holdings, LLC even existed, there is no exhibit filed as evidence, simply that we can trust Wolfrum a suspended pshyciatrist that "The state said he's a danger to the public" who day traded Accelera's stock while acting as a director and officer of Accelera since 2013. Wolfrum isn't a lawyer, he has no expertise in US GAAP or GAAS.

Wolfrum legally doesn't have control of BHCA's shares**. Exhibit# 188** clearly states that BHCA shares are held in escrow **(TR 275 Lines 12-14)** until the payment of the $4.5MM promise to pay, similarly under **Exhibit 1210 section 5.4**, where under **Exhibit #188 paragraph 4e**, Accelera ("Pledgor") shall operate the business in a similar manner until the $4.5MM is paid.

4 (e) **Operation of the Business**, Pledgor shall conduct the Business of the Company in a commercially reasonable manner, including but not

limited to, consistent with past practices in terms of salary, bonuses, hiring and firing of officers, executives, and other management type positions, until the Purchase Price is paid in full. This same paragraph in the **SPA EXHIBIT 1210 SECTION 5.4.**

Accelera can determine hiring, firing, salary, etc. but it needs to be consistent with **past practices**.

g. Operating Agreement

139. Wolfrum entered into an operating agreement on November 11, 2013 for an entity called Accelera Healthcare Management Service Organization LLC (the "Operating Agreement").[222]

Lie #139 Lie #139 isnt even consistent with **Lie #122,** which says "Accelera would form an LLC prior to closing" and on November 11, 2013 the transaction closed and the Operating Agreement was created see **Exhibits 1213** and **1214**, which was fully disclosed in **Exhibit 103**.

140. At no time was the Accelera Healthcare Management Service Organization contemplated by the Operating Agreement ever operational.[223] Accelera Healthcare Management Service Organization never owned or controlled BHCA.[224]

Lie #140: Exhibit 1207: Security Agreement: The agreement is dated

November 11, 2013. The Agreement is executed by Blaise J. Wolfrum. ***Section 2. Indebtedness Secured. Page 1***. This Agreement and the Security Interest created hereunder secure payments due under a Stock Purchase Agreement, Stock Pledge Escrow Agreement, and ~~Secured Promissory Note made between Debtor and S~~Secured Party (" Indebtedness") wherein ***Debtor purchased 100% of the shares of stock of Behavioral Health Care Associates, Ltd., an Illinois corporation, (the "Company") from Secured Party.***

Holdings … and the stock would remain in BW Holdings until such time as the full $4.550 million was received."); *see also id.* at12:5-17.

[219] Tr. (Vol. I Wolfrum) 211:5-6 ("Q. And who controls BW Holdings, LLC? A. Well, I did until I let it be dissolved."); *id.* at35:19-20 ("Q Who's the escrow agent under this agreement? A I am."); *see also* Ex. 277 (Illinois Secretary of State listing for BW Holdings, LLC).

[220] Tr. (Vol. I Wolfrum) 212:5-8 ("Q. So pursuant to the stock pledge and escrow agreement did Accelera ever escrow the Behavioral stock before Accelera paid you the million dollars? A. No."); *see also id.* at43:14-22 ("Q. And you never transferred the shares to Accelera? A. Correct. Q. Did you ever transfer the shares to the escrow? A. No. Q. And Accelera never took possession of the shares from November 2013 until today? A. That's correct.").

[221] Ex. 188 (Escrow Agreement); *see also* Tr. (Vol. I. Wolfrum) 235:19-236:7 ("Q Who's the escrow agent under this agreement? A I am. Q So you control the stock under the agreement; is that right? A If the stock went into the escrow, which it didn't, but if it did, I would have controlled the stock. Q And you would have controlled that stock until it came out of escrow, right? A Correct. Q And at what point would it have come out of escrow? A When the $4.550 million was received. Plus any other obligations that might be due, yeah.").

[222] Ex. 185 (Operating Agreement.).

[223] Tr. (Vol. I Wolfrum) 214:22-25 ("Q. At any time from November 11, 2013 until today, has the Accelera Healthcare Management Service Organization ever been operational? A. No."); *see also* Tr. (Vol. I Freeman) 70:11-13 ("Basically, [the Accelera Healthcare Management Service Organization] was a shell company at that point in time, because nothing had been moved into that subsidiary."); Tr. (Vol. II Boerum) 384:3-11 ("It was filed, but never implemented.").

[224] Tr. (Vol. I Freeman) 70:22-25 (responding, "[n]o," to question "at any time, did Accelera Healthcare Management Service Organization LLC own or control Behavioral?").

141. No assets were ever contributed to the Accelera Healthcare Management Service Organization.[225] In particular, the stock of BHCA was never contributed.[226]

Lie #141 Freeman thought Accelera was on NASDAQ. How would he know if the assets were transferred or not. Wolfrum maybe he should talk to his lawyer that wrote the contracts b/c that is not what the contracts provide as documented. Wolfrum doesn't legally have control of BHCA's shares**. Exhibit# 188** clearly states that BHCA shares are held in escrow (**TR 275 Lines 12-14**) until the payment of the $4.5MM promise to pay, similarly under **Exhibit 1210 section 5.4**, where under **Exhibit #188 paragraph 4e**, Accelera ("Pledgor") shall operate the business in a similar manner until the $4.5MM is paid.

4 (e) **Operation of the Business**, Pledgor shall conduct the Business of the Company in a commercially reasonable manner, including but not limited to, consistent with past practices in terms of salary, bonuses, hiring and firing of officers, executives, and other management type positions, until the Purchase Price is paid in full. This same paragraph in the **SPA EXHIBIT 1210 SECTION 5.4.**

Exhibit 1207: Security Agreement: The agreement is dated November 11, 2013. The Agreement is executed by Blaise J. Wolfrum. ***Section 2. Indebtedness Secured. Page 1***. This Agreement and the Security Interest created hereunder secure payments due under a Stock Purchase Agreement, Stock Pledge Escrow Agreement, and Secured Promissory Note made between Debtor and Secured Party (" Indebtedness") wherein **Debtor purchased 100% of the shares of stock of Behavioral Healthcare Associates, Ltd. An Illinois corporation, (the "Company") from Secured Party.**

142. On Exhibit A of the Operating Agreement, the ownership percentage attributed to Accelera was left blank.[227]

Lie #142 Exhibit 1207: Security Agreement: The agreement is dated November 11, 2013. The Agreement is executed by Blaise J. Wolfrum. ***Section 2. Indebtedness Secured. Page 1***. This Agreement and the Security Interest created hereunder secure payments due under a Stock Purchase Agreement, Stock Pledge Escrow Agreement, and

Secured Promissory Note made between Debtor and Secured Party (" Indebtedness") wherein **Debtor purchased 100% of the shares of stock of Behavioral Healthcare Associates, Ltd. An Illinois corporation, (the "Company") from Secured Party**.

143. Wolfrum never worked for the Accelera Healthcare Management Service Organization.[228]

Lie #143 Wolfrum'a employment agreement **EXHIBIT 1212**, **paragraph 1** "On Behalf of Accelera Innovations, Inc. (Accelera) (the "Company"), I am pleased to extend this offer of employment to you for the position of President for the Accelera business unit "Behavioral Health Care Associates" reporting to John Wallin, CEO." John Wallin was part of the board or directors and by virtue of **Exhibit 1212** Wolfrum reported to the board of directors.

h. Employment Letter

144. On November 11, 2013, Accelera extended an offer of employment to Wolfrum to serve as president of an Accelera business unit called "Behavioral Health Care Associates" (the "Employment Letter").[229]

145. Wolfrum never became the President for the Accelera business unit, Behavioral Health Care Associates, or any other Accelera subsidiary.[230]

Lie #145 Exhibit 1207: Security Agreement: The agreement is dated November 11, 2013. The Agreement is executed by Blaise J. Wolfrum. ***Section 2. Indebtedness Secured. Page 1***. This Agreement and the Security Interest created hereunder secure payments due under a Stock Purchase Agreement, Stock Pledge Escrow Agreement, and Secured Promissory Note made between Debtor and Secured Party (" Indebtedness") **wherein Debtor purchased 100% of the shares of stock of Behavioral Healthcare Associates, Ltd. An Illinois corporation, (the "Company") from Secured Party**.

Exhibit 132 Page 35:

ITEM 2. PROPERTIES

Item 102 of Regulation SK 229.102

Instruction 1 to **Item 102**: ***This item requires information that will reasonably inform investors as to*** the suitability, adequacy, productive capacity, and extent of utilization of the principal physical ***properties of the registrant and its subsidiaries, to the extent the described properties are material***.

Accelera's management lists its principal physical properties of the registrants and its subsidiaries. The actual disclosure is below.

We maintain our corporate office at 20511 Abbey Drive, Frankfort, Illinois 60423. Advance Lifecare operates from a 1,900 square foot leased facility located at 3590 Hobson Rd, Woodridge, IL 60517 which expires on September 15, 2016. ***Behavioral Health operates from a 5,988 leased facility*** located at 1375 E. Schaumburg Rd Suite 230, Schaumburg IL 60194 which expires on October 31, ***2015 and another 2,000 square foot facility located at 484 N. Lee St., Des Plaines, IL 60016 which is on a month to month basis.***

Accelera's management fully disclosed to the investing public that BHCA is a wholly owned subsidiary of Accelera as they completed Item 2 Properties and included not only the long term facility that BHCA used but also its month to month facility.

146. The employment offer was expressly contingent upon the "valuation and audited financials of 'Behavioral Health Care Associates."[231] No valuation or audited financials of BHCA were ever completed.[232]

LIE #146 Exhibit 1217: Page 2, paragraph 3, as per paragraph 6.1 of the SPA all "Due Diligence" has been completed. The Audit of BHCA was completed on April 15, 2014, which conflicts with the Divisions' statement above.

(3) Purchaser acknowledges and agrees that it has completed its Due Diligence as defined by Section 6.1 of the Stock Purchase Agreement.

[225] Tr. (Vol. I Freeman) 71:7-10 ("No assets were contributed.").
[226] Tr. (Vol. I Wolfrum) 215:14-21 ("Q. And are you aware, as manager of the MSO, was the stock of BHCA ever contributed to Accelera Healthcare Management Service Organization? A. No. Q. Was it ever contributed to any subsidiary of Accelera called Behavioral Health? A. No. The stock was never transferred to anyone.").
[227] Ex. 185 (Operating Agreement) Ex. A; *see also* Tr. (Vol. I Freeman) 71:1-6.
[228] Tr. (Vol. I Wolfrum) 215:2-3 ("I never worked for them, never did anything for them, never signed anything for them.").
[229] Ex. 190 (Employment Letter).
[230] Tr. (Vol. I Wolfrum) 209:14-25 (responding "Well, no" to question, "Have you ever become the president of a wholly owned subsidiary of Accelera called Behavioral Health Care Associates."); *id.* at16:18-21; Tr. (Vol. II Boerum) 388:9-16 ("[The employment agreement] was not entered into. It was never engaged. He was never engaged. Q. So did Wolfrum ever work for Accelera or any Accelera subsidiary? A. No."); Tr. (Vol. I Freeman) 182:20-22 ("Q. Was Exhibit 190 operative during the time period that you were the CFO of Accelera? A. No.").
[231]

Ex. 190 (Employment Letter) 3 ("This employment offer is contingent upon the following: Due Diligence, Valuation, and Audited Financials of 'Behavioral Health Care Associates.'").

[232] Tr. (Vol. IV Devor) 1172:12-1175:25 ("Q. And why – I'll just read this for the record, but it says, 'This employment offer is contingent upon the following: Due diligence, valuation, and audited financials of Behavioral Health Care Associates.' Do you see that? A. I do. Q. And you said this somehow informed your opinion that the employment letter was not evidence of control? A. Correct. These things were never done."); Tr. (Vol. IV Devor)

147. Under the terms of the Employment Letter, Wolfrum would report to John Wallin and would receive a base salary of $300,000.[233] However, Wolfrum never reported to John Wallin.[234] Nor did he report to Accelera's Board of Directors.[235] And, Wolfrum never received a salary of $300K from Accelera. In fact, he never received any salary at all from Accelera, or any Accelera-related entity.[236]

Lie #147. Wolfrum and his attorney had every opportunity to negotiate reimbursement of the salary under the Employment Agreement (**EXHIBIT 1212**) and this was not included in the termination agreement (**Exhibit 1215**) so based on Wolfrum's attorney review he had to have been paid or they would have forced Acellera to pay him the salary. Wolfrum's attorney ensured Wolfrum received the 600,000 shares under the Employment Agreement in the Termination Agreement (**Exhibit 1215**). This is further supported by the board of directors resolution that says the 600,000 shares were earned under the employment agreement signed November 2013 (**Exhibit 1259 paragraph 4**).

148. Wolfrum understood that his employment under the Employment Agreement would not take effect until the initial payment of $1 million.[237]

Lie #148. The Employment contract does not say this see **Exhibit 1212 paragraph 6** clearly states that this made up fact is not correct. "6.At-Will Employment "……..However, not withstanding anything to the contrary, you may not be terminated, demoted, transferred, or reassigned prior to the payment by Accelera to you of the entire purchase price of $4,550,000.00 relating to the sale of stock of Behavioral Health Care Services, Ltd. To Accelera Innovations, Inc. as set forth in greater detail in the Parties' Stock Purchase Agreement." Wolfrum's attorney ensured Wolfrum received the 600,000 shares under the Employment Agreement in the Termination Agreement (**Exhibit 1215**). This is further supported by the board of directors resolution that says the 600,000 shares were earned under the employment agreement signed November 2013 (**Exhibit 1259 paragraph 4**).

2. Amendments

149. Wolfrum and Accelera entered into four amendments to the SPA, each of which pushed back the payment deadlines set out in the SPA.[238] None of the four amendments to the SPA altered the terms in that agreement which held that the BHCA stock would only transfer upon payment.[239]

Lie #149 Exhibits 1217 and 1218 substantially change the entire SPA **(Exhibit 1210)**

Exhibit 1217 – First Amendment to SPA:

A) TERMINATION OF 1.1.1.1:

The Termination of 1.1.1.1 is the Division's and Devor's argument to not consolidate and it is terminated in its entirety in the first amendment. The First Amendment to the SPA kicks out the payment but makes no mention to de-consolidating BHCA and confirms the transaction under the SPA. In fact, Accelera further compensates Blaise Wolfrum with additional share based compensation to ensure to maintain his motivation to stay in the Accelera transaction.

> **WHEREAS**, Purchaser, Seller and Company desire to amend the Stock Purchase Agreement to allow Purchaser additional time to make the payment required by Article 1.1.1.1 of the Stock Purchase Agreement.

B) DELETION OF ARTICLE 1.2:

> **B.** Purchaser, Seller and Company agree that Article 1.2 of the Stock Purchase Agreement is hereby deleted in its entirety.

Based on the effectiveness on February 24, 2014, and the deletion of

Article 1.2. BHCA nor Accelera could cancel the transaction with the deletion of Article 1.2.

c) DUE DILIGENCE COMPLETED:

(3) Purchaser acknowledges and agrees that it has completed its Due Diligence as defined by Section 6.1 of the Stock Purchase Agreement.

Page 2, paragraph 3, as per paragraph 6.1 of the SPA all "Due Diligence" has been completed. The Audit of BHCA was completed on April 15, 2014.

D) BHCA AND ACCELERA TRANSACTION IS STILL "CLOSED AND EFFECTIVE":

The First Amendment to SPA does ***not*** replace **section 2.1 (page 1 paragraph 9)**, which states that the deal is "***closed and effective***". The transaction is still closed and effective.

E) ACCELERA SHALL CONTINUE TO CONDUCT THE BUSINESS OF BHCA:

The First Amendment to SPA does ***not*** replace **section 5.4**, which states that ***Accelera continues to conduct the business of BHCA***.

F) ACCELERA SHALL CONTINUE TO CONSOLIDATE BHCA:

The First Amendment to SPA does ***not*** replace **section 7.18**, which states that ***Accelera continues to consolidate BHCA***.

SECOND AMENDMENT TO SPA – TERMINATION OF 1.1.1.1 AND QUALLS Exhibit 1218 – Second Amendment to SPA:

C) TERMINATION OF 1.1.1.1:

The Termination of 1.1.1.1 is the Division's and Devor's argument to consolidate and it is terminated in its entirety in the first and second amendment. The Second Amendment to the SPA kicks out the payment but makes no mention to de- consolidating BHCA and confirms the transaction under the SPA. In fact, Accelera further compensates Blaise Wolfrum with additional share based compensation to ensure to maintain his motivation to stay in the Accelera transaction.

WHEREAS, Purchaser, Seller and Company desire to amend the Stock Purchase Agreement to allow Purchaser additional time to make the payment required by Article 1.1.1.1 of the Stock Purchase Agreement.

D) DELETION OF ARTICLE 1.2:

Prior to Seller's receipt of the payment set forth in Section 1.1.1.1, Seller shall have the right to immediately upon written notice to the other party cancel and terminate this Agreement in its entirety and be released from any and all obligations set forth herein.

Based on the effectiveness on March 18, 2014, and the deletion of Article 1.2. Prior to Seller's receipt of the payment set forth in Section 1.1.1.1, Seller shall have the right to immediately upon written notice to the other party cancel and terminate this Agreement in its entirety and be released from any and all obligations set forth herein.

Well based on the preponderance of the information that A&C received before we signed off on the 2013 audit it's very clear to that Accelera should have been consolidated. Even Chen as a staff accountant for 30 to 45 days understood the accounting by simply reading all the agreements that consolidation was very logical under US GAAP and GAAS.

E) DUE DILIGENCE COMPLETED:

(3) Purchaser acknowledges and agrees that it has completed its Due Diligence as defined by Section 6.1 of the Stock Purchase Agreement.

Page 2, paragraph 3, as per paragraph 6.1 of the SPA all "Due Diligence" has been completed. The Audit of BHCA was completed on April 15, 2014.

F) BHCA AND ACCELERA TRANSACTION IS STILL "CLOSED AND EFFECTIVE":

The Second Amendment to SPA does ***not*** replace **section 2.1 (page 1 paragraph 9)**, which states that the deal is "***closed and effective***".

G) ACCELERA SHALL CONTINUE TO CONDUCT THE BUSINESS OF BHCA:

The Second Amendment to SPA does ***not*** replace **section 5.4**, which states that ***Accelera continues to conduct the business of BHCA***.

H) ACCELERA SHALL CONTINUE TO CONSOLIDATE BHCA:

The First Amendment to SPA does ***not*** replace **section 7.18**, which states that ***Accelera continues to consolidate BHCA***.

Devor never read all the agreements all the agreements as he claimed in his testimony and he didn't have to research all the accounting. Devor provides non-factual opinion and blatant lies.

1879:15-21 ("Q. And you testified about this yesterday. Wahl was asking you questions, and I believe you testified at length about the fact that there were no audited financials of Behavioral that were ever completed; is that correct?

A. There were not. I think we established that."); *id.* at880:2-6 ("Q. … Did you ever see a valuation done of Behavioral? A. I don't think so. And I think, in essence, that's why it all ends up in goodwill; because there's no valuation of anything else."); Tr. (Vol. VI Devor) 1649:8-10 ("There's no audited financials of Behavioral Health Care Associates, and if there are, show them to me. I've never seen them.").

[233] Ex. 190 (Employment Letter) 1.

[234]Tr. (Vol. I Wolfrum) 216:22-23 ("Q Did you ever report to John Wallin? A No.").

[235] Tr. (Vol. I Wolfrum) 217:17-19 ("Q. Did you ever report to Accelera's board of directors? A. No."); *see also* Tr. (Vol. I Freeman) 74:12-22 ("He did not report … to the board."); *see also* Tr. (Vol. II Boerum) 388:17-19.

[236] Tr. (Vol. I Wolfrum) 217:4-12 ("Q Did you ever receive $300,000 from Accelera? A No. Q Did you receive any salary? A No. Not from Accelera, no. Q Sorry. Never got a paycheck from Accelera, right? A That is a correct statement. Q Or from any Accelera-related entity? A No."); *see also* Tr. (Vol. II Boerum) 388:20-24, 459:11-13.

[237] Tr. (Vol. I Wolfrum) 218:3-9 ("Q What was your understanding as to when this employment would take effect? A Once I would be paid the first million dollars. That would set everything in motion. Q. So until that money was paid, you weren't an employee of any Accelera-related entity at all? A. Correct.").

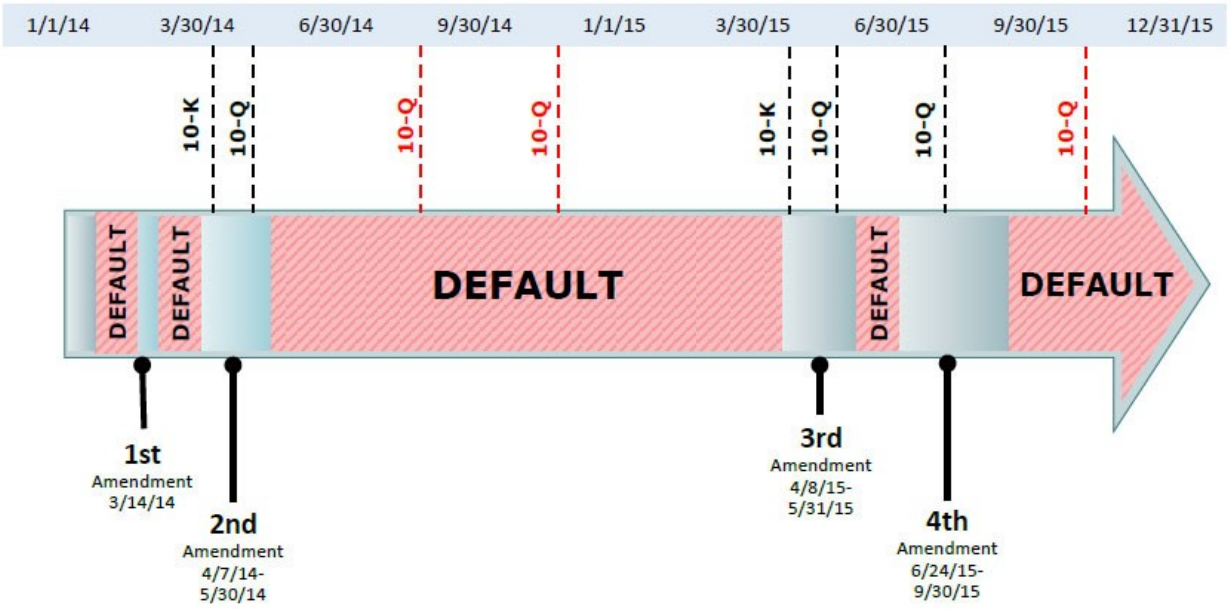
[238] Ex. 197 (1st Amendment to SPA); Ex. 201 (2d Amendment to SPA); Ex. 205 (3d Amendment to SPA); Ex. 257 (4th Amendment to SPA).

[239] *Id.*; Ex. 88.1 (Devor Report) ¶ 123 ("None of the amendments altered the terms of the Stock Purchase Agreement that held that Accelera would only receive Wolfrum's ownership shares in BHCA if Accelera paid Wolfrum for them.").

150. In each of the amendments, the parties acknowledged that Accelera "did not make the payment to Seller as required by Article 1.1.1.1 of the Stock Purchase Agreement."[240]

Lie #150 Article 1.1.1.1 is deleted in its entirety. See Respondents Response to **Lie #149**.

151. All four of the amendments to the SPA were backdated.[241] There were gaps between the amendments such that there were several periods of time where no operative amendment was in place at all:[242]



152. The first amendment to the SPA extended the due date for the initial payment to March 14, 2014.[243] Although the first amendment was dated February 24, 2014, it was not actually signed until later in time – on or around March 14, 2014.[244]

Lie #152. This is just the Divisions attempt to create another fake fact that has zero relevance to the contractually binding agreements.

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[240] Ex. 197 (1st Amendment to SPA) 1; Ex. 201 (2d Amendment to SPA) 1; Ex. 205 (3d Amendment to SPA) 1; Ex. 257 (4th Amendment to SPA) 1.

[241] Tr. (Vol. I Wolfrum) 242:4-6 ("These amendments, I don't believe any of them were signed on the effective date. They were all signed afterwards.").

[242] Ex. 88.1 (Devor Report) 33, figure 1.

[243] Ex. 197 (1st Amendment to SPA) § 1(A).

[244] Tr. (Vol. I Wolfrum) 223:6-21 ("Q….to the best of your recollection, did you sign the – this amendment to – the first amendment to the Stock Purchase Agreement on the day that the original Stock Purchase Agreement – the deadline ended in February of 2014? A No. It was signed later."); Ex. 199 (Mar. 14, 2014 email from Hauert, attaching draft first amendment to SPA); Ex. 200 (Mar. 17, 2014 email from Boerum, attaching signed first amendment to SPA).

153. Under the first amendment to the SPA, Accelera was to give Wolfrum 20,000 shares of Accelera stock within two days, in exchange for the extension of time.[245] But Wolfrum didn't receive the shares he was owed under the first amendment to the SPA until "about a year later."[246]

154. The second amendment to the SPA extended the due date for the initial payment from March 14, 2014 to May 30, 2014.[247] Although the second amendment was dated March 18, 2014, it was not actually signed until later in time – on or around April 7, 2014.[248]

Lie #154 Exhibit 1218 the second amendment was effective before A&C issued its audit opinion. See also **Lie #149** where the second amendment **Exhibit 1218** is discussed in detail. The financial statements are the responsibility of management.

155. The second amendment also revised Article 1.2 of the SPA to read that "[p]rior to [Wolfrum's] receipt of the payment set forth in Section 1.1.1.1, [Wolfrum] shall have the right to immediately upon written notice to the other party cancel and terminate this Agreement in its entirety."[249]

Lie #155 Exhibit 1218 obligates Accelera to pay Wolfrum the $4.5MM. See also **Lie #149** where the second amendment **Exhibit 1218** is discussed in detail.

156. Under the second amendment to the SPA, Accelera was to give Wolfrum 20,000 shares of Accelera stock within two days, in exchange for the extension of time.[250] But Wolfrum did not receive the shares for the second amendment for over a year.[251]

Lie #156 Wolfrum could have enforced Accelera based on **Exhibit 1218** to pay the shares much sooner. See also **Lie #149** where the second amendment **Exhibit 1218** is discussed in detail.

157. The second amendment expired on May 30, 2014, and the third amendment was not entered into until on or around April 8, 2015; so, from May 30, 2014 through April 8, 2015, there was no operative amendment to the SPA.[252]

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[245] Ex. 197 (1st Amendment to SPA) § 2; *see also* Tr. (Vol. I Wolfrum) 221:13-21.

[246] Tr. (Vol. I Wolfrum) 221:16-222:1 ("Q. Did you ever receive the 20,000 shares? A. Yes. Q. And when did you receive them? A. About a year later."); *see also* Ex. 251 (Apr. 27, 2015 Stock Transmittal Letter).

[247] Ex. 201 (2d Amendment to SPA) § 1(A).

[248] Ex. 203 (Apr. 7, 2014 email from Boerum attaching draft amendment); Tr. (Vol. I Wolfrum) 232:24-234:2 ("Q. So now was the second amendment signed on the same day as the effective date of the amendment? A. I don't believe it was.").

[249] Ex. 201 (2d Amendment to SPA) § 1(B).

[250] Ex. 201 (2d Amendment to SPA) § 2; *see also* Tr. (Vol. I Wolfrum) 231:9-16.

[251] Ex. 252 (Apr. 27, 2015 Stock Transmittal Letter); Tr. (Vol I Wolfrum) 231:5-232:23 ("Q. Did you ever get that stock within two business days? A No.").

[252] Ex. 203 (Apr. 7, 2014 email from Boerum attaching draft amendment); Ex. 253 (Apr. 27, 2015 Stock Transmittal Letter); Tr. (Vol. I Freeman) 73:11-14 ("Q. So, to your knowledge, was there an operative amendment to the Stock Purchase Agreement when you became the CFO of Accelera? A. No.").

158. The third amendment to the SPA extended the due date for the initial payment from May 30, 2014 to May 31, 2015.[253] Although the third amendment to the stock Purchase Agreement was dated May 30, 2014, it was not actually singed until later in time – on or around April 8, 2015.[254]

Lie #158. Exhibit 1257 is effective May 30, 2014.

159. Under the third amendment to the SPA, Accelera was to give Wolfrum 10,000 shares of Accelera stock within five days, in exchange for the extension of time.[255] But Wolfrum did not receive the shares due under the Third Amendment until April 27, 2015.[256]

Lie #159. Wolfrum could have enforced Accelera based on **Exhibit 1257** to pay the shares much sooner.

160. The fourth amendment to the SPA extended the due date for the initial payment from May 31, 2015 to September 30, 2015.[257] Although the fourth amendment to was dated May 31, 2015, it was not actually singed until later in time – on or around June 24, 2015.[258]

Lie #160. Wahl and Deutchman were no longer involved with Accelera after September 30, 2015.

161. The fourth amendment expired on September 30, 2015.[259] As of October 1, 2015, Accelera was in default on the SPA, and there was no operative amendment.[260]

Lie #161. Wolfrum and Accelera began completing the Termination Agrement in November 2015, which became **Exhibit 1215**. Wahl and

Deutchman were no longer involved with Accelera until after September 30, 2015.

3. Other Indicia of Control

Indicia is basically **Circumstantial Evidence**.

It denotes facts that give rise to inferences, rather than the inferences themselves.

However, none of the factors identified are relevant to the definition of control as described in **ASC 805** and **ASC 820**, which is the Authoritative Guidance for this case. When respondents mention **ASC 805** and **ASC 820** we reference the true version, not the changed versions that the Division fraudulently made up.

162. Accelera never made any management decisions about BHCA; instead, Wolfrum did.[261]

Lie #162 it doesn't matter if Accelera did or did not because under **Exhibit 1210 section 5.4**, where under **Exhibit #188 paragraph 4e**, Accelera ("Pledgor") shall operate the business in a similar manner until the $4.5MM is paid.

4 (e) **Operation of the Business**, Pledgor shall conduct the Business of the Company in a commercially reasonable manner, including but not limited to, consistent with past practices in terms of salary, bonuses, hiring and firing of officers, executives, and other management type positions, until the Purchase Price is paid in full.

163. Accelera never paid for BHCA's expenses; instead, Wolfrum did.[262]

Lie #163 this is not factual at all. BHCA was an independent subsidiary of Accelera. BHCA would pay its expenses from the revenues and collections of accounts receivable. Wolfrum would not pay the expenses as an individual.

[253] Ex. 205 (3d Amendment to SPA) § 1(A); Tr. (Vol. I Wolfrum) 237:1-12.
[254] Ex. 243 (Apr. 8, 2015 email from Boerum transmitting third amendment to the stock purchase agreement for signature); Tr. (Vol. I Wolfrum) 239:1-5 ("Q. Okay. So now, just like with the other two amendments, were they signed at a different time – was this one signed at a different time than when the effective date was? A Yes.").
[255] Ex. 205 (3d Amendment to SPA) § 2; *see also* Tr. (Vol. I Wolfrum) 237:13-16.
[256] Ex. 253 (Apr. 27, 2015 Stock Transmittal Letter); Tr. (Vol. I Wolfrum) 237:17-238:9.
[257] Ex. 257 (4th Amendment to SPA) 1.
[258] Ex. 259 (June 24, 2015 email from Boerum attaching 4th amendment to SPA); Tr. (Vol. I Wolfrum) 242:1-243:6.
[259] Ex. 257 (4th Amendment to SPA) §1(A).
[260] Ex. 840 (Stipulated Facts) ¶ 39.
[261] Tr. (Vol. I Wolfrum) 244:20-23 ("Q. From November 11, 2013 until today, who made all the management decisions about Behavioral Health Care Associates? A. I did."); *id.* at45:2-4 ("Q. From November 11, 2013 until today, did Accelera ever make management decisions at Behavioral? A. No.").
[262] Tr. (Vol. I Wolfrum) 245:9-14 ("Q. From November 11, 2013 to today, did Accelera ever pay for Behavioral expenses? A. No. Q. Who did? A. I did. Or Behavioral Health Care Associates did as directed by me.").

164. Accelera never had the ability to enter into contracts for BHCA; instead, Wolfrum did.[263]

Lie #164 it doesn't matter if Accelera did or did not because under **Exhibit 1210 section 5.4**, where under **Exhibit #188 paragraph 4e**, Accelera ("Pledgor") shall operate the business in a similar manner until the $4.5MM is paid.

4 (e) **Operation of the Business**, Pledgor shall conduct the Business of the Company in a commercially reasonable manner, including but not limited to, consistent with past practices in terms of salary, bonuses, hiring and firing of officers, executives, and other management type positions, until the Purchase Price is paid in full.

165. Accelera never had control over Wolfrum's salary; instead, Wolfrum himself did.[264]

LIE #165. Wolfrum and his attorney had every opportunity to negotiate reimbursement of the salary under the Employment Agreement (**EXHIBIT 1212**) and this was not included in the termination agreement (**Exhibit 1215**) so based on Wolfrum's attorney review he had to have

been paid or they would have forced Acellera to pay him the salary. Wolfrum's attorney ensured Wolfrum received the 600,000 shares under the Employment Agreement in the Termination Agreement.

166. Accelera never had control over the hiring and firing of BHCA employees; instead, Wolfrum did.[265]

Lie #166 Not true under **Exhibit 1210 section 5.4**, where under **Exhibit #188 paragraph 4e**, Accelera ("Pledgor") shall operate the business in a similar manner until the $4.5MM is paid.

4 (e) **Operation of the Business**, Pledgor shall conduct the Business of the Company in a commercially reasonable manner, including but not limited to, consistent with past practices in terms of salary, bonuses, hiring and firing of officers, executives, and other management type positions, until the Purchase Price is paid in full.

167. No one at Accelera had the ability to direct the personnel of BHCA; instead, Wolfrum directed the BHCA personnel.[266]

Lie #167 it doesn't matter if Accelera did or did not because under **Exhibit 1210 section 5.4**, where under **Exhibit #188 paragraph 4e**, Accelera ("Pledgor") shall operate the business in a similar manner until the $4.5MM is paid. Logically, Accelera management let Wolfrum operate BHCA.

4 (e) **Operation of the Business**, Pledgor shall conduct the Business of the Company in a commercially reasonable manner, including but not limited to, consistent with past practices in terms of salary, bonuses, hiring and firing of officers, executives, and other management type positions, until the Purchase Price is paid in full.

168. Accelera never had control over BHCA bank accounts; instead, Wolfrum did.[267]

LIE # 168 The Division ignored the SPA the BHCA bank accounts were excluded from the purchase and sale of stock.

Exhibit 1210 Section 1.1 Purchase and Sale of Stock: clearly states that "The Parties agree the following assets are **excluded** from the purchase and sale of Stock **and shall remain *the property of Seller after Closing: I) Company's cash and operating accounts."***

169. Accelera never paid taxes on BHCA's revenues; instead, Wolfrum did.[268]

Lie #169 this is not factual at all. BHCA was an independent subsidiary of Accelera. BHCA would pay its taxes from the revenues and collections of accounts receivable. Wolfrum would not pay the taxes as an individual for BHCA.

170. Accelera never directed the day-to-day operations at BHCA.[269]

Lie #170 it doesn't matter if Accelera did or did not because under **Exhibit 1210 section 5.4**, where under **Exhibit #188 paragraph 4e**, Accelera ("Pledgor") shall operate the business in a similar manner until the $4.5MM is paid.

4 (e) **Operation of the Business**, Pledgor shall conduct the Business of the Company in a commercially reasonable manner, including but not limited to, consistent with past practices in terms of salary, bonuses, hiring and firing of officers, executives, and other management type positions, until the Purchase Price is paid in full.

171. No one at Accelera supervised Wolfrum.[270]

Lie #171 BHCA was an autonomous subsidiary of Accelera. Accelera through the **Exhibit 1212** could have supervised Wolfrum. Wolfrum'a employment agreement **EXHIBIT 1212**, **paragraph 1** "On Behalf of Accelera Innovations, Inc. (Accelera) (the "Company"), I am pleased to extend this offer of employment to you for the position of President for the Accelera business unit "Behavioral Health Care Associates" reporting to John Wallin, CEO." John Wallin was part of the board or directors and by virtue of **Exhibit 1212** Wolfrum reported to the board of directors.

172. Accelera never received any of BHCA's revenues.[271]

Lie #172 Mathematically BHCA had nothing but loses and Accelera would only absorb losses from BHCA. BHCA had to pay its expenses from its revenues and accounts receivable. Logically, no revenues in any parent subsidiary relationship would be paid to the parent (Accelera), unless specifically stated by contract. The subsidiary (BHCA) requires cash flow from its revenues to operate. The Division's statement defies basic logic and functional business sense.

[263] Tr. (Vol. I Wolfrum) 245:20-25 ("Q. From November 11, 2013 until today, did Accelera ever have the ability to enter into contracts on behalf of Behavioral? A. No. Q. Who did? A. I did."); *see also* Tr. (Vol. I Freeman) 78:3-8).

[264] Tr. (Vol. I Wolfrum) 245:15-19 ("Q. From November 11, 2913 until today, did Accelera ever have control over your salary? A. No. Q. Who did? A. I did."); *see also* Tr. (Vol. I Freeman) 73:25-74:5 ("Q. So Freeman, what salary, if any, did Accelera pay Wolfrum? A. Nothing. Q. Who controlled the salary that Wolfrum received? A. Wolfrum.").

[265] Tr. (Vol. I Wolfrum) 246:1-6 ("Q. From November 11, 2013 until today, did Accelera ever have control over the hiring and firing of Behavioral employees? A. No. Q. Who did? A. I did."); Tr. (Vol. I Freeman) 77:22-78:2).

[266] Tr. (Vol. I Freeman) 77:16-21 ("Q. And who directed the personnel of Behavioral? A. Wolfrum. Q. Who, if anyone, at Accelera had the ability to direct the personnel of Behavioral? A. No one had that authority."); Tr. (Vol. II Boerum) 387:21-25.

[267] Tr. (Vol. I Wolfrum) 246:7-12 ("Q. From November 11, 2013 until today, did Accelera ever have control over Behavioral bank accounts? A. No. Q. Who did? A. I did."); *see also* Tr. (Vol. I Freeman) 77:5-13; Tr. (Vol. II Boerum) 387:19-20.

[268] Tr. (Vol. I Wolfrum) 246:18-22 ("Q. From November 11, 2013 until today, did Accelera ever pay taxes on Behavioral's revenue? A. No. Q. Who did? A. I did.").

[269] Tr. (Vol. I Wolfrum) 245:5-8 (responding "No," to question, "Did Accelera ever direct day-to-day operations at Behavioral?").

[270] Tr. (Vol. I Freeman) 74:6-10 ("No one supervised Wolfrum.").

[271] Tr. (Vol. I Wolfrum) 246:13-15 (responding "No" to question, "From November 11, 2013 until today, did Accelera ever receive any of Behavioral's revenues."); *see also* Tr. (Vol. I Freeman) 77:14-15; Tr. (Vol. II Boerum) 387:16-18.

173. Wolfrum placed a lien on BHCA in March of 2014.[272]

LINE #173. There is no evidence that this actually occurred. There is no Exhibit demonstrating the UCC filing by Blaise on BHCA. This is pure hearsay.

4. Accelera's Decision to Consolidate BHCA into its Financial Statements

174. Notwithstanding the facts described above, Accelera decided to consolidate its financial results with those of BHCA, beginning in its year-end financials for 2013, filed on Form 10-K.[273] Accelera continued to consolidate BHCA's financial results in its publicly-filed financial statements through the 2015 Form 10-K.[274]

175. "Tim Neher, working with the auditors of Anton & Chia" decided to consolidate BHCA into Accelera's publicly filed financial statements.[275]

Lie #175: Not one person at Anton & Chia told Accelera how to complete its financial reporting let alone the consolidation of BHCA. Freeman never spoke to Tim Neher and this is nothing more than fabrication and at best "hearsay".

176. Accelera sought acquisitions "because it would obviously give value to the shares and put revenue on the books."[276] It decided to consolidate BHCA's financial results with its own in its publicly filed financial statements "because without Behavioral they did not have any operations and would be considered a shell company."[277]

Lie #176: Boreum is a nursing professional **(TR 376 Lines 19-24; TR 427 Lines 2-5 & Lines 11-15; TR 428 Lines 15-20)**. The shell comment is not true not only did Accelera consolidate BHCA but they also consolidated At Home Health (See Division **Fact 175 to 180**) and Advanced LifeCare (See **Fact 181** and **182**) so if BHCA was de-consolidated. Accelera would never be a shell.

5. Accelera's Other Acquisitions and Putative Acquisitions

a. At Home Health

177. Accelera also claimed to have purchased At Home Health Management, LLC and All Staffing Services, LLC ("At Home Health") in December of 2013.[278] Accelera entered into a

[272] Tr. (Vol. I Wolfrum) 275:16-21 ("First of all, there was a lien that my attorney placed on Behavioral on or about March of 2014, which gave me a first position lien on my company in case somebody was trying to use my company as collateral.").
[273] Tr. (Vol. I Freeman) 79:15-18 ("Q. Now, prior to your becoming the CFO of Accelera, Freeman, how was Behavioral accounted for in Accelera's publicly filed financials? A. It was consolidated into Accelera."); Tr. (Vol. VIII Shek) 2320:3-8.
[274] Ex. 135 (Accelera 2016 Form 10-K) F-21; Ex. 105 (2013 Form 10-K) F-4; Ex. 175 (consolidated trial balance worksheet for 2014).
[275] Tr. (Vol. I Freeman) 80:2-12.
[276] Tr. (Vol. II Boerum) 385:12-18.
[277] Tr. (Vol. I Freeman) 80:25-81:8.
[278] Ex. 104 (Dec. 13, 2014 Form 8-K).

purchase agreement to purchase At Home Health on December 13, 2013, whereby it agreed to pay an aggregate of $1,420,000.[279]

178. However, as with BHCA, the At Home Health transaction remained "incomplete."[280] As with BHCA, Accelera "didn't have any control" over At Home Health's bank accounts, didn't direct its personnel, or receive its revenues.[281]

179. Nevertheless, Accelera consolidated At Home Health's financials into Accelera's in the 2013 Form 10-K.[282]

180. On October 16, 2014, At Home Health issued Accelera a notice of default, alleging, among other things, that Accelera had failed to issue consideration under the parties' purchase agreement.[283] Accelera terminated the At Home Health purchase agreement on December 31, 2014.[284] To account for this termination, Accelera reported the performance of At Home Health Services and All Staffing Services as discontinued operations in its 2014 financial statements.[285]

Lie #180: BHCA or Wolfrum never issued a "notice of default" and by issuing the 4 amendments to the original agreements cured each event of default and provided Wolfrum with personal compensation, see **Exhibits 1217**, **1218** and **1257**.

b. Advanced LifeCare

181. On August 25, 2014, Accelera entered into a stock purchase agreement with SCI Home Health, Inc. ("Advance LifeCare"), whereby it agreed to purchase all the shares of

[279] *Id.*
[280] Tr. (Vol. I Freeman) 91:18-22 ("It was an incomplete transaction, so it should not have been consolidated.").
[281] Tr. (Vol. I Freeman) 90:21-91:10 ("Q. And what was the status of that transaction in September of 2014? A. It was an uncompleted transaction. Q. Who controlled the bank accounts of At Home Health?A The owners, the Gallaghers. Q. What control, if any, did Accelera have over the bank accounts of At Home Health? A. It didn't have any control. Q. And who directed the personnel of At Home Health? A. The owners, the Gallaghers. Q. And who received the revenues and profits of At Home Health? A. The Gallaghers.").
[282] Tr. (Vol. I Freeman) 91:11-16 ("Q. So what was Accelera's accounting treatment of At Home Health in its publicly filed financials? …THE WITNESS: It also was consolidated.").
[283] Ex. 111 (Oct. 22, 2014 Form 8-K).
[284] Ex. 114 (Accelera 2014 Form 10-K) 22.
[285] Ex. 114 (Accelera 2014 Form 10-K) F-4.

Advance LifeCare in exchange for $450,000.[286, 287] Accelera paid the purchase price for Advance LifeCare.[288]

182. Regarding Advanced LifeCare, Accelera actually controlled that entity's bank accounts, benefitted from its profits, issued payroll checks, had access to the bank accounts, signed the vendor payments, and worked with the manager on a fairly regular basis.[289] Accelera consolidated Advance LifeCare's financial results into its own.[290]

Lie #182: None of these factors are indicators of control under **ASC 805** or **ASC 820** and are not relevant to determine consolidation or not.

c. Grace, Watson, and Traditions

183. In the fourth quarter of 2014, Accelera entered into two more purchase agreements. On November 25, 2014, Accelera entered into a stock purchase agreement with Grace Home Health Care, Inc. ("Grace"), whereby Accelera agreed to purchase the stock of Grace in exchange for an aggregate purchase price or $5,250,000.[291] Also on November 25, 2014, Accelera entered into an asset purchase agreement with Watson Health Care, Inc. and Affordable Nursing, Inc. ("Watson"), whereby Accelera agreed to purchase the companies for an aggregate purchase price of $3,000,000.[292]

184. On January 5, 2015, Accelera entered into a stock purchase agreement with Traditions Home Care, Inc. ("Traditions"), whereby Accelera agreed to purchase the stock of Traditions in exchange for an aggregate purchase price of $6,000,000.[293]

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[286] Ex. 108 (Aug. 25, 2014 Form 8-K); *see also* Tr. (Vol. I Freeman) 78:12-21.
[287] The amount was adjusted to $431,000. *See* Ex. 114 (Accelera 2014 Form 10-K) 85.
[288] Ex. 175 (consolidated trial balance worksheet for 2014) row 304, column P.
[289] Tr. (Vol. I Freeman) 79:6-13 ("In the situation of Advanced, we controlled the bank accounts, we benefit – Accelera benefitted from any profits, we issued payroll checks, I had access to the bank account, I signed the

paychecks, I signed the vendor payments, I worked with the manager – on-site manager at Advanced on a fairly regular basis, and we had none of that – none of that existed with Behavioral.").

[290] Ex. 175 (consolidated trial balance worksheet for 2014).

[291] Ex. 112 (Nov. 25, 2014 Form 8-K).

[292] *Id.*

[293] Ex. 115 (Jan. 5, 2015 Form 8-K).

185. As with BHCA, Accelera never made any payments toward the acquisitions of Grace, Watson, or Traditions.[294] As with BHCA, Accelera entered into amendments pushing back the payment deadlines for Grace, Watson, and Traditions.[295] Unlike BHCA, Accelera did not consolidate the financials of Grace, Watson, or Traditions into Accelera's financial statements.[296]

Lie #185 Grace, Watson, or Traditions is nothing more than sideshow and not relevant to the contracts entered by Accelera, Wolfrum and BHCA.

6. Termination of the Stock Purchase Agreement

186. On October 16, 2015, Wolfrum became aware that Accelera's principals had filed offering documents with the SEC indicating that an affiliate (Accelera Innovations Fund I LLC) was offering securities, purportedly in an attempt to purchase BHCA. In response, Wolfrum sent Accelera's principals an e-mail advising them that "Accelera Innovations Fund LLC does not have, and will never have, a first lien position on BHCA. Not even Accelera Innovations Inc. has a first lien position … Notice of such lien was posted over a year ago."[297] In this e-mail, Wolfrum also wrote, "[o]nly AFTER I am fully paid out would there be any ownership interest in BHCA by an entity other than Blaise Wolfrum. There is no secure interest in BHCA."[298] He also wrote, "Accelera is not entitled to report the income of any acquisition until such a sale is closed. That would not be proper accounting."[299]

LIE #186. Respondents were not included in the communications above and Wahl and Deutchman were no longer involved with Accelera when the communications above were concluding. Wahl and Deutchman stopped working on Accelera as of September 30, 2015.

187. After this October e-mail, Wolfrum started working on a termination agreement to "get away from" Accelera.[300] Wolfrum wanted to enter into a formal termination agreement,

LIE #187. Respondents were not included in the communications above and Wahl and Deutchman were no longer involved with Accelera when the communications above were completed. Wahl and Deutchman stopped working on Accelera as of September 30, 2015.

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[294] Tr. (Vol. II Boerum) 415:19-22 ("Q did Accelera ever pay any money towards the acquisitions of Grace, Watson, or Traditions? A No.").

[295] *See, e.g.*, Ex. 122 (May 4, 2015 Watson extension agreement); Ex. 123 (May 7, 2015 workpaper re: Grace extension agreement); Ex. 125 (May 10, 2015 Watson extension agreement).

[296] Tr. (Vol. II Boerum) 416:2-8 ("Q. So how did Accelera account in its publicly filed financial statements for Grace, Watson, and Traditions? … THE WITNESS: They didn't have it in the financials.").

[297] Ex. 307 (Oct. 16, 2015 email from Wolfrum) 2; *see also* Tr. (Vol. I Wolfrum) 271:6-275:21.

[298] Ex. 307 (Oct. 16, 2015 email from Wolfrum) 2; *see also* Tr. (Vol. I Wolfrum) 277:4-21.

[299] Ex. 307 (Oct. 16, 2015 email from Wolfrum) 3.

[300] Tr. (Vol. I Wolfrum) 283:10-19 ("Q. So what did that cause you to do in regard to the Stock Purchase Agreement? A. Well, it was up for re-amendment. The time was up. Instead, we started working on the termination

despite the fact that the last amendment to the SPA had already expired, "[b]ecause even though it expired, I wanted to make this an official notification that I was terminating the agreement, because I wanted to have a very clear break from the company."[301]

LIE #186. Respondents were not included in the communications above and Wahl and Deutchman were no longer involved with Accelera when the communications above were concluding. Wahl and Deutchman stopped working on Accelera as of September 30, 2015. Wolfrum also testified he couldn't sell his company because of the seven contracts and four amendments because Accelera controlled BHCA (**TR 246 Lines 23-25**)

188. On March 31, 2016 Accelera and Wolfrum entered into a termination agreement, effective as of January 1, 2016, officially terminating the SPA and other accompanying agreements (the "Termination Agreement").[302]

189. Under the Termination Agreement, Accelera was to convey 600,000 shares of Accelera stock to Wolfrum.[303] The parties agreed that the stock "shall not be deemed to be consideration under or pursuant to any of the Stock Sale Agreements" ("Stock Sale Agreements" was defined to include the Employment Agreement).[304] Instead, the 600,000 shares conveyed under the Termination Agreement were compensation for Wolfrum's inconvenience and to compensate him for allowing the Anton & Chia auditors to perform field work at BHCA.[305]

LIE #189: Exhibit 133 doesn't say any of this, see below.

Assignment of Stock dated on or about November 20, 2013, and other written and oral agreements or understandings relate inafter collectively referred to as the "Stock Sale Agreement").

Exhibit 1215 is the Termination Agreement says

Page 2 – Surviving Obligations

2. Surviving Obligations. The Parties agree that only the following obligations shall survive the termination of such Stock Sale Agreements (the "Surviving Obligations"):

A. The Parties agree and reaffirm their previous agreement that Purchaser has conveyed and transferred or shall convey or transfer ~~Eighty~~ Seventy Thousand (~~80,000~~70,000) Shares of Stock in Purchaser. The Seller shall be fully vested in the ~~Eighty~~ Seventy Thousand (~~80,000~~70,000) Shares of Stock upon the execution of this Agreement by all Parties. The ~~Eighty~~ Seventy Thousand (~~80,000~~70,000) Shares of Stock shall be unrestricted and free trading stock and free and clear of all liens, security interests, pledges, restrictions, encumbrances, equities, claims, charges, voting agreements, voting trusts, proxies and rights of any kind, nature or description, except for restrictions imposed under federal securities laws.

Exhibit 1259 which is the April 10, 2016 Accelera board minutes which confirms the employment agreement.

RESOLVED, that the Company confirms that the 600,000 shares were earned as compensation under the November 20, 2013 Employment Agreement in increments of 200,000. The first 200,000 were earned on November 20, 2013, the second increment of 200,000 shares were earned on November 20, 2014 and the final increment was earned on November 20, 2015, these shares are no longer subject to any lock-up or leak out agreement.

The employment agreement was in effect Accelera paid Blaise Wolfrum the 600,000 shares that were owed in the employment agreement as part of the termination agreement. The board minutes

were consistent with paragraph 6 (and page 2 first paragraph) of the employment agreement, which is **Exhibit 1212**. This is not a coincidence and further evidence that the original intent of the 7 agreements was to consolidate BHCA.

190. An earlier draft of the Termination Agreement, written by Wolfrum's counsel, had included a paragraph requiring Accelera to file a "Form 8-K disclosing the terms and termination of the stock sale agreements, and further disclosing that purchaser did not own an interest in the company and should not have recognized on its books and records the revenue and

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agreement to get away from them, because I could give notice to Accelera at any time that I wanted to terminate the deal.").

[301] Tr. (Vol. I Wolfrum) 284:11-20.

[302] Ex. 133 (Mar. 31, 2016 Form 8-K) 8, 13; Ex. 840 (Stipulated Facts) ¶ 37.

[303] Ex. 133 (Mar. 31, 2016 Form 8-K) 9.

[304] Ex. 133 (Mar. 31, 2016 Form 8-K) 8, 9.

[305] Tr. (Vol. I Wolfrum) 285:10-24 ("Q. Were these 600,000 shares compensation for your employment? A. No. Q. Okay, what were they for? A. It was basically for putting up with their hassles all this time and for allowing the auditors to come, again, which they said they had to come in and audit because we still had a contract in 2015. And I know it's a lot of hassle, it's a lot of time on our part to do that."); *see also* Tr. (Vol. II Boerum) 405:12-406:3 (Q. And how did Accelera, if you know, how did Accelera convince him to let the auditors complete the audit? A. In the agreement … there was an additional 600 – 600 shares something like that, 600,000 shares. Sorry. Q. So let's look at that. So Section C is where it references the 600,000 shares? A. Yes. Q. Are you saying that was in exchange for –

A. Yes. Q. – or in consideration for him cooperating with the audits in that provision that we just read? A. Yes. Yes.").

expenses of the company for the years 2012 [sic], 2013, 2014, and 2015."[306] Cindy Boerum transmitted that draft termination agreement to Wahl and Deutchman on March 30, 2016.[307] In her cover e-mail, she wrote, "So now I need to know how we can remove the revenue and restate all those years."[308]

Lie #190 Wahl never saw a copy of this termination agreement or the 8-K. **Exhibit 263 <u>Deutchman</u>** is not copied on this email. This is factually inaccurate. A nursing professional Boerum (**TR 376 Lines 19-24; TR 427 Lines 2-5 & Lines 11-15; TR 428 Lines 15-20)** is now claiming that she is an expert in US GAAP. The Division and Devor are changing US GAAP and GAAS. No credible witnesses; no credible evidence; lie about the laws; lie about US GAAP and GAAS and this case is worthy of a press release? Its slam dunk case for the Division?

191. In the March 30, 2016 e-mail, Boerum wrote, "this continues to be an issue."[309] She was referencing a prior discussion with Anton & Chia auditor Rahul Gandhi, where she said "[w]e shouldn't be recognizing this revenue." In response, Gandhi had said that he conferred with Wahl and "said that Greg [Wahl] told him that they had followed the GAAP rules."[310]

Lie #191 The Boerum Gandhi comments are nothing more than Hearsay. Wahl already testified that Gandhi conferring with Wahl never happened.

7. New Auditors and Restatement

192. In November of 2016, Accelera fired Anton & Chia and hired new auditors, AJ Robbins CPA, LLC ("AJ Robbins").[311] Accelera changed auditors "because we noted that …we would file the 8-K and restate," and Boerum "asked Geoff Thompson if [she] could find an auditor that would restate this."[312]

LIE #192 this is nothing more than made up testimony from a Nursing Professional Boerum. (**TR 376 Lines 19-24; TR 427 Lines 2-5 & Lines 11-15; TR 428 Lines 15-20)**

193. Boerum sent the new auditor, AJ Robbins, "a copy of … Behavioral's agreement and asked him to review it." A few days later, Boerum asked Robbins, "do you believe that we should be recognizing revenue based on this agreement," and Robbins responded, "No."[313] Upon review of the SPA, both Robbins and Accelera's CPA consultant, Kevin Pickard, concluded, "[t]hat [Accelera] never owned Behavioral."[314]

LIE #193 this is nothing more than made up testimony from a Nursing Professional Boerum (**TR 376 Lines 19-24; TR 427 Lines 2-5 & Lines 11-15; TR 428 Lines 15-20)** and is purely Hearsay the conversation between Kevin Pickard and AJ Robbins. There is no admitted evidence in the form of an Exhibit or corroboraing testimony from Kevin Pickard or AJ Robbins. If they only reviewed the SPA and not all seven original

agreements, the 4 amendments and the termination agreement they would have clearly understood that BHCA should have been consolidated from November 2013 to January 1, 2016 (**Exhibit 1215**).

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[306] Ex. 264 (draft Termination Agreement) 2.
[307] Ex. 263 (Mar. 30, 2016 email from Boerum).
[308] *Id.*; *see also* Tr. (Vol. II Boerum) 402:5-15. [309]
Ex. 263 (Mar. 30, 2016 email from Boerum).
[310] Tr. (Vol. II Boerum) 400:5-401:10.
[311] Ex. 134 (Nov. 15, 2016 Form 8-K); *see also* Tr. (Vol. II Boerum) 406:18-407:12.
[312] Tr. (Vol. II Boerum) 409:13-20.
[313] Tr. (Vol. II Boerum) 409:21-410:1.
[314] *Id.* at 10:11-411:19.

194. In its 2016 Form 10-K, Accelera disclosed that "[w]e have determined that the financial statements of BHCA should have never been consolidated with our financial statements since we was never able to take control of BHCA due to nonpayment of the purchase price."[315]

Lie #194 Exhibit 135 – Page F-2 4th paragraph AJ Robbins audit report clearly states that only 2015 was restated.

"As discussed in Note 12 of the financial statements, the 2015 financial statements have been restated to correct a misstatement."

Exhibit 135 Page F-19 Note 12 also says this "The prior year financial statements have been restated to remove BHCA from the consolidated financial statements of the Company."

Accelera management didn't call A&C and neither the auditor to mention restatement since they owed A&C $65,000. Wahl and Deutchman never worked on the 2015 audit. The auditor has no responsibility for the financial statements only the Accelera is responsible for the financial statements.

Notwithstanding, there is a significant reason that the Key Officers of every Reporting Public Company, including those audited by A&C, and that are also parties, directly or indirectly to this case at hand, signed the

Declaration Pursuant to 18 U.S.C. Section 1350 adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 "SOX". [90]The SOX Declaration by Management takes on all of the burden of Reporting Liability to the public. Indeed, that's the entire point of the Declarations.

8. Accelera's Accounting for BHCA Violated GAAP

195. Accelera's financial statements were not prepared in accordance with GAAP.[316]

Lie #195 The auditor has no responsibility for the financial statements only the Accelera is responsible for the financial statements. This is nothing more than Devor's opinion, he provides no reference to applicable paragraph in US GAAP that demonstrates that a violation had occurred. This is not a factual statement, merely Devor's fraudulent opinion.

Notwithstanding, there is a significant reason that the Key Officers of every Reporting Public Company, including those audited by A&C, and that are also parties, directly or indirectly to this case at hand, signed the Declaration Pursuant to 18 U.S.C. Section 1350 adopted pursuant to

Section 302 of the Sarbanes-Oxley Act of 2002 "SOX". [90]The SOX Declaration by Management takes on all of the burden of Reporting Liability to the public. Indeed, that's the entire point of the Declarations.

196. Accelera consolidated BHCA's financial results (including its revenues, assets and liabilities) with its own in Accelera's 2013, 2014, and 2015 Forms 10-K and its Forms 10-Q filed in 2014 and 2015. This consolidation violated GAAP, because Accelera did not own or control BHCA.[317]

Lie #196 The auditor has no responsibility for the financial statements only the Accelera is responsible for the financial statements. This is nothing more than Devor's opinion, he provides no reference to applicable paragraph in US GAAP that demonstrates that a violation had occurred. This is not a factual statement, merely Devor's fraudulent opinion. Devor's testimony makes no reference to the specific paragraph in US GAAP that was violated. Again this is nothing more than unsupported opinion from Devor.

Notwithstanding, there is a significant reason that the Key Officers of every Reporting Public Company, including those audited by A&C, and that are also parties, directly or indirectly to this case at hand, signed the

Declaration Pursuant to 18 U.S.C. Section 1350 adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 "SOX". [90]The SOX Declaration by Management takes on all of the burden of Reporting Liability to the public. Indeed, that's the entire point of the Declarations.

197. Under the circumstances present here, GAAP required that control of BHCA pass to Accelera before Accelera could consolidate BHCA into its financial statements.[318]

Lie #197 The auditor has no responsibility for the financial statements only the Accelera is responsible for the financial statements. This is nothing more than Devor's opinion, he provides no reference to applicable paragraph in US GAAP that demonstrates that a violation had occurred. This is not a factual statement, merely Devor's fraudulent opinion. Devor's testimony makes no reference to the specific paragraph in US GAAP that was violated. Again this is nothing more than unsupported opinion from Devor. Devor also does not provide any evidence that control had not been completed, pure opinion.

Notwithstanding, there is a significant reason that the Key Officers of

every Reporting Public Company, including those audited by A&C, and that are also parties, directly or indirectly to this case at hand, signed the Declaration Pursuant to 18 U.S.C. Section 1350 adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 "SOX". [90]The SOX Declaration by Management takes on all of the burden of Reporting Liability to the public. Indeed, that's the entire point of the Declarations.

198. Accelera did not own or control BHCA, because it never paid any portion of the purchase price in accordance with the SPA and never acquired or received any of the shares of BHCA.[319] Accelera also did not have the "ability to determine the direction of management and

[315] Ex. 135 (Accelera 2016 Form 10-K) 7.

[316] Ex. 88.1 (Devor Report) ¶ 166 ("Accelera consolidated BHCA's financial results (including its revenues, assets and liabilities) with its own in Accelera's 2013, 2014, and 2015 Forms 10-K and its Forms 10-Q filed in 2014 and 2015. This consolidation violated GAAP, because Accelera did not own or control BHCA."); Tr. (Vol. IV Devor) 1151:15-1152:21.

[317] Ex. 88.1 (Devor Report) ¶ 166 ("Accelera consolidated BHCA's financial results (including its revenues, assets and liabilities) with its own in Accelera's 2013, 2014, and 2015 Forms 10-K and its Forms 10-Q filed in 2014 and 2015. This consolidation violated GAAP, because Accelera did not own or control BHCA."); Tr. (Vol. IV Devor) 1154:5-14 ("Q. Can you please explain, sir, why that is the case? Why is it in your opinion the – Accelera's financial statements failed to comply with GAAP because they consolidated Behavioral? A. Because it is incorrect to consolidate under GAAP. Q. And why? What does GAAP say about that? A. Basically, without getting into a whole lot, the stock – the control of the stock and control of the company never transferred.").

[318] Ex. 88.1 (Devor Report) ¶ 165 ("Under GAAP, Accelera was required to evaluate whether it obtained control of BHCA before consolidating the financial results of BHCA into its own financial statements."); Tr. (Vol. IV Devor) 1155:24 - 1156:5.

[319] Ex. 88.1 (Devor Report) ¶ 167.

policies."[320] There has been no evidence presented demonstrating that control of BHCA ever passed to Accelera, or that Accelera exercised any control over BHCA.[321]

Lie #198 The auditor has no responsibility for the financial statements only the Accelera is responsible for the financial statements. This is nothing more than Devor's opinion, he provides no reference to applicable paragraph in US GAAP that demonstrates that a violation had occurred. This is not a factual statement, merely Devor's fraudulent opinion. Devor's testimony makes no reference to the specific paragraph in US GAAP that was violated. Again this is nothing more than unsupported opinion from Devor. Devor also does not provide any evidence that control had not been completed, pure opinion.

Notwithstanding, there is a significant reason that the Key Officers of every Reporting Public Company, including those audited by A&C, and that are also parties, directly or indirectly to this case at hand, signed the Declaration Pursuant to 18 U.S.C. Section 1350 adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 "SOX". [90]The SOX

Declaration by Management takes on all of the burden of Reporting Liability to the public. Indeed, that's the entire point of the Declarations.

199. Moreover, even if Accelera had made the initial payment to BHCA under the SPA, it still would not have acquired control, because – under the Escrow Agreement – Wolfrum would have maintained control of the stock of BHCA in escrow until Accelera paid the full $4.55 million purchase price.[322]

Lie #199 that is not what the Escrow agreement says Wolfrum legally doesn't have control of BHCA's shares**. Exhibit# 188** clearly states that BHCA shares are held in escrow (**TR 275 Lines 12-14)** until the payment of the $4.5MM promise to pay, similarly under **Exhibit 1210 section 5.4**, where under **Exhibit #188 paragraph 4e**, Accelera ("Pledgor") shall operate the business in a similar manner until the $4.5MM is paid.

4 (e) **Operation of the Business**, Pledgor shall conduct the Business of the Company in a commercially reasonable manner, including but not limited to, consistent with past practices in terms of salary, bonuses, hiring and firing of officers, executives, and other management type positions, until the Purchase Price is paid in full. This same paragraph in the **SPA EXHIBIT 1210 SECTION 5.4.**

Accelera can determine hiring, firing, salary, etc. but it needs to be consistent with **past practices**.

200. As a result of Accelera's wrongful consolidation of BHCA's financial results, Accelera's financial statements in its 2013 and 2014 Forms 10-K and its Forms 10-Q filed in 2014 and 2015 were materially misstated. By consolidating BHCA, Accelera overstated its revenues, current assets, and total assets.[323] The vast majority (90%) of Accelera's revenues in 2013 and 2014 came from BHCA.[324]

Lie #200 The auditor has no responsibility for the financial statements only the Accelera is responsible for the financial statements. This is nothing more than Devor's opinion, he provides no reference to applicable paragraph in US GAAP that demonstrates that a violation had occurred. This is not a factual statement, merely Devor's fraudulent opinion. Devor's testimony makes no reference to the specific paragraph in US GAAP that was violated. Again this is nothing more than unsupported opinion from Devor. Devor also does not provide any evidence that control had not been completed, pure opinion.

Notwithstanding, there is a significant reason that the Key Officers of

every Reporting Public Company, including those audited by A&C, and that are also parties, directly or indirectly to this case at hand, signed the Declaration Pursuant to 18 U.S.C. Section 1350 adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 "SOX". [90]The SOX Declaration by Management takes on all of the burden of Reporting Liability to the public. Indeed, that's the entire point of the Declarations.

201. Before the SPA, Accelera was a shell company with little or no assets and revenues. In its Form 10-Q for the quarter before the SPA, Accelera reported revenues of $0 and just $50 in assets.[325]

Lie #201 Accelera was not a "shell company" on the face of the Form 10-Q it confirmed it was a small reporting company and was never a "shell company".

https://www.sec.gov/Archives/edgar/data/1444144/000107997413000728/accel10q930.htm

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[320] Ex. 88.1 (Devor Report) ¶¶ 167, 169.
[321] Tr. (Vol. IV Devor) 1156:6-15 ("A. I have not. And to the contrary, I've heard testimony so many times that, in fact, it never passed. And so the answer is I've never seen anything that indicates control, and I've – I've heard many times very relevant facts that show that it never passed."); Tr. (Vol. IV Devor) 1171:25-1172:7 ("Q. In the course of your work on this case and listening to the testimony and evidence so far in the trial, have you seen one shred of evidence that Accelera exercised any control over Behavioral? [Objection Overruled.] THE WITNESS: I don't think so.").
[322] Ex. 88.1 (Devor Report) ¶ 168.
[323] Ex. 88.1 (Devor Report) ¶¶ 170-173.

[324] Ex. 105 (2013 Form 10-K) F-4; Ex. 175 (consolidated trial balance worksheet for 2014); *see also* Tr. (Vol. I Freeman) 81:14-19 ("Virtually a hundred percent" of Accelera's recorded revenues actually came from BHCA.); Tr. (Vol. II Chen) 485:4-17; Tr. (Vol. VIII Shek) 2320:9-2323:15.
[325] Ex. 840 (Stipulated Facts) ¶ 35.

C. Facts about Accelera

1. Accelera's Payment History with Anton & Chia

202. Accelera had "issues" with making timely payments to Anton & Chia, "multiple times" throughout the engagements.[326]

203. In January, Anton & Chia staff accountant, Yu-Ta Chen, e-mailed Deutchman to inquire if Anton & Chia was engaged for Accelera's 2014 audit. Deutchman responded, "[w]e are going to do it," but "we are pushing it to the back because they are paying so slow."[327]

204. Similarly, Wahl testified that by May of 2015, "the relationship between [Anton & Chia] and Accelera [was] already kind of breaking down."[328] At that "point in time, [Anton & Chia] was just working on getting [its] fees paid."[329] Further, "a lot of [the work for Accelera] was done later in the busy season, because it wasn't really a priority client for us."[330]

2. Accelera's Internal Controls

205. Accelera was a "pretty messy," client, "they didn't have … competent people [or] good controls."[331] Wahl was aware that Accelera had "shitty controls, risk, etc."[332]

Lie #205 Accelera management was responsible for its internal controls. Not Respondents. Respondents adjusted its audit strategy to 100% substantive audit procedures no reliance on internal controls.

206. Timothy Neher was the main "audit correspondent" with Anton & Chia for the 2013 audit.[333] Neher's financial and accounting abilities were "not good."[334]

Lie #206 Accelera management was responsible for its internal controls. Not Respondents. Respondents adjusted its audit strategy to 100% substantive audit procedures (**TR 1946 Lines 11-20**) no reliance on internal controls.

[326] Tr. (Vol. VIII Shek) 2294:22-2295:7; *see also* Ex. 255 (May 18, 2015 email chain with Wahl).
[327] Ex. 221 (Jan. 30, 2015 email from Deutchman).
[328] Tr. (Vol. XXIII Wahl) 5620:2-8.
[329] *Id.* at 5623:2-3.
[330] *Id.* at 5623:3-6.
[331] Tr. (Vol. VIII Shek) 2290:11-20.
[332] Ex. 261 (Dec. 3, 2015 email from Wahl to Gandhi) 1; *see also* Tr. (Vol. XXI Wahl) 5101:14-18 ("Q Okay. Are you denying that you're aware of Accelera's shitty controls? A Well, we booked for a proposed 18 million in audit adjustments in 2014, so I guess that could imply their controls weren't very good.").
[333] Tr. (Vol. II Chen) 474:4-14; *see also* Ex. 839.6 (Prior Testimony Designations) 158, 159 (July 26, 2016 Wahl Inv. Test at 56:9-15, 59:18-60:1).
[334] Tr. (Vol. II Chen) 559:23-560:7; Ex. 208 (Aug. 8, 2014 email from Wahl); Tr. (Vol. III Deutchman) 70:23 ("Timothy knew nothing about accounting.").

207. Accelera, via its consultant, Tim Neher, did not provide Anton & Chia with its draft Form 10-K or draft financials for its 2013 audit until the morning of March 24, 2014 – just six days prior to the filing deadline.[335] Anton & Chia staff asked Wahl permission to tell Accelera to seek an extension due to the delay. Wahl responded, "[i]f we don't get this done he will just use Malone Bailey. Guy raises lots of money."[336]

208. In the 2013 audit, Anton & Chia "identified a lack of sufficient personnel in [Accelera's] accounting and consolidated financial reporting function, due to the company's limited resources with appropriate skills, training, and experience to perform the review processes to ensure the complete and proper application of [GAAP]." Accordingly, Anton & Chia recommended that Accelera "hire a full time CFO with relevant experience to improve financial reporting and internal controls."[337]

Lie #208 Accelera management was responsible for its internal controls. Not Respondents. Respondents adjusted its audit strategy to 100% substantive audit procedures (**TR 1946 Lines 11-20)** no reliance on internal controls.

209. In the quarterly reviews for 2014, Accelera continued to evince poor internal controls and accounting skills.[338] In connection with the second quarter review, an Anton & Chia staff member complained to Wahl that Neher "provided Yoda with crappy work," and "refuses to hire a consultant." He asked Wahl if they should "try to force [T]im [Neher] to get a consultant." Wahl responded, "Push it through so we can get paid. [C]an't win them all."[339]

Lie #209 Accelera management was responsible for its internal controls. Not Respondents. Respondents adjusted its audit strategy to 100% substantive audit procedures (**TR 1946 Lines 11-20)** no reliance on internal controls. The Divison "pushed….through" intentional changes to US GAAP and GAAS in **Lies #15** to **Lie #110** because they cant prove anything unless they lie, bully, terrorize, mislead and mischaracterize.

210. In the course of the 2014 audit, Shek learned that Accelera's Board of Directors had not met for the past 15 months. He passed this information along to Wahl and Deutchman,

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[335] Ex. 202 (Mar. 25, 2014 email from Neher) 5.
[336] *Id.*; *see also* Tr. (Vol. II Chen) 477:2-23.
[337] Ex. 143 (Apr. 10, 2014 Letter to Accelera BoD) 10; *see also* Tr. (Vol. XXI Wahl) 5104:8-13 ("Q Do you recall determining that Accelera had a material weakness in financial reporting in connection with the 2013 audit? A Well, based on the $18 million in audit adjustments we identified, I think that would be implied."); *id.* at109:21-25 ("Q Okay. You agree with me that you did find a material weakness in financial reporting in connection with the '13 audit of Accelera? A I think it's very clearly stated in the communication with those charged with governance.").
[338] *See, e.g.*, Ex. 209 (Aug. 15, 2014 email chain) ("No please [to joining staff of Q2 review]. This is completely shit show."); Ex. 208 (Aug. 8, 2014 email chain).
[339] Ex. 208 (Aug. 8, 2014 email chain).

writing, "[t]hat explains why the Company is so f[]ed up."[340] Wahl concurred that this "provides evidence that the company had really poor internal controls."[341]

Lie #210 Accelera management was responsible for its internal controls. Not Respondents. Respondents adjusted its audit strategy to 100% substantive audit procedures (**TR 1946 Lines 11-20)** no reliance on internal controls.

211. Accelera continued to have issues with its internal controls during the 2015 quarterly reviews. Wahl found Accelera's internal controls to be "shitty"[342] In May of 2015, Wahl told other staff at Anton & Chia that if Accelera "walks," or replaces Anton & Chia as its auditor, after filings its 10q, then, "we need to pull the opinions."[343]

Lie #211 Accelera management was responsible for its internal controls. Not Respondents. Respondents adjusted its audit strategy to 100% substantive audit procedures (**TR 1946 Lines 11-20)** no reliance on internal controls.

D. Facts about Anton & Chia's Improper Audits and Reviews of Accelera

212. The audit and review work performed by Wahl and Deutchman for the Accelera engagements did not comply with applicable professional standards, including GAAS and PCAOB standards.[344]

Lie #212 The conflicted biased CPA Devor that has never audited or reviewed a public company in accordance with PCAOB standards in his life has no knowledge of US GAAP and GAAS and cant apply the standards. In fact, Devor and the Division decided to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**.

213. Specifically, "Anton & Chia failed to:

- exercise an appropriate level of due professional care and professional skepticism;
- appropriately consider and/or address known red flags;
- [] properly plan its audits, including its failure to assess and consider deficiencies in Accelera's control environment;
- staff the audit with persons having adequate training and proficiency as an auditor;
- adequately supervise the audit staff;

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[340] Ex. 246 (Apr. 10, 2015 email from Shek).
[341] Tr. (Vol. XXIII Wahl) 5630:24-25.
[342] Ex. 258 (June 15, 2015 email from Wahl); Ex. 261 (Dec. 3, 2015 email from Wahl); *see also* Ex. 254 (May 13, 2015 email from Shek) ("welcome back to the shit show and nightmare!").
[343] Ex. 255 (May 18, 2015 email chain with Wahl); *see also* Tr. (Vol. VIII Shek) 2295:9-2296:20.
[344] Tr. (Vol. IV Devor) 1153:7-12 ("Q. And did you form an opinion on that topic? A. I did. Q. And what is your opinion? A. That they were not performed in accordance with Generally Accepted Auditing Standards, incorporated and including the PCAOB standards.").

- obtain sufficient appropriate audit evidence;
- adequately consider audit evidence obtained and audit results;
- sufficiently document relevant information obtained; and
- adequately perform engagement review procedures."[345]

Lie #213 This is a laundry list of alleged violations that the Division has no support because as Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**). The conflicted biased CPA Devor that has never audited or reviewed a public company in accordance with PCAOB standards in his life has no knowledge of US GAAP and GAAS and cant apply the standards. In fact, Devor and the Division decided to take out an eraser to tailor their own US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**.

214. "Wahl, in his role as Engagement Partner, failed to:

- exercise an appropriate level of due professional care and professional skepticism;
- appropriately consider and/or address known red flags;
- [] to ensure that Anton & Chia properly planned the audits, including the engagement team's failure to assess and consider deficiencies in Accelera's control environment;

- staff the audit with auditors having adequate training and proficiency;
- adequately supervise the audit staff;
- adequately consider audit evidence obtained and audit results; and
- document relevant information obtained during the audits."[346]

Lie #214 This is a laundry list of alleged violations that the Division has no support because as Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**). The conflicted biased CPA Devor that has never audited or reviewed a public company in accordance with PCAOB standards in his life has no knowledge of US GAAP and GAAS and cant apply the standards. In fact, Devor and the Division decided to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**.

215. "Deutchman failed to:

- exercise an appropriate level of due professional care and professional skepticism;
- appropriately consider and/or address known red flags;
- adequately consider audit evidence obtained and audit results; and
- [] document relevant information obtained during audits."[347]

Lie #215 This is a laundry list of alleged violations that the Division has no support because as Devor said Devor said “they’re (the Division) not competent in that area (US GAAP & GAAS)” (**TR 1805 Lines 15-10**). The conflicted biased CPA Devor that has never audited or reviewed a public company in accordance with PCAOB standards in his life has no knowledge of US GAAP and GAAS and cant apply the standards. In fact, Devor and the Division decided to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**.

[345] Ex. 88.1 (Devor Report) ¶ 181.
[346] Ex. 88.1 (Devor Report) ¶ 182.
[347] *Id.* ¶ 183.

1. 2013 Audit

216. As detailed below, Anton & Chia failed to conduct its 2013 audit of Accelera in accordance with PCAOB standards, which led to its failure to identify the consolidation of BHCA into Accelera's financials as improper.[348]

LIE #216 There is no support for this allegation there is not one paragraph in PCAOB standards that demonstrates a violation. The consolidation of BHCA is an accounting policy determined by management not by Respondents. Accelera management is responsible for the consolidation of BHCA not Respondents. The Division and Devor needs to educate themselves on consolidations see Respondents **P.F.F #658** to **#666**.

a. Staffing

217. Wahl failed to exercise appropriate due professional care in connection with the 2013 audit and, more specifically, did not ensure that the audit was sufficiently planned and performed by qualified individuals, as required by PCAOB standards.[349]

Lie #217 See **Lie #54** where the Division decided to change **AU 210.05** and Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**). The conflicted biased CPA Devor that has never audited or reviewed a public company in accordance with

PCAOB standards in his life has no knowledge of US GAAP and GAAS and cant apply the standards. In fact, Devor and the Division decided to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**.

218. The Anton & Chia personnel working on the Accelera 2013 audit were:

- Yu-Ta "Yoda" Chen, staff
- Nguyen Le, staff
- Greg Wahl, engagement partner
- Rich Koch, engagement quality review partner[350]

Lie #218 The Division has no support because as Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**). The conflicted biased CPA Devor that has never audited or reviewed a public company in accordance with PCAOB standards in his life has no knowledge of US GAAP and GAAS and cant apply the standards. In fact, Devor and the Division decided to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**.

219. Yu-Ta Chen did not have any auditing experience at the time he performed the

2013 audit of Accelera.[351] At that time, he did not have his CPA license.[352] He was hired in mid- March for a two-week trial period.[353] The Accelera 2013 audit was "one of [his] first audit[s]."[354]

Lie #219 The Division has no support because as Devor said Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**). The conflicted biased CPA Devor that has never audited or reviewed a public company in accordance with PCAOB standards in his life has no knowledge of US GAAP and GAAS and cant apply the standards. In fact, Devor and the Division decided to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**.

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[348] *Id.* ¶ 185.
[349] *Id.* ¶ 207 (citing AU 210 and AS No. 10).
[350] Ex. 136 (2013 audit Planning Memo); *see also* Tr. (Vol II Chen) 479:19-481:16; Ex. 839.6 (Prior Testimony Designations) 43 (July 2, 2019 Wahl Dep. at 40:2-4).
[351] Tr. (Vol. II Chen) 468:19-21 (responding "[n]o," to question whether he had "any prior auditing experience"); *see also* Ex. 280 (Chen resume).
[352] Tr. (Vol. II Chen) 467:4-5 ("I have Texas license, which I got that in 2015).
[353] *Id.* at 67:22-468:7 ("My official starting date is April 1, but I do have like somewhere around like a two-week trial starting from mid of March.").
[354] Tr. (Vol. II Chen) 471:8-10; *see also* Tr. (Vol. II Chen) 471:11-17 (He was staffed on that audit "close to the end of March," just after he started at Anton & Chia); *see also* Ex. 202 (Mar. 25, 2014 email from Y. Chen).

220. Accordingly, Chen did not have the competencies required to reach conclusions on whether it was appropriate to consolidate BHCA.[355]

221. Wahl knew that Yu-Ta Chen had no prior auditing experience; Chen had provided Wahl with his resume during his interview with Wahl.[356]

222. Chen's inexperience should have increased the level of scrutiny and supervision applied by the engagement partner, Wahl.[357] To the contrary, Wahl failed to identify any of the obvious errors and inconsistencies noted above throughout the memorandum.[358]

223. At the same time he was working on the Accelera 2013 audit, Chen was working on "around 5 to 6 audit client[s] and "probably 10 to 12" quarterly reviews.[359]

224. Nguyen Le was only in her second year of employment with Anton & Chia.[360]

225. There was no manager staffed on the 2013 audit.[361]

226. The staff on the 2013 audit did not have sufficient professional auditing experience, which was a violation of AU 210 and AS 10.[362]

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[355] Ex. 88.1 (Devor Report) ¶ 207; Tr. (Vol. IV Devor) 1180:24-1182:11 ("A. … So the biggest issue is making sure that the acquisition is recorded correctly, right? That should be done by someone who's got the experience of looking at it. I'm not suggesting, by the way, it's complicated, but someone who has never seen [ASC] 805 [Business Combinations], someone who's never – you know, seen a transaction, a purchase transaction – I think that was Chen's testimony – is not putting the appropriate person with technical proficiency – technical training and proficiency to take care of that issue. To be, you're in charge of that issue. Chen, in essence, said I had no idea what I was doing. I mean, he didn't say – those are my words by the way, not his. … By the way, if you read the memo, you can see he – he missed the whole point. So that's training and proficiency.").

[356] Tr. (Vol. II Chen) 468:12-469:3 ("Q who hired you at Anton & Chia? A Greg. Q Greg who? A Greg Wahl. Q Okay. Did you interview with Wahl? A Yes. Q When you started at Anton & Chia, did you have any prior auditing experience? A No. Q Did you explain that to Wahl during the interview? A I can't remember, but it's all on my

[362] Ex. 88.1 (Devor Report) ¶ 202.

resume. Q And did you provide your resume to Wahl in connection with your job application? A Yes."); *see also* Ex. 280 (Chen resume).

[357] Ex. 88.1 (Devor Report) ¶ 206.

[358] *Id.*

[359] Tr. (Vol. II Chen) 470:6-15.

[360] Ex. 839.6 (Prior Testimony Designations) 160 (July 26, 2016 Wahl Inv. Test at 61:12-62:4).

[361] Ex. 136 (2013 Audit Planning Memo).

[362] Ex. 88.1 (Devor Report) ¶ 202.

227. Wahl was the engagement partner on the 2013 audit of Accelera.[363] As the engagement partner, Wahl was responsible for the audit.[364]

228. At the time of the 2013 Accelera audit, there were only two partners at Anton & Chia performing audits – Wahl and Koch. Between them, they handled all of the engagement partner and EQR roles.[365]

LIE # 228 And Glaser is having a tough time understanding what that means? "can you explain what that means?" See **Footnote 365**.

At that time, Wahl was working 80 to 100 hours a week.[366]

YEAH AN HONEST HARDWORKING PROFESSIONAL!

b. Planning

229. Anton & Chia and Wahl's failure to identify Accelera's improper accounting treatment of BHCA can be attributed in part to its deficiencies in audit planning procedures.[367]

Lie #229 Devor's report is a laundry list of allegations that he cant support. There is no evidence that suports these allegations. The Division has no support because as Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**). The conflicted biased CPA Devor that has never audited or reviewed a public company in accordance with PCAOB standards in his life has no knowledge of US GAAP and GAAS and cant apply the standards. In fact,

[363] Ex. 84-1 (Devor Report) ¶ 120.

Devor and the Division decided to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**.

230. During its planning of the 2013 audit, Anton & Chia decided that it would examine the purchase agreements and operating agreements related to BHCA, and that it would request information regarding how Accelera had allocated the purchase price of the purported acquisition to the assets and liabilities.[368]

[363] Tr. (Vol. XXI Wahl) 5084:22-5085:1 ("Q So you were the engagement partner on the 2013 audit of Accelera, correct? A I believe that is correct.").
[364] Tr. (Vol. XXI Wahl) 5085:22-5086:3 ("Q Okay. And you've testified when you're the engagement partner, the buck stops with you; is that right? A Yeah. I take responsibility for my work, yes. Q Right. You own it, right? A Yes, I do."); *see also id.* at086:14-5087:5 ("… when the engagement partner reviews the work paper, he's taking responsibility for it. And same as the concurrent partner.").
[365] Ex. 839.6 (Prior Testimony Designations) 160 (July 26, 2016 Wahl Inv. Test at 63:19-24) ("A I think at that time it was he and I that were the – the two assigned partners. MR. GLASER: And can you explain what that means? THE WITNESS: Well, I – I think at that time we only had two partners."); *id.* at61 (July 26, 2016 Wahl Inv. Test at 65:15-18-14) ("And you were the engagement partner for half of your clients during that period of time; is that right? THE WITNESS: More than likely, yes.").
[366] Ex. 839.6 (Prior Testimony Designations) 161 (July 26, 2016 Wahl Inv. Test at 65:8-14) ("Do you happen to recall, approximately, how many hours a week you – you personally were working during that time period? THE WITNESS: Well, the first six years, I mean, it was easy 80 to 100 hours a week. MR. GLASER: That's a lot of hours. THE WITNESS: Yeah, hard work.").
[367] Ex. 88.1 (Devor Report) ¶ 208.
[368] Ex. 136 (2013 planning memo workpaper) 3.

[362] Ex. 88.1 (Devor Report) ¶ 202.

231. In its risk assessment summary workpaper, Anton & Chia identified the BHCA acquisition, revenue recognition, and purchase accounting as risk areas in the 2013 audit.[369] Yu- Ta Chen prepared, and Greg Wahl signed off on, the risk assessment summary workpaper.[370]

232. Anton & Chia documented in its workpapers that due to the fact that Accelera had has no significant operations and had a small Board of Directors, Anton & Chia would not rely upon the internal control over the financial statement reporting process."[371] Such observations should have elevated the level of professional skepticism and due professional care on the part of the engagement team.[372]

Lie #229 Devor's report is a laundry list of allegations that he cant support. There is no evidence that suports these allegations. The Division has no support because as Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**). The conflicted biased CPA Devor that has never audited or reviewed a public company in accordance with PCAOB standards in his life has no knowledge of US GAAP and GAAS and cant apply the standards. In fact, Devor and the Division decided to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**.

233. Based on the workpapers, the engagement team apparently made no effort to

[374] Ex. 88.1 (Devor Report) ¶ 220.

understand the experience and capabilities of those actually charged with preparing Accelera's 2013 financial statements.[373]

234. Anton & Chia also utilized a *Risk Inquiries Form* while planning its 2013 Accelera audit. This form was to be used by Anton & Chia to document its inquiries and responses of management and others about risks of material misstatements, including – but not limited to – fraud risks. For purposes of this form, Anton & Chia identified as management, and interviewed, Timothy Neher, Rose and Daniel Gallagher, and Ann Wolfrum. None of those individuals were actually Accelera management.

235. Based on the above, Anton & Chia and Wahl failed to exercise an appropriate level of due professional care and professional skepticism (AU 230) and violated PCAOB standards while planning its 2013 audit.[374]

Lie #235 Devor's report is a laundry list of allegations that he cant support. There is no evidence that suports these allegations. The Division has no support because as Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**). The conflicted biased CPA Devor that has never audited or reviewed a public company in accordance with PCAOB standards in his life has no knowledge of US GAAP and GAAS and cant apply the standards. In fact, Devor and the Division decided to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**.

[374] Ex. 88.1 (Devor Report) ¶ 220.

[369] Ex. 137 (2013 Accelera Risk Assessment Summary workpaper); se*e also* Tr. (Vol II Chen) 484:6-20.
[370] Ex. 137 (2013 Accelera Risk Assessment Summary workpaper); Ex. 138 (2013 Accelera audit workpaper sign-offs); se*e also* Tr. (Vol II Chen) 486:4-17.
[371] Ex. 88.1 (Devor Report) ¶ 217; Ex. 1 (Accelera workpapers) 2013 audit, WP 1105.
[372] *Id.* ¶ 219.
[373] *Id.* ¶ 213.

[374] Ex. 88.1 (Devor Report) ¶ 220.

c. Red Flags Regarding the BHCA Acquisition

236. Anton & Chia, including Wahl, received all of the BHCA agreements (including the SPA, Operating Agreement, Promissory Note, Stock Powers Certificate, Written Consent of BHCA Board, Bill of Sale, and Employment Letter) on March 27, 2014.[375]

237. Wahl signed off as having reviewed the Written Consent of BHCA Board, SPA, Employment Letter, Operating Agreement, and Promissory Note.[376]

238. Wahl was aware that Wolfrum was never paid $1 million under the terms of the SPA.[377]

239. In addition, on March 12, 2014, Accelera sent Anton & Chia a form entitled "understanding the company," regarding BHCA.[378] The form disclosed that Wolfrum "has owned" BHCA for 20 years.[379] It also said that Wolfrum "will be employed by Accelera."[380] No one from Anton & Chia asked any follow up questions of the form's reported author about these responses in the questionnaire.[381]

Lie #239 No CPA is going to ask a Nursing Professional on how to consolidate a company or not.

240. Similarly, Anton & Chia's own *Risk Inquiries Form* identified Ann Wolfrum (not Accelera) as the "owner" of BHCA.[382]

LIE #240 Devor and the Division decided to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**.

[374] Ex. 88.1 (Devor Report) ¶ 220.

241. Nothing in Anton & Chia's workpapers for the Accelera engagements adequately documents how they reached the conclusion that it was appropriate for Accelera to consolidate BHCA in its financial statements.[383]

Lie #241 There is a memo in 2013 file that determines consolidation. It is documented. The Division has no support because as Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**). And obviously US GAAP. The conflicted biased CPA Devor that has never audited or reviewed a public company in accordance with PCAOB standards in his life has no knowledge of US GAAP and GAAS and cant apply the standards. The Division and Devor hated A&C's memorandum so much that they decided to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**. Devor in **Footnote 383** rambles on about GAAS but doesn't provide a specific paragraph in GAAS that was violated tied to a wrong doing because there was nothing done wrong in this case.

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[375] Exs. 302-304 (Mar. 27, 2014 emails and attachments from Neher); *see also* Tr. (Vol. II Chen) 499:9-504:23.
[376] Ex. 138 (2013 Accelera audit workpaper sign-offs); *see also* Tr. (Vol. II Chen) 505:1-507:8.
[377] Tr. (Vol. XXI Wahl) 5216:9-15 ("Q Was he ever paid a million dollars? A He was not. But, again, you're only looking at one factor of control.").
[378] Ex. 179 (email and attachment from Neher).
[379] *Id.* ¶ 4.
[380] *Id.* ¶ 37(f).
[374] Ex. 88.1 (Devor Report) ¶ 220.

[381] Tr. (Vol. II Boerum) 392:19-22 ("there was no discussion") & 393:6-11 ("I never had a discussion with them regarding this.").
[382] Ex. 1 at 2013 audit, WP 1104 (Risks Inquiries Form).
[383] Tr. (Vol. IV Devor) 1196:6-1197:13 (1196:14 "A. … GAAS requires the most significant issue in the audit to be documented. I mean which, by the way, isn't crazy to think about, right? So – so clearly if the – so that's an example

[374] Ex. 88.1 (Devor Report) ¶ 220.

d. Acquisition Memo

242. Only one workpaper in the entire 2013 audit dealt with the accounting for the purported BHCA acquisition: an April 10, 2014 memo (the "Acquisition Memo").[384]

Lie #242 For a consolidation matter, this is standard operating procedure for a CPA firm, preparing on memorandum as to consolidation or not. Especially, when management is negligent in fullfilling its accounting policy decisions regarding consolidations. Consolidations are a US GAAP reporting responsibiity for management. The auditor has no responsibility for the financial statements only the Accelera is responsible for the financial statements. There is a significant reason that the Key Officers of every Reporting Public Company, including those audited by A&C, and that are also parties, directly or indirectly to this case at hand, signed the Declaration Pursuant to 18 U.S.C. Section 1350 adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 "SOX". [90]The SOX Declaration by Management takes on all of the burden of Reporting Liability to the public. Indeed, that's the entire point of the Declarations The Division has no support because as Devor said

"they are incompetent with US GAAS." The conflicted biased CPA Devor that has never audited or reviewed a public company in accordance with PCAOB standards in his life has no knowledge of US GAAP and GAAS and cant apply the standards. In fact, Devor and the Division decided to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**. Devor in **Footnote 384** rambles on about GAAS but doesn't provide a specific paragraph in GAAS that was violated tied to a wrong doing because there was nothing done wrong in this case.

243. Yu-Ta Chen drafted the Acquisition Memo. Chen had never prepared a memo like the Acquisition Memo before. In fact, he had never worked on a business combination issue before, or performed any accounting research on business combinations.[385] Chen did "not necessarily have that kind of knowledge" to determine the appropriate accounting model for a transaction.[386] "Most" of the memo was "based on a template."[387]

Lie #243 For a consolidation matter, this is standard operating procedure for a CPA firm, preparing on memorandum as to consolidation or not. Especially, when management is negligent in fullfilling its accounting policy decisions regarding consolidations. Consolidations are a US GAAP reporting responsibiity for management. The auditor has no

responsibility for the financial statements only Accelera is responsible for the financial statements. There is a significant reason that the Key Officers of every Reporting Public Company, including those audited by A&C, and that are also parties, directly or indirectly to this case at hand, signed the Declaration Pursuant to 18 U.S.C. Section 1350 adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 "SOX". [90]The SOX Declaration by Management takes on all of the burden of Reporting Liability to the public. Indeed, that's the entire point of the Declarations. The Division has no support because as Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**). The conflicted biased CPA Devor that has never audited or reviewed a public company in accordance with PCAOB standards in his life has no knowledge of US GAAP and GAAS and cant apply the standards. In fact, Devor and the Division decided to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**. Chen represented he was appropriately supervised by Wahl in preparing this memorandum see **TR 534 Line 19-25** and **TR 535 Line 1-4** and **Line 89**.

244. The Acquisition Memo stated that the appropriate accounting rule governing this transaction was ASC 805.[388] The Acquisition Memo further noted that a key issue to resolve under ASC 805 is whether the acquirer "gain control" over the acquiree.[389] It also stated that the usual manner in which control is obtained is through "ownership of [a] majority voting interest in the [acquire]."[390] The Acquisition Memo, however, contains no analysis as to how Accelera supposedly acquired control over BHCA.[391]

Lie #244 For a consolidation matter, this is standard operating procedure for a CPA firm, preparing on memorandum as to consolidation or not. Especially, when management is negligent in fullfilling its accounting policy decisions regarding consolidations. Consolidations are a US GAAP reporting responsibiity for management. The auditor has no responsibility for the financial statements only the Accelera is responsible for the financial statements. There is a significant reason that the Key Officers of every Reporting Public Company, including those audited by A&C, and that are also parties, directly or indirectly to this case at hand, signed the Declaration Pursuant to 18 U.S.C. Section 1350 adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

"SOX". [90]The SOX Declaration by Management takes on all of the burden of Reporting Liability to the public. Indeed, that's the entire point of the Declarations. The Division has no support because as Devor said "they are incompetent with US GAAS." (**TR 1805 Lines 15-20**). The conflicted biased CPA Devor that has never audited or reviewed a public company in accordance with PCAOB standards in his life has no knowledge of US GAAP and GAAS and cant apply the standards. In fact, Devor and the Division decided to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**. Chen represented he was appropriately supervised by Wahl in preparing this memorandum see **TR Page 534 Line 19-25** and **Page 535 Line 1-4** and **Line 89**. Devor in **Footnote 391** rambles on about GAAS but doesn't provide a specific paragraph in GAAS that was violated tied to specific evidence of a wrong doing because there was nothing done wrong in this case.

of if, in fact, that exercise and analysis took place as it's being contended that it did, you would expect it to be all over the work papers. So anyway. And to the contrary, there's nothing in the work papers that documents how in the world the conclusion to consolidate this thing occurred. There's nothing in the work papers about it.").

[384] Ex. 88.1 (Devor Report) ¶ 194; Tr. (Vol. IV Devor) 1160:7-23, 1162:4-16 ("Q. And have you reviewed the work papers for all the engagements related to Accelera that are at issue in this case? A. Yes. Q. Other than this memo, is there anything in the work papers that analyzes whether Behavioral should be consolidated into Accelera? A. Not that I've seen."); Ex. 142 (Apr. 10, 2014 Acquisition Memo).

[385] Tr. (Vol. II Chen) 514:14-515:24 ("Q Well, had you ever prepared a memo like this before? A No. Q Had you ever worked on a business combination issue before? A No. …. Q you had never researched a business combination issue before; is that right? … THE WITNESS: No.").

[386] Tr. (Vol. II Chen) 523:1-5; *see also id.* at24:1-2 ("During that time. I don't think I would have the knowledge of the actual ASC 805.").

[387] Tr. (Vol. II Chen) 510:6-7, 513:1-6.

[388] Ex. 142 (Acquisition Memo) 3 ("**the appropriate accounting model for this transaction is the purchase accounting model governed by ASC 805**") (emphasis in original).

[389] Ex. 142 (Acquisition Memo) 2 ("The definition of business combination per ASC 805 is: "A transaction or other event in which an acquirer obtains control of one or more businesses.").

[390] Ex. 142 (Acquisition Memo) 4 ("the usual condition for controlling interest is the ownership of the majority voting interest in the entity").

[391] Tr. (Vol. IV Devor) 1161:6-25 ("Q. Does this memo contain any analysis as to how Accelera supposedly acquired control over Behavioral? A. Not at all. …").

245. The Acquisition Memo contains several other errors and inconsistencies. For example, the Acquisition Memo refers to a Letter of Intent (or "LOI"), but there was no Letter of Intent in this transaction.[392]

Lie #245 Typos are not negligence. English is Chen's second language maybe the Division should show some empathy for different cultures and races for honest hardworking people that come to the Unites States of America to fulfil the American Dream (**TR 608 Lines 1-8; Lines 12-14 & Lines 23-25**). Wahl supported hard working Americans and immigrants. Wahl believed in the American Dream until this Terrorist group of SEC attorneys tried to destroy him simply because he built a succesful business and he fought back against their monopoly of criminal behavior. The Division decided to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**. Devor in **Footnote 392** rambles on about GAAS but doesn't provide a specific paragraph in GAAS that was violated tied to specific evidence of a wrong doing because there was nothing done wrong in this case.

246. In addition, the Acquisition Memo uses several different tenses when describing the BHCA transaction, leaving it ambiguous as to whether the author believes the transaction has already occurred, or not. For example,

- "[Accelera] will pay BHCA $4,550,000. As a result, BHCA would become a wholly owned subsidiary of [Accelera]."[393]
- "Under the terms of the Agreement …, [Accelera] will obtained 100% of the ownership of [BHCA]."[394]
- "Revenue will begin to accrue to the Issuer from Target operations prospectively from the date [Accelera] obtains control."[395]

Lie #246 Typos are not negligence. English is Chen's second language maybe the Division should show some empathy for different cultures and races for honest hardworking people that come to the Unites States of America to fulfil the American Dream (**TR 608 Lines 1-8; Lines 12-14 & Lines 23-25**). Wahl supported hard working Americans and immigrants. Wahl believed in the American Dream until this Terrorist group of SEC attorneys tried to destroy him simply because he built a succesful business and he fought back against the Divisions' monopoly of criminal behavior. The Division decided to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**.

247. In a section entitled, "Determining the Acquisition Date," the Acquisition Memo states that "it is the date that the acquirer obtains control that is the acquisition date, not necessarily the date of an agreement or reaching binding terms," but the Acquisition Memo does not include any conclusion as to what the acquisition date of BHCA was.[396]

Lie #247. Its so obvious that the "acquisitioin date of BHCA was" November 11, 2013. **Exhibit 1210 Section 2.1:** November 11 – stated the deal was "***closed and effective***". It wasn't that obvious that the Division decided to change to change US GAAP and GAAS in this very document see **LIE #15** to **LIE #110**.

[392] Ex. 142 (Acquisition Memo) 3 ("**Based off the facts related to the Issuer and Target and the terms outlined in the LOI**….") (Emphasis in orig.); Tr. (Vol. IV Devor) 1165:23-25 ("Q. Is there a letter of intent involved in this case? A. Not that I've seen.").
[393] Ex. 142 (Apr. 10, 2014 Acquisition Memo) 1-2.
[394] *Id.* at 2.
[395] *Id.* at 9.
[396] *Id.* at 4-5.

248. Wahl signed off as having reviewed the Acquisition Memo.[397] He was the only member of the 2013 audit engagement team who signed off as having reviewed the Acquisition Memo.[398]

249. This Acquisition Memo demonstrates Anton & Chia's failure to properly analyze whether Accelera had acquired control of BHCA. This memo also demonstrates Anton & Chia's and Wahl's lack of due professional care (AU 230) in their assessment of Accelera's decision to consolidate BHCA. Further, this memorandum depicts Wahl's lack of "seasoned judgment" in the supervision and the review of the work performed by Chen, under AU 210.[399]

Lie #249 The Division is using their fraudulent version of **AU 230** and AU 210 where they intentionally changed under **Lie #48 AU 230**, **AU 230.03**; **AU 230.05**; **AU 230.07** and **AU 230.08** and under **Lie #54 AU 210.05**. The Division's lack of "seasoned judgment" to ensure that their reports comply with the true Authoritative Guidance of US GAAP and GAAS is fraudulent contempt for the laws, due process and the courts in this country.

e. Work Not Conducted

250. The amendments to the SPA, the Bill of Sale, the Stock Powers Certificate, the Written Action of the BHCA Board, and the Escrow Agreement were not among the workpapers for the 2013 audit.[400]

Lie #250. Wahl testified that they pulled the documents and reviewed them from the original 8-K filing and the documents were placed in

A&C's permanent file. Devor in **Footnote 402 Exhibit 88.1 196** rambles on about GAAS but doesn't provide a specific paragraph in GAAS that was violated tied to specific evidence of a wrong doing because there was nothing done wrong in this case.

251. Under the SPA, the first payment toward BHCA was due 90 days from November 11th, or February 9, 2014.[401] Accordingly, by the time Anton & Chia was working on the 2013 audit, the payment was past-due. But, there is no evidence in Anton & Chia's 2013 audit workpapers that they considered the impact of default.[402]

Lie #251 This was not necessary as **Exhibit 1217 and Exhibit 1218** cured any default. Devor in **Footnote 402 Exhibit 88.1 191** rambles on about GAAS but doesn't provide a specific paragraph in GAAS that was violated tied to specific evidence of a wrong doing because there was nothing done wrong in this case. Devor mentions **AU 230** but does not mention a specific paragraph that was violated tied to a real fact. This is mere opinion.

The Division and Devor and using their fraudulent version of **AU 230** and AU 210 where they intentionally changed under **Lie #48 AU 230**, **AU 230.03**; **AU 230.05**; **AU 230.07** and **AU 230.08** and under **Lie #54**

AU 210.05. The Division's lack of "seasoned judgment" to ensure that their reports comply with the true Authoritative Guidance of US GAAP and GAAS is fraudulent contempt for the laws, due process and the courts in this country.

252. Anton & Chia did not perform any field work during the 2013 audit.[403]

Lie #252 There is no audit requirement or standard to complete "field work" it's at the auditors' discretion to complete audit work wherever it chooses there is no paragraph cited that implies something incorrect under US GAAS. This is more non-factual sideshow created by the Division.

253. There is no evidence in the Anton & Chia's 2013 audit workpapers that the engagement team performed inquiries of Wolfrum including inquiring whether Accelera

[397] Ex. 138 (2013 Accelera audit workpaper sign-offs) WP 2503; Ex. 139 (2013 Accelera audit workpaper sign-offs, native) WP 2503; Tr. (Vol. II Chen) 508:3-509:20; Ex. 839.6 (Prior Testimony Designations) 162 (July 26, Wahl 2016 Inv. Test at 88:10-20).

[398] *Id.*

[399] Ex. 88.1 (Devor Report) ¶ 196.

[400] Ex. 138 (2013 audit workpaper signoff index); Ex. 1 (Accelera workpapers).

[401] Ex. 184 (Stock Purchase Agreement) § 1.1.1.1.

[402] Ex. 88.1 (Devor Report) ¶ 191.

[403] Tr. (Vol. II Chen) 497:23-498:6.

controlled BHCA, had access to BHCA's bank accounts, had a controlling financial interest of BHCA, or whether Wolfrum received shares of Accelera, as required by the amendments to the Stock Purchase Agreement.[404] Neither Wahl nor Deutchman ever spoke to Wolfrum.[405] In particular, Chen never asked Wolfrum whether Accelera controlled BHCA's operations, whether Accelera had access to BHCA's bank accounts, or whether Accelera had the ability to hire or fire BHCA's employees.[406] These omissions constitute a failure to "obtain sufficient appropriate audit evidence to provide a reasonable basis for [their] opinion," as required by AS 15.[407]

Lie #253 A&C read the contracts and they are explicit about control (See **P.F.F #650** to **#666**); the SPA **Exhibit 1210** didn't provide Accelera access to the bank accounts **Section 1.1 Purchase and Sale of Stock:** clearly states that "The Parties agree the following assets are **excluded** from the purchase and sale of Stock **and shall remain *the property of Seller after Closing: l) Company's cash and operating accounts."***; in relation to hiring firing please read ***Exhibit 1210 section 5.4.*** The Division is using their fraudulent version of **AS 15.04**; **AS 15.05**; **AS 15.11** and **AS 15.29** under **Lie #105; Lie #106; Lie #108 and Lie #110**. Wolfrum is a suspended physiatrist where the Illinois Department of Professional Regulation suspended his license…saying "he's a danger to the public" and as an officer and a director of Accelera he was day trading in Accelera's stock.

Devor in **Footnote 402 Exhibit 88.1 197** rambles on about GAAS but doesn't provide a specific paragraph in GAAS that was violated tied to specific evidence of a wrong doing because there was nothing done wrong in this case.

Also Deutchman did speak to Blaise Wolfrum (**TR 813 Lines 7-13**). The statement above is incorrect. Wolrum said he couldn't "recall" if he did or not. Wolfrum didn't say I "never"spoke to Wahl or Deutchman. Read the Transcript below.

254. Wahl did not ask anyone from Accelera whether it had ever received the shares of BHCA, because he "[didn't] think that's our problem."[408]

Lie #254 Testimony has nothing to do with BHCA's shares it has to do with the shares under **Exhibits 1217** and **1218** which A&C proposed the audit adjustments for the compensation owed to Wolfrum. This statement totally mischaracterizes and fraudulently changes Wahl's testimony.

255. Despite the fact that Wahl found the SPA "contradictory," [409] he never considered obtaining a legal opinion on the propriety of BHCA's consolidation.[410]

Lie #255 There is no requirement under US GAAP or US GAAS to obtain a legal opinion. **ASC 805** and **ASC 820** govern consolidation of entities under US GAAP. Obviously if Wahl did obtain a legal opinion from anyone of these Division attorneys ethics obviously is an issue since they intentionally changed the US GAAP and GAAS procouncements under **LIE #15 to Lie #110.**

256. Even though two of the four amendments to the SPA had been signed by the time Anton & Chia was performing the 2013 audit,[411] neither amendment appears in the audit workpapers.[412] If Anton & Chia was not aware of the amendments, then the engagement team

[404] Ex. 88.1 (Devor Report) ¶ 197.

[405] Tr. (Vol. I Wolfrum) 248:25-249:5 ("Q. Did you ever have occasion to speak to Greg Wahl at Anton & Chia?? A. Not that I can recall specifically. Q. Did you ever have an occasion to speak to Michael Deutchman at Anton & Chia? A. Not that I can recall.").

[406] Tr. (Vol. II Chen) 536:16-537:13 ("Do you remember at all asking Wolfrum whether Accelera controlled Behavioral's operations? A No. I don't think I have that conversation. Q Okay. Did you have any conversation with him or anybody at Behavioral about whether or not Accelera had access to Behavioral's bank accounts? A I did not have that conversation. Q Okay. Did you have any discussions with anybody at Behavioral, while you were working on the2013 audit, about whether Accelera had the ability to hire and fire Behavioral's employees? … For the 2013 audit, I don't remember have that conversation.").

[407] Ex. 88.1 (Devor Report) ¶ 198.

[408] Ex. 839.6 (Prior Testimony Designations) 19-20 (July 12, 2019 Wahl Dep. at 172:21-174:4).

[409] Ex. 839.6 (Prior Testimony Designations) 100 (July 2, 2019 Wahl Dep. at 247:16-17) ("Well, again, the – the agreement is contradictory…").

[410] Ex. 839.6 (Prior Testimony Designations) 105-06 (July 2, 2019 Wahl Dep. at 263:18-264:1) ("Did you ever do anything to ensure that Accelera was in compliance with the terms of the Stock Purchase Agreement while you were conducting the 2013 audit? A. I don't remember. Q. Did you ever consider obtaining a legal opinion to confirm the propriety of the consolidation of Behavioral? A. No.").

[411] Ex. 197 (1st Amendment to SPA); Ex. 201 (2d Amendment to SPA).

[412] Ex. 138 (workpaper sign-offs for 2013 audit).

failed to identify that Accelera was in breach of the terms of the SPA, as the first payment was overdue as of February 9, 2014. If they were aware of the amendments, then the engagement team failed to confirm that Accelera had met the terms of those amendments (*i.e.*, transferred the required stock to Wolfrum). Either way, Anton & Chia and Wahl failed to demonstrate due professional care in its assessment of the BHCA transaction.[413]

Lie #256 This entire paragraph is circumstantial at best and is not based on any fact. Accelera is responsible for their financial statements and **Exhibits 1217** and **1218** were effective before A&C's audit report was issued. Respondents received **Exhibits 1217** and **1218** before we filed our audit opinion on April 15, 2014 (**Koch Inv, Test Nov 1, 2016, at 55-56**). This is further corroborated as **Exhibit 1218** puts Accelera on the hook for the $4.5MM liability and A&C obtained a confirmation from Blaise Wolfrum that Accelera legally were obligated to pay the $4.5MM (see **Exhibit 1248**).

Devor in **Footnote 413 Exhibit 88.1 193** rambles on about GAAS but doesn't provide a specific paragraph in GAAS that was violated tied to specific evidence of a wrong doing because there was nothing done wrong in this case. Devor mentions **AU 230** but does not mention a

specific paragraph that was violated tied to a real fact. This is mere opinion.

The Division and Devor are using their fraudulent version of **AU 230** and AU 210 where they intentionally changed under **Lie #48 AU 230**, **AU 230.03**; **AU 230.05**; **AU 230.07** and **AU 230.08**

f. Anton & Chia Audit Report

257. Accelera's 2013 Form 10-K included an unqualified opinion from Anton & Chia. Anton & Chia opined that Accelera's financial statements, "present fairly, in all material respects, the consolidated financial position of Accelera Innovations, Inc. as of December 31, 2013 and 2012, and the consolidated results of their operations and their cash flows for each of the years then ended, in conformity with accounting principles generally accepted in the United States of America."[414]

258. Anton & Chia also represented that it had "conducted [its] audits in accordance with the standards of the Public Company Accounting Oversight Board (United States)."[415]

259. The report also included what is referred to as a going concern disclosure, disclosing "substantial doubt about the Company's ability to continue as a going concern."[416] A going concern disclosure in an audit opinion does not minimize the auditor's responsibility for conducting an audit that complies with the applicable auditing standards.[417]

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[413] Ex. 88.1 (Devor Report) ¶ 193 (citing AU 230).
[414] Ex. 105 (Accelera 2013 Form 10-K) F-2; *see also* Ex. 840 (Stipulated Facts) ¶¶ 32-34.
[415] *Id.*
[416] Ex. 105 (Accelera 2013 Form 10-K) F-2.
[417] Tr. (Vol. IV Devor) 1210:17-1211:17 ("Q. Devor, in your expert opinion, does it – does a going concern disclosure or warning in an audit opinion minimize or absolve an auditor's responsibility for conducting an appropriate audit? A. Of course not. Q Does it have any bearing on the quality of an audit that an auditor is

required to perform? A. No. Q. Why not? A. There's an opinion that was shown on that screen, I believe when Deutchman was up here, Anton & Chia's opinion. It was a statement that says we conducted the audit in accordance with PCAOB standards. So you're not absolved of performing an audit in accordance with Generally Accepted Auditing Standards, PCAOB standards, just because the company is struggling to make money. … By the way, if you were,

260. Anton & Chia – through Wahl – signed this audit report.[418] Wahl anticipated that Accelera's Form 10-K would include Anton & Chia's opinion.[419]

LIE #260 Anton & Chia signs and issues the audit report. Not Wahl.

g. Anton & Chia's Audit Fees

261. For the 2013 audit,[420] Anton & Chia charged Accelera $31,559.[421]

2. 2014 Quarterly Reviews

262. As detailed below, Anton & Chia failed to conduct the 2014 quarterly reviews in accordance with PCAOB standards, which led to the failure to identify the consolidation of BHCA into Accelera's financials as improper.[422]

Lie #262 This is a matter of opinion and is clearly circumstantial is not fact the statement is alleged by Devor who has never completed a review for a public company in accordance with PCAOB standards. Devor in **Footnote 422 Exhibit 88.1 293** rambles on about PCAOB but doesn't provide a specific paragraph in the PCAOB standards that was violated tied to specific evidence of a wrong doing because there was nothing done wrong in this case.

a. Staffing

263. The first quarter 2014 quarterly review was staffed by:

- Yu-Ta Chen and Nguyen Le as staff

- Greg Wahl as engagement partner
- Richard Koch as EQR.[423]

264. The second quarter 2014 quarterly review was staffed by:

- Yu-Ta Chen and Rena Yu as staff
- Greg Wahl as engagement partner
- Richard Koch as EQR.[424]

265. The third quarter 2014 quarterly review was staffed by:

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why would you do the audit? Think about that. Common sense. Why – if it didn't matter what you did or the audit didn't matter, why would you go to the expense of hiring an auditor to do the audit if you
Didn't have to because there's a going concern statement?").

[418] Wahl Answer ¶ 66.

[419] Wahl Answer ¶ 111.

[420] Note, this amount comprises both the 2013 audit and the Q1 review. The Q1 review is therefore omitted from the fees in the section below.

[421] Ex. 308 (All Transactions for Acclera Innovations).

[422] Ex. 88.1 (Devor Report) ¶ 293.

[423] Ex. 1.1 (Q1 2014 Planning Memo workpaper) 3.

[424] Ex. 166 (Q2 2014 Planning Memo workpaper) 3.

- Yu-Ta Chen and Rena Yu as staff
- Brian Lam as audit manager
- Michael Deutchman as engagement partner
- Richard Koch as EQR[425]

266. Freeman found the Anton & Chia staff assigned to the 2014 Q3 audit engagement (Chen) "did not possess an appropriate level of experience to handle an engagement with these types of complexities."[426]

Lie #266 Freeman thought Accelera was on NASDAQ, the AICPA is non-authoritative guidance and he had to pay $14,000 to get the job. Accelera thought his work was so bad they never paid back the $14,000 or for his services and Freeman admitted that he was not "the smartest guy" **TR Page 173 Line 12-14**.

267. Deutchman was the engagement partner for the third quarter review for Accelera.[427] By the time he was staffed on the 2014 audit, Deutchman had already been censured by the SEC for appearing as a public accountant while not associated with a PCAOB-registered firm.[428] Deutchman did not inform Wahl of the 2008 censure when he was hired by Anton & Chia, but the Order was public information at that time.[429]

Lie #267 The Division didn't tell the judge in this case nor the Respondents that they planned to intentionally change the US GAAP and GAAS standards in their briefs, post-hearing briefs, OIP, Devor's

report, the proposed facts, unfortunately this has not been publicly disclosed to Congress, the Taxpayers, the Department of Justice, etc. See **Lie #15** to **Lie #110**.

b. Planning

268. In the 2014 quarterly reviews, Anton & Chia noted "none," when asked in its *Interim Review Program* workpaper to identify "[s]ignificant financial accounting and reporting matters that may be of continuing significance," denoting that the BHCA transaction was not of

[425] Ex. 1.4 (Q3 2014 Planning Memo workpaper) 3.
[426] Tr. (Vol. I Freeman) 116:25-117:11, 117:21-118:1.
[427] Tr. (Vol. III Deutchman) 638:25-639:2 ("That is correct," to inquiry, "You were the engagement partner on the third quarter 2014 interim review for Accelera."); Ex. 839.6 (Prior Testimony Designations) 470 (June 25, 2019 Deutchman Dep. at 18:8-14).
[428] Ex. 183 (July 29, 2008 Commission Order, Exchange Act Rel. No. 58240).
[429] Tr. (Vol. XXI Wahl) 5113:12-5114:9 ("Q Okay. Would you have wanted to know that Deutchman had been censured by the SEC before you hired him? A I mean, I think it would have been – in most cases it would have been appropriate to do that. I think it's mischaracterizing, you know, previous testimony. I knew Mike from before. I worked with him at Grobstein Horwath. So I was already reasonably comfortable with him. Q Okay. Did – Deutchman was also barred by the PCAOB, right? A I really don't know the specifics of that – of that situation. Q Okay. But he never told you when you hired him that he'd been barred by the PCAOB, right? A Well, my understanding was it was a private matter, and I think it was bound by certain confidentiality arrangements. And since he was an employee of Kabani, his counsel represented that he couldn't disclose that to us."); Tr. (Vol. III Deutchman) 646:19-25.

"continuing significance" during those reviews.[430] However, Anton & Chia and Wahl should have identified the purported acquisition of BHCA by Accelera and the associated consolidation of the assets, liabilities, and results of BHCA's operations as "significant financial accounting and reporting matters that may be of continuing significance."[431]

Lie #268: Exhibit 1257 was effective May 30, 2014 and kicked out all payments under the SPA until 2015 and 1.1.1.1 of the original SPA **Exhibit 1210** was terminated. The Division decided to intentionally change and / or misquote **AU 722.12**, **AU 722.13**, **AU 722.51** and **.52** in **Lie #76**; **Lie #77**; and **Lie #81**.

Devor in **Footnote 422 Exhibit 88.1 297** rambles on but doesn't provide a specific paragraph in US GAAP or the PCAOB standards but doesn't provide a specific paragraph in US GAAP or the PCAOB standards that was violated tied to specific evidence of a wrong doing because there was nothing done wrong in this case.

269. By failing to identify the BHCA transaction as a significant financial accounting and reporting matter in any of the interim quarterly reviews, Wahl failed to properly plan its interim quarterly reviews of the financial statements of Accelera in accordance with PCAOB standards.[432]

Lie #269: The BHCA transaction was handled as part of the 2013 audit. **Exhibit 1257** was effective May 30, 2014 and kicked out all payments

under the SPA until 2015 and 1.1.1.1 of the original SPA **Exhibit 1210** was terminated. The Division decided to intentionally change and / or misquote **AU 722.12**, **AU 722.13**, **AU 722.51** and **.52** in **Lie #76**; **Lie #77**; and **Lie #81**.

c. Red Flags Regarding BHCA Consolidation

i. Freeman's Questions regarding Consolidation

270. Freeman joined Accelera as its CFO on October 6, 2014.[433] When Freeman became the CFO, he "had serious questions about the appropriateness of consolidation," because "it didn't appear that there was sufficient control of BHCA which would justify that consolidation."[434]

Lie #270 Freeman thought Accelera was on NASDAQ, the AICPA is non-authoritative guidance and he had to pay $14,000 to get the job. Accelera thought his work was so bad they never paid back the $14,000 or for his services and Freeman admitted that he was not "the smartest guy" **TR Page 173 Line 12-14**.

271. Starting in September of 2014, and "[s]ometimes multiple times a week," Freeman raised with Accelera his questions about why BHCA had been consolidated into Accelera."[435] Accelera, however, did not want to remove BHCA from Accelera's financial statements, because that "would require amending the Qs and Ks that had already been

[430] Ex. 164 (Interim Review Program workpaper for Q1 2014) 4(a)(iv); Ex. 1.2 (Interim Review Program workpaper for Q2 2014) 4(a)(iv); Ex. 1.3 (interim review program workpaper for Q3 2014) 4(a)(iv); *see also* Tr. (Vol. II Chen) 552:20-553:19.
[431] Ex. 88.1 (Devor Report) ¶ 297.
[432] *Id.* ¶ 298 (citing AU 722).
[433] Ex. 110 (Oct. 8, 2014 Form 8-K).
[434] Tr. (Vol. I Freeman) 79:19-80:1.
[435] *Id.* at 2:11-25; *see also* Tr. (Vol. II Boerum) 393:20-394:4.

consolidated, and it would render Accelera a shell, which would severely inhibit the trading ability of Accelera."[436]

Lie #271 Accelera was not a "shell company" on the face of the Form 10-Q it confirmed it was a small reporting company and was never a "shell company".

https://www.sec.gov/Archives/edgar/data/1444144/000107997413000728/accel10q930.htm

The shell comment is not true not only did Accelera consolidate BHCA but they also consolidated At Home Health (See **Fact 175** to **180**) and Advanced LifeCare (See **Fact 181** and **182**) so even if BHCA was de-consolidated. Accelera would not be a shell. Freeman thought Accelera was on NASDAQ.

272. Freeman raised the issue of consolidation with Deutchman beginning "as early as September 2014," and then repeatedly, "in virtually every phone conversation."[437] Freeman told Deutchman that he thought "[t]hat Behavioral was inappropriately consolidated into the financial statements," and he explained why he believed that to be the case.[438] In response, Deutchman "was dismissive and said that SEC rules apply to this particular situation," but would not cite any specific rule.[439]

LIE #272 Freeman didn't know the US GAAP standards for consolidation.

See **Exhibit 194 page 185 Lines 1:8:**

273. Freeman also sent Deutchman e-mails raising the issue of BHCA's consolidation and/or suggesting that the BHCA transaction was not complete. For example:

- On September 10, 2014, Freeman sent an email to Deutchman telling him, "we have not closed on any entity yet."[440]
- On September 18, 2014, Freeman sent an email to Deutchman disclosing that Accelera was "trying to put some debt on [BHCA], which [would] allow us to access their cash flow."[441]
- On December 9, 2014, Freeman sent an e-mail to Deutchman requesting that he "forward me your basis for consolidating the three entities when you audited the December 31, 2013 financial statements." He wrote, "[a]s I mentioned in a telephone call with you back in October, I thought these

[436] Tr. (Vol. I Freeman) 83:19-84:1.
[437] *Id.* at 4:16-85:2.
[438] Tr. (Vol. I Freeman) 84:21-86:1.
[439] *Id.* at 6:23-87:13; *see also id.* at02:12-17; *id.*at 102:4-6 (responding, "[n]o" to question, "Did Deutchman provide you with the requested research?").
[440] Ex. 210 (Sept. 10, 2014 email from Freeman).
[441] Ex. 211 (Sept. 18, 2014 email from Freeman).

entities were inappropriately consolidated. However, I am open to having this discussion to gain a better understanding of the position taken by AVP and audited by Anton & Chia. I would think that Anton & Chia would have done some research and analysis to see if these entities should have been consolidated for the audited financial statements and quarterly reviews. To the extent you can share this research, please send it to me so we can have a meaningful dialog."[442]

- On January 7, 2015, Freeman sent an e-mail to Deutchman, again asking, "[i]n regards to the consolidation of Behavioral, would you send me a copy of your research supporting the consolidation of Behavioral at December 31, 2013 and 2014?"[443]
- On January 30, 215, Freeman sent an e-mail to Deutchman, stating, "we still want to move forward with Behavior's audit because we will need it when we do fully execute on the deal."[444]

LIE #273 Even if Deutchman sent the basis for consolidating Freeman wouldn't understand it anyways as he didn't know the US GAAP standards for consolidation. See **Exhibit 194 page 185 Lines 1:8.**

274. In response, Deutchman did not examine the issue of BHCA's consolidation. Instead, he just "assume[d] that it was done correctly."[445] Deutchman found that the issue of whether Accelera controlled BHCA "was inconclusive either way," "[s]o [he] defaulted to the firm's position."[446]

[442] Ex. 214 (Dec. 9, 2014 email from Freeman).
[443] Ex. 217 (Jan 7, 2015 email from Freeman).
[444] Ex. 220 (Jan. 30, 2015 email from Freeman).
[445] Tr. (Vol. III Deutchman) 762:6-13 (quoting Ex. 8 (Deutchman July 26, 2016 Inv. Test.) 82:18).
[446] Ex. 839.6 (Prior Testimony Designations) 471-72 (June 25, 2019 Dep. at 88:23-89:7).

ii. Field Work at BHCA

275. Anton & Chia auditors visited BHCA to perform fieldwork on three occasions.[447] The first was in late April- early May of 2014.[448]

276. On April 16, 2014, Wolfrum e-mailed Anton & Chia staff, instructing them to "remain as confidential and low profile as possible," and, specifically that, "[a]t no time should anyone mention the words 'Accelera,' 'sale,' 'purchase,' 'IPO,' 'transfer of ownership,' or any other such thing to anyone at BHCA other than myself."[449] Wolfrum sent this e-mail because he "didn't want people in the office to think that we had sold the business, because we hadn't."[450] No one from Anton & Chia ever questioned Wolfrum as to why he told them not to talk to his employees.[451]

277. During Anton & Chia's field work in 2014, Wolfrum told the staff on site that he still "owned Behavioral, and that no one's made any payments yet."[452] Wolfrum also told the Anton & Chia staff that "the money, it's earned here it all goes into our bank accounts, and I pay the taxes, I write the checks, and it's totally separate from Accelera. They haven't purchased us yet."[453]

Lie #277. This statement was never made to anyone at Anton & Chia there is no corroborating evidence to support it ever was and is not a criteria of **ASC 805** or **ASC 820** to determine "consolidation" or "control".

278. During the field work in 2014, Anton & Chia had access to BHCA's bank records, which showed that BHCA never paid any of its revenues to Accelera.[454]

Lie #278. BHCA had negative cash flow and losses and it would require its revenues to pay its operating and administrative expenses. The payment

of revenues is not a criteria of **ASC 805** or **ASC 820** to determine "consolidation" or "control".

[447] Tr. (Vol. I Wolfrum) 248:6-12 ("Q. Did accountants from Anton & Chia ever come to your offices to look at your records? A. Yes. Q. And you mentioned, I think previously, that they came on three occasions; is that right? A. Yes.").
[448] Ex. 204 (Apr. 16, 2014 email from Wolfrum).
[449] Ex. 204 (Apr. 16, 2014 email from Wolfrum).
[450] Tr. (Vol. I Wolfrum) 253:18-23.
[451] Tr. (Vol. I Wolfrum) 254:13-16 (responding "no," to question, "[d]id anyone from Anton & Chia ever question you as to why you told them not to talk to your employees").
[452] Tr. (Vol. I Wolfrum) 255:9-13.
[453] Tr. (Vol. I Wolfrum) 256:12-19.
[454] Tr. (Vol. I Wolfrum) 258:10-18 ("Q Did Anton & Chia have access to Behavioral's bank statements during the 2014 audit? A Yes. Q Did the bank records show that the – Behavioral never paid any of its revenues to Accelera? A That's correct. Q The bank records showed that? A Bank records showed that no money was ever paid to Accelera.); *see also* Tr. (Vol. II Boerum) 459:20-460:13.

iii. Acquisition Audits

279. Acquisition audits are audits of the historical financial information of an acquired entity or acquisition target, which are required to be filed under SEC Rules.[455]

Lie #279 8-K filings are the responsibility of Accelera's management. Not the auditors.

280. Anton & Chia was retained to perform the acquisition audit for BHCA.[456] However, the acquisition audit was not ever completed.[457]

281. Deutchman was aware that, as of September 2014, Accelera had not filed the required Form 8-K with the BHCA audited financial statements.[458] That fact did not cause him to question whether the acquisition of BHCA had really transpired.[459]

d. Work Not Performed

282. The workpapers for the 2014 quarterly reviews did not contain any workpapers that analyze whether BHCA should be consolidated into Accelera.[460]

Lie #282: The BHCA transaction was handled as part of the 2013 audit, where **Exhibits 1217** and **1218** were effective before April 15, 2014, see also **Lie #256**. **Exhibit 1257** was effective May 30, 2014 and kicked out all payments under the SPA until 2015 and 1.1.1.1 of the original SPA **Exhibit 1210** was terminated. The $4.5MM liability was recorded as a long term liability. The Division decided to intentionally change and / or

misquote **AU 722.12**, **AU 722.13**, **AU 722.51** and **.52** in **Lie #76**; **Lie #77**; and **Lie #81**.

283. In fact, the workpapers for the 2014 quarterly reviews did not contain any of the agreements related to the BHCA transaction, including the amendments to the SPA.[461]

Lie #283 The BHCA transaction was handled as part of the 2013 audit, where **Exhibits 1217** and **1218** were effective before April 15, 2014, see also **Lie #256. Exhibit 1257** was effective May 30, 2014 and kicked out all payments under the SPA until 2015 and 1.1.1.1 of the original SPA **Exhibit 1210** was terminated. The $4.5MM liability was recorded as a long term liability. The Division decided to intentionally change and / or misquote **AU 722.12**, **AU 722.13**, **AU 722.51** and **.52** in **Lie #76**; **Lie #77**; and **Lie #81**.

[455] Tr. (Freeman) 89:14-18 ("An acquisition audit is an audit of the years leading up to actual acquisition so that there is historical information that's available on the acquired entities that have been audited for several years."); *see also* Tr. (Vol. II Chen) 537:19-538:15.

[456] Ex. 839.6 (Prior Testimony Designations) 110 (July 2, 2019 Dep. at 274:13-24).

[457] Tr. (Vol. II Chen) 539:10-16 ("Q. Did you ever complete the acquisition audit of BHCA? A No."); *see also* Tr. (Vol. I Freeman) 89:19-90:6 (acquisition audit was incomplete in fall of 2014, "[b]ecause the transactions had not been completed.").

[458] Ex. 839.6 (Prior Testimony Designations) 494 (June 20, 2018 Deutchman Dep. at 105:11-20) ("11 I believe you alluded to this this morning in your testimony, but you understood that Accelera had an obligation to file audited financials with the SEC within a certain period of time after completing an acquisition, correct? A That's correct. Q

And as of September of 2014, you understood that Accelera had not filed such audited financial statements, correct? A That's correct.").

[459] Ex. 839.6 (Prior Testimony Designations) 496 (June 20, 2018 Deutchman Dep. at 115:4-15) ("4 Q Okay. So to recap, you knew there was this obligation to file audited financial statements after an acquisition was completed, correct? A That's correct. Q And you knew that for Accelera, that those financial statements had not been filed subsequent to the acquisition of Behavioral? A Correct. Q And did that fact cause you to question whether the acquisition of Behavioral had really transpired or not? A No.").

[460] Tr. (Vol. IV Devor) 1160:7-23, 1162:4-16 ("Q. And have you reviewed the work papers for all the engagements related to Accelera that are at issue in this case? A. Yes. Q. Other than this memo, is there anything in the work papers that analyzes whether Behavioral should be consolidated into Accelera? A. Not that I've seen.").

[461] Ex. 141 (Q1 2014 workpaper signoff index); Ex. 144 (Q2 2014 workpaper signoff index); Ex. 145 (Q3 2014 workpaper signoff index); Ex. 1 (workpapers).

284. Anton & Chia did not review any of the amendments to the SPA during the 2014 quarterly reviews.[462]

LIE #284 The BHCA transaction was handled as part of the 2013 audit, where **Exhibits 1217** and **1218** were effective before April 15, 2014, see also **Lie #256. Exhibit 1257** was effective May 30, 2014 and kicked out all payments under the SPA until 2015 and 1.1.1.1 of the original SPA **Exhibit 1210** was terminated. The $4.5MM liability was recorded as a long term liability. The Division decided to intentionally change and / or misquote **AU 722.12**, **AU 722.13**, **AU 722.51** and **.52** in **Lie #76**; **Lie #77**; and **Lie #81**.

285. "[T]he issue of Accelera's consolidation of Behavioral" did not come up among the engagement team during any of the 2014 quarterly reviews.[463]

LIE #285 The BHCA transaction was handled as part of the 2013 audit, where **Exhibits 1217** and **1218** were effective before April 15, 2014, see also **Lie #256. Exhibit 1257** was effective May 30, 2014 and kicked out all payments under the SPA until 2015 and 1.1.1.1 of the original SPA **Exhibit 1210** was terminated. The $4.5MM liability was recorded as a long term liability. The Division decided to intentionally change and / or

misquote **AU 722.12**, **AU 722.13**, **AU 722.51** and **.52** in **Lie #76**; **Lie #77**; and **Lie #81**.

286. PCAOB standards prescribe that inquiries should be designed to address identified significant events and transactions. Specific inquiries "should be tailored to the engagement based on the accountant's knowledge of the entity's business."[464] Wahl failed to comply with these PCAOB standards with respect to performing inquiries during the quarterly reviews in 2014, because he failed to tailor inquiries of Accelera management in light of information that was known by the engagement team, including red flags about Accelera's accounting treatment of BHCA.[465]

LIE #286 The BHCA transaction was handled as part of the 2013 audit, where **Exhibits 1217** and **1218** were effective before April 15, 2014, see also **Lie #256. Exhibit 1257** was effective May 30, 2014 and kicked out all payments under the SPA until 2015 and 1.1.1.1 of the original SPA **Exhibit 1210** was terminated. The $4.5MM liability was recorded as a long term liability. The Division decided to intentionally change and / or misquote **AU 722.12**, **AU 722.13**, **AU 722.51** and **.52** in **Lie #76**; **Lie #77**; and **Lie #81**.

287. There is no evidence in Anton & Chia's interim quarterly review workpapers indicating the engagement team sufficiently reviewed Accelera's continued consolidation of BHCA.[466]

LIE #287 The BHCA transaction was handled as part of the 2013 audit, where **Exhibits 1217** and **1218** were effective before April 15, 2014, see also **Lie #256. Exhibit 1257** was effective May 30, 2014 and kicked out all payments under the SPA until 2015 and 1.1.1.1 of the original SPA **Exhibit 1210** was terminated. The $4.5MM liability was recorded as a long term liability. The Division decided to intentionally change and / or misquote **AU 722.12**, **AU 722.13**, **AU 722.51** and **.52** in **Lie #76**; **Lie #77**; and **Lie #81**.

288. Deutchman "did not ask any questions" of Freeman about the relationship between Accelera and Behavioral.[467]

289. Deutchman and Wahl should have inquired about (1) the multiple amendments to the Stock Purchase Agreement, (2) Accelera's plan, if any, to pay in order to comply with the amendments to Stock Purchase Agreement, (3) Accelera's defaults on the Stock Purchase

[462] Ex. 141 (Q1 2014 workpaper signoff index); Ex. 144 (Q2 2014 workpaper signoff index); Ex. 145 (Q3 2014 workpaper signoff index); *see also* Tr. (Vol. II Chen) 584:23-585:21.
[463] Tr. (Vol. II Chen) 548:7-12; *see also id.* at71:11-16.
[464] Ex. 88.1 (Devor Report) ¶ 299 (citing AU 722.15).
[465] *Id.* ¶¶ 299-300.
[466] *Id.* ¶ 301 ("In reviewing Anton & Chia's interim quarterly review workpapers, I have seen no indication that the engagement team sufficiently reviewed Accelera's continued consolidation of BHCA.").
[467] Tr. (Vol. I Freeman) 119:11-14.

Agreement as of May 31, 2014 and again as of October 1, 2015, and (4) the basis for Accelera consolidating BHCA's financial results."[468]

LIE #289 The BHCA transaction was handled as part of the 2013 audit, where **Exhibits 1217** and **1218** were effective before April 15, 2014, see also **Lie #256. Exhibit 1257** was effective May 30, 2014 and kicked out all payments under the SPA until 2015 and 1.1.1.1 of the original SPA **Exhibit 1210** was terminated. The $4.5MM liability was recorded as a long term liability. The Division decided to intentionally change and / or misquote **AU 722.12**, **AU 722.13**, **AU 722.51** and **.52** in **Lie #76**; **Lie #77**; and **Lie #81**.

Devor in **Footnote 468 Exhibit 88.1 302** rambles on but doesn't provide a specific paragraph in US GAAP or the PCAOB standards that was violated tied to specific evidence of a wrong doing because there was nothing done wrong in this case. Accelera management is responsible for the financial statements, especially in an interim review not Respondents.

290. Anton & Chia's interim quarterly review workpapers included an *Interim Review*

Inquiries Checklist. This checklist consists of a standardized template of questions, with "Yes / No" checkmark responses. These checklists also did not include any questions relating to the purported acquisition of BHCA.[469]

LIE #290 The BHCA transaction was handled as part of the 2013 audit, where **Exhibits 1217** and **1218** were effective before April 15, 2014, see also **Lie #256. Exhibit 1257** was effective May 30, 2014 and kicked out all payments under the SPA until 2015 and 1.1.1.1 of the original SPA **Exhibit 1210** was terminated. The $4.5MM liability was recorded as a long term liability. The Division decided to intentionally change and / or misquote **AU 722.12**, **AU 722.13**, **AU 722.51** and **.52** in **Lie #76**; **Lie #77**; and **Lie #81**.

291. In the respective *Interim Review Inquiries Checklist* for each of the quarters in 2014, Anton & Chia also failed to identify the specific person at Accelera who received and purportedly responded to Anton & Chia's purported inquiries.[470] Without identifying to whom these inquiries were made, there is no written record to confirm whether inquiries were made of the appropriate person or whether inquiries took place at all.[471]

LIE #291 The BHCA transaction was handled as part of the 2013 audit, where **Exhibits 1217** and **1218** were effective before April 15, 2014, see also **Lie #256. Exhibit 1257** was effective May 30, 2014 and kicked out

all payments under the SPA until 2015 and 1.1.1.1 of the original SPA **Exhibit 1210** was terminated. The $4.5MM liability was recorded as a long term liability. The Division decided to intentionally change and / or misquote **AU 722.12**, **AU 722.13**, **AU 722.51** and **.52** in **Lie #76**; **Lie #77**; and **Lie #81**.

Devor in **Footnote 471 Exhibit 88.1 305** rambles on but doesn't provide a specific paragraph in US GAAP or the PCAOB standards that was violated tied to specific evidence of a wrong doing because there was nothing done wrong in this case. This one is totally made up by Devor.

292. Additionally, each of the *Interim Review Inquiries Checklists* included the following question:

> Have there been any unusual or complex situations or significant unusual transactions that may have an effect on the financial statements (for example, business combinations, disposal of a segment, restructuring plans or charges, litigation, or other significant unusual transactions occurring in the last several days of the interim period)?

In each checklist, Anton & Chia erroneously responded "No."[472]

LIE #292 The BHCA transaction was handled as part of the 2013 audit, where **Exhibits 1217** and **1218** were effective before April 15, 2014, see

also **Lie #256. Exhibit 1257** was effective May 30, 2014 and kicked out all payments under the SPA until 2015 and 1.1.1.1 of the original SPA **Exhibit 1210** was terminated. The $4.5MM liability was recorded as a long term liability. The Division decided to intentionally change and / or misquote **AU 722.12**, **AU 722.13**, **AU 722.51** and **.52** in **Lie #76**; **Lie #77**; and **Lie #81**.

Devor in **Footnote 472 Exhibit 88.1 305** rambles on but doesn't provide a specific paragraph in US GAAP or the PCAOB standards that was violated tied to specific evidence of a wrong doing because there was nothing done wrong in this case. This one is totally made up by Devor.

293. The purported acquisition of BHCA was not only "significant" to Accelera's financial statements, but was a business combination, one of the scenarios outlined in the

[468] Ex. 88.1 (Devor Report) ¶ 302.

[469] *See* Ex. 1.8 (interim review inquiries checklist for Q2 2014); Ex. 1 (Accelera workpapers) Q1 2014 WP 3003, Q3 2014 WP 3003.

[470] *Id.*

[471] Ex. 88.1 (Devor Report) ¶ 305.

[472] *Id.*

checklist.[473] The engagement team should have identified the purported acquisition of BHCA and adjusted its inquiries and review procedures accordingly, but there is no evidence in the workpapers that they did not do so.[474]

LIE #293 The BHCA transaction was handled as part of the 2013 audit, where **Exhibits 1217** and **1218** were effective before April 15, 2014, see also **Lie #256. Exhibit 1257** was effective May 30, 2014 and kicked out all payments under the SPA until 2015 and 1.1.1.1 of the original SPA **Exhibit 1210** was terminated. The $4.5MM liability was recorded as a long term liability. The Division decided to intentionally change and / or misquote **AU 722.12**, **AU 722.13**, **AU 722.51** and **.52** in **Lie #76**; **Lie #77**; and **Lie #81**.

Devor in **Footnote 474 Exhibit 88.1 307** rambles on but doesn't provide a specific paragraph in US GAAP or the PCAOB standards that was violated tied to specific evidence of a wrong doing because there was nothing done wrong in this case. This one is totally made up by Devor delirious opinions.

294. In addition, during the field work conducted in April and May of 2014, no one

from Anton & Chia asked Wolfrum whether: (a) Accelera controlled BHCA, (b) Accelera had access to BHCA's bank accounts, (c) Accelera had a controlling financial interest in BHCA, (d) Wolfrum had received the shares owed under the first amendment to the Stock Purchase Agreement, (e) Wolfrum was employed by Accelera, or (f) Wolfrum was paid a salary by Accelera.[475]

LIE #294 A&C read the contracts and they are explicit about control (See **P.F.F #650** to **#666**); the SPA **Exhibit 1210** didn't provide Accelera access to the bank accounts **Section 1.1 Purchase and Sale of Stock:** clearly states that "The Parties agree the following assets are **excluded** from the purchase and sale of Stock **and shall remain *the property of Seller after Closing: l) Company's cash and operating accounts."***; in relation to hiring firing please read ***Exhibit 1210 section 5.4.*** The Division is using their fraudulent version of **AS 15.04**; **AS 15.05**; **AS 15.11** and **AS 15.29** under **Lie #105; Lie #106; Lie #108 and Lie #110**. Wolfrum is a suspended physiatrist where the Illinois Department of Professional Regulation suspended his license…saying he's a danger to the public and as an officer and a director of Accelera he was day trading in Accelera's stock.

295. During the first field work in 2014, no one from Anton & Chia ever requested proof of payment under section 1.1.1.1 of the Stock Purchase Agreement, or the stock certificates that were issued pursuant to the amendments.[476]

Lie #295. Exhibits 1217, **1218** and **1257** kick out all payments until 2015. The shares under **Exhibits 1217**, **1218 and 1257** which A&C proposed the audit adjustments for the compensation owed to Wolfrum were legally enforced. A&C forced management to record these legal share transactions in the financial statements and ensured that the share compensation journal entries were recorded by management to ensure compliance with US GAAP (see **Exhibits 1217**, **1218** and **1257**).

e. Anton & Chia's Fees

296. For its quarterly reviews of Accelera in 2014,[477] Anton & Chia charged Accelera $12,800.[478]

[473] *Id.*; *id.* ¶ 307.
[474] Ex. 88.1 (Devor Report) ¶ 307.
[475] Tr. (Vol. I Wolfrum) 257:4-258:1 ("Q During that first audit did anyone ask you whether – from Accelera – I'm sorry. Did anyone from Anton & Chia ever ask you whether Accelera had access to Behavioral's bank accounts? A No. Q During that audit did anyone from Anton & Chia ask you whether Accelera had a controlling financial interest in Behavioral? A No. Q During the audit in 2014, did Anton & Chia ever ask you whether you received the shares as required under the first amendment to the Stock Purchase Agreement? A No. Q During that audit did anyone from Anton & Chia ever ask you whether you were employed by Accelera? A No. Q During that first audit

did anyone from Anton & Chia ever ask you whether you were paid a salary by Accelera? A No."); *see also* Tr. (Vol. II Chen) 543:5-544:5.

[476] Tr. (Vol. I Wolfrum) 258:2-9 ("Q. During that first audit did Anton & Chia ever request proof of payment under section 1.1.1.1 of the Stock Purchase Agreement? A. No. Q. During that first audit did Anton & Chia ever request the stock certificates that were issued pursuant to the first amendment? A. No.").

[477] Excluding the Q1 review. *See supra* n.418.

[478] Ex. 308 (All Transactions for Accelera Innovations, Inc.).

3. 2014 Audit

297. As detailed below, Anton & Chia Anton & Chia violated PCAOB standards in multiple ways during its 2014 audit, including AU 230, AU 210, AU 333, AS 3, AS 7, AS 10, and AS 15.[479]

Lie #297 The Division "violated" the Authoritative Standards for US GAAS (the PCAOB standards) "in multiple ways" by intentionally changing them in their Proposed Facts and in other documents (OIP, Trial Testimony, etc.). See **Lie #15** to **Lie #110**.

This is nothing more than a laundry list of allegations slapping each authoritative standards at A&C, Wahl and Deutchman with no evidence or support of course.

Devor in **Footnote 479 Exhibit 88.1 222,** claims there is "multiple ways" but does not provide one specific paragraph identiifed that specific to a violation of the auditing standards and there is not one specific piece of evidence tied to this specific violation. This simply opinion after opinion with no factual support.

a. Staffing

298. The 2014 audit for Accelera was staffed by:

- Jason Jiang, Jackie Bai, and Barbara Lai as staff;
- Tommy Shek as manager;
- Michael Deutchman and Greg Wahl as partners.[480]

299. Before beginning to work for Anton & Chia in 2011, Shek had had no public company auditing experience[481] or experience accounting for business combinations.[482] He graduated from college in 2009.[483] At the time, Shek was working on the 2014 audit of Accelera, he had only had "one or two" prior experiences with auditing business combinations. One of those one or two previous experiences was with CannaVest.[484]

300. Two of the staff accountants on the 2014 audit – Jason Jiang and Jackie Bai – were not employees of Anton & Chia. Rather, they were from a different accounting firm.[485]

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[479] Ex. 88.1 (Devor Report) ¶ 222.
[480] Ex. 176 (2014 audit planning memo); *see also* Ex. 839.6 (Prior Testimony Designations) 43 (July 2, 2019 Wahl Dep. at 40:5-7).
[481] Tr. (Vol. VIII Shek) 2212:17-23 ("W. When you started at Anton & Chia, roughly July of 2011, did you have any public company auditing experience? A. No.").
[482] Tr. (Vol. VIII Shek) 2289:13-17 ("Q. Prior to your coming to Anton & Chia, had you had any prior experience accounting for business combinations? A. No.").
[483] Tr. (Vol. VIII Shek) 2211:10-14 ("Q And where did you go to college? A Cal State Fullerton. Q And when did you graduate? A Like, May 2009.").
[484] Tr. (Vol. VIII Shek) 2288:25-2289:9 ("Q As of spring of 2015 when you're the manager on Accelera's 2014 audit, had you had prior experience auditing business combinations? A Yes. Q How many times at that point in time had you audited a business combination? A Like, one or two. Q And was one of those one or two previous experiences related to CannaVEST? A Yes.").
[485] Ex. 311 (Mar. 16, 2015 email chain with Deutchman and Wahl); *see also* Tr. (Vol. VIII Shek) 2302:20-2303:17("Q Jason Jiang, who is he? A He's a staff. Q And did he work for Anton & Chia? A No. Q Who did he work for? A He worked for another CPA firm … Q Where was that firm located? A East Coast. Q Did you ever

Deutchman was originally "not real comfortable" having the third party firm perform the field work for the audit, but he agreed after Wahl said they "need competent staff on this," and "that [sic] why you mix it up."[486]

301. When Wahl was staffed as the engagement partner on the 2014 Accelera audit, he was also working on approximately 71 to 76 other engagements.[487]

b. Michael Deutchman's Role

302. During Anton & Chia's audit of Accelera's financial statements as of and for the year ended December 31, 2014, Deutchman was not competent or objective and failed to fulfill his duties as the EQR.[488]

Lie #302 Devor has never audited a public company in accordance with PCAOB standards and the Division is using the same standards that they intentionally changed to make their assessment of A&C's, Wahl's and Deutchman's work. The Division and Devor's analysis one of fraud with no supportive fact or evidence of a wrong doing by Respondents.

303. By the time he was staffed on the 2014 audit, Deutchman had twice been disciplined by Anton & Chia. In February 24, 2015, a written warning was placed in Deutchman's personnel file at Anton & Chia for "substandard job performance." The warning included a note about a previous "performance issue," and noted that "[n]o other Firm employees want to work with Michael."[489]

Lie #303 None of this nonsense was signed off by Wahl which had ultimate authority for HR matters, especially disciplinary matters (**TR**

5591 Lines 4-25; TR 5592 Lines 1-25; TR 5593 Lines 1-14). Tommy Shek, Richard Koch, Rahul Gandhi and most people in the firm worked with Deutchman.

304. In addition, Wahl informed Deutchman that he was "too old to be an engagement partner" at Anton & Chia.[490]

LIE #304 Wahl only said this to Deutchman because he had another project for him. Wahl moved Deutchman to head up business development in San Diego and he was very successful.

305. Wahl's decision to use Deutchman as nominal EQR in light of his disciplinary record and substandard job performance, and allowing him to perform key audit functions even

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mean Jason Jiang in person? A No. Q How about Jackie Bai? Who was that? A Staff. Q And did Jackie Bai work for Anton & Chia? A No. Q Did she work for the same firm that Jason Jiang worked for? A Yes. Q Did you ever meet Bai? A No.").

[486] Ex. 311 (Mar. 16, 2015 email chain with Deutchman and Wahl); *see also* Tr. (Vol. III Deutchman) 785:1-786:15.

[487] Ex. 839.6 (Prior Testimony Designations) 163 (July 26, 2016 Wahl Inv. Test at 130:21-131:24).

[488] Ex. 88.1 (Devor Report) ¶ 256.

[489] Ex. 226 (Corrective Action Form from M. Deutchman personnel file).

[490] Tr. (Vol. III Deutchman) 661:23-662:17; Ex. 839.6 (Prior Testimony Designations) 484, 492-93 (June 20, 2018 Deutchman Dep. at 35:6-36:7, 68:21-69:8).

through Wahl deemed him "too old" to serve as an engagement partner, demonstrates a failure by Wahl to comply with AS 7, AS 10, and AU 210.[491]

LIE #305 Deutchman's disciplinary history had no impact on his ability to impair Accelera's goodwill and assist the team to propose $18MM in audit adjustments. The so called "substandard job performance" was made up by Brian Rusywick and the "too old" comment was to move him into a concurring partner and business development role in San Diego (**TR 5591 Lines 4-25; TR 5592 Lines 1-25; TR 5593 Lines 1-14**).

More of Devor's nonsense which is obvioiusly biased because Deutchman and Armstrong beat him and the Division in the Quintanilla matter.

306. In addition, Deutchman's role on the 2014 audit was at best ambiguous. The Accelera personnel involved in the 2014 audit understood Deutchman, not Wahl, to be the engagement partner on the 2014 audit.[492] They did not have any communications with Wahl.[493]

LIE #306 Accelera's "personnel" consisting of the nursing professional, the CFO that thought Accelera was on NASDAQ and couldn't write memo not including Wolfrum a suspended psychiatrist that the state said "he's

a danger to the public" who day traded Accelera's stock while acting as a director and officer of Accelera since 2013.

307. Anton & Chia staff on the 2014 audit engagement also understood that Deutchman was the engagement partner and Wahl was the EQR.[494] Anton & Chia staff referred to Deutchman as the "EP," "partner in charge," "partner on the job" for the 2014 audit.[495]

Lie #307 Anton & Chia was relatively a small firm and people had to roll up their sleeves and help out. Tommy only refers to a "typical" situation. This has no bearing on performance US GAAS standards, which is clearly evident because the Division provides no reference to a specific paragraph in the standard that was violated.

308. Deutchman communicated with the client and staff, proposing calls, organizing field work, planning the planning meeting.[496] All of these were tasks appropriate for an engagement partner, not an EQR.[497] Wahl was often excluded altogether from these emails.[498]

Lie #308 see **Lie #307**.

[491] Ex. 88.1 (Devor Report) ¶ 266 ("Utilizing Deutchman as EQR in light of his disciplinary record and substandard job performance, and allowing him to perform key audit functions even through Wahl deemed him "too old" to serve

as an engagement partner, demonstrates a failure by Anton & Chia and Wahl to comply with AS 7, AS 10, and AU 210.").

[492] Tr. (Vol. I Freeman) 132:9-133:4 ("So in your experience, what role did Deutchman play on the 2014 10-K? A My understanding he was the engagement partner. Q And what makes you say that? A Because he was the person I was working with in the process of getting ready for the audit; *see also* Tr. (Vol. II Boerum) 396:16-397:1.

[493] Tr. (Vol. II Boerum) 397:10-17 ("I don't remember [Wahl] on any of the calls," … and she would receive communications from "Either Michael or Tommy"); *see also* Tr. (Vol. I Freeman) 133:16-21.

[494] Tr. (Vol. VIII Shek) 2304:22-24 ("Q. And, indeed, what role did Deutchman play on the 2014 audit of Accelera? A. Engagement partner."); *see also id.* at310:15-17 ("Well, my opinion, Michael Deutchman more like engagement partner, and Wahl more like the engagement quality reviewer.").

[495] Ex. 228 (Mar. 20, 2015 email from Shek); 229 (Mar. 24, 2015 email from Shek); Ex. 233 (Mar. 27, 2015 email from Rusywick); Ex. 230 (Mar. 26, 2015 email chain with Shek); Ex. 301 (Mar. 27, 2015 email from Rusywick).

[496] Ex. 235 (Mar. 29, 2015 email from Deutchman); Ex. 232 (Mar. 27, 2015 email chain); Ex. 234 (Mar. 27, 2015 email from Deutchman); Ex. 236 (Mar. 29, 2015 email from Deutchman); Ex. 231 (Mar. 26, 2015 email chain with Deutchman); Ex. 230 (Mar. 26, 2015 email chain with Shek); *see also* Tr. (Vol. II Boerum) 398:8-19.

[497] Tr. (Vol. VIII Shek) 19-24 ("I know it's more like Michael Deutchman was the one talking to the client, you know, talking to the former CFO. So he's more involved in engagement, which typically the engagement partner would act like that."); Ex. 88.1 (Devor Report) ¶ 257.

[498] *See* Ex. 230 (Mar. 26, 2015 email chain with Shek); Ex. 231 (Mar. 26, 2015 email chain with Deutchman); Ex. 232 (Mar. 27, 2015 email chain); Ex. 235 (Mar. 29, 2015 email from Deutchman).

309. The first draft of Anton & Chia's planning memo for 2014 and the final draft of the Engagement Summary Memo both indicated that Deutchman was the engagement partner and Wahl the EQR.[499]

Lie #309 In the "first draft" of the Divisions Proposed Facts they might have cited the correct authortitative guidance for US GAAP and GAAS. Then the Division realized they are losing the case so they changed the Authoritative Guidance in US GAAP in their post hearing briefs, OIP, pre-trial briefs, their proposed facts and at trial (See **Lie #15** to **Lie #110**).

310. Because Deutchman performed many of the duties typically performed by the Engagement Partner, including communicating with Accelera's officers regarding the engagement, he **violated** AS 7.7 by also signing off on the audit as the EQR.[500] "This inappropriate blending of roles meant that Accelera's 2014 financials were not subject to ***the necessary*** objectivity (*i.e.*, checks and balances) prescribed by the auditing standards."[501]

LIE #310 Here is **AS7.7** in its Native Format. "To maintain objectivity, the engagement quality reviewer and others who assist the reviewer **should** not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team. The engagement partner remains responsible for the engagement and its

performance, notwithstanding the involvement of the engagement quality reviewer and others who assist the reviewer."

This is not a "**requirement**" of **AS 7.7**. The sentence with **Footnote 501** is pure opinion is not supported by any evidence or the proper paragraphs in **AS7**. The standard says "**should**" not "must".

c. Planning

311. During planning for the Accelera 2014 audit, the engagement team, led by Wahl, had discussions regarding "the susceptibility of the entity's financial statements to material misstatements due to error or fraud and the company's selection and application of accounting principles, including related disclosure requirements."[502] The engagement team specifically discussed the "risk in legal structure" due to Accelera purportedly acquiring BHCA, At Home Health Services and All Staffing Services, with only BHCA remaining as a consolidated entity as of December 31, 2014.[503] This information was a red flag, and should have elevated Anton & Chia's level of due professional care.[504]

Lie #311 The only "red flag" relating to "due professional care" is the Division intentionally changed and / or mistated **AU 230** and the following paragraphs in **AU 230: AU 230.03; AU 230.05; AU 230.07; AU 230.08** and **AU 230.03** (See **Lies #48** and **#53**). Directives in audit working papers are not "red flags" they are a road map to complete the audit. The auditor as per **AU 316.05** has no legal responsibiliy for Fraud.

312. In light of this identified risk and the red flags discussed below, Anton & Chia and Wahl should have reevaluated whether Accelera's decision to consolidate BHCA in 2013,

[499] Ex. 237 (Mar. 30, 2015 email and attachment from Shek); Ex. 176 (2014 audit Engagement Summary Memo).
[500] Ex. 88.1 (Devor Report) ¶¶ 257-58 ("Deutchman was initially staffed on the 2014 year-end audit as the Engagement Partner. He appears to have performed many of the duties typically performed by the Engagement Partner, including communicating with Accelera's officers regarding the engagement. Notwithstanding, Deutchman signed off on the audit as the EQR, in violation of PCAOB standards (i.e., AS 7.7).").
[501] *Id.* ¶ 258.
[502] Ex. 172 (engagement team discussion workpaper).
[503] *Id*.
[504] Ex. 88.1 (Devor Report) ¶ 253 (citing AU 230).

and continue to consolidate BHCA in 2014, was in accordance with GAAP. Anton & Chia's workpapers do not reflect any such reevaluation.[505] If Anton & Chia and Wahl had performed a proper reevaluation, they would have concluded that BHCA was improperly consolidated."[506]

Lie #312 Please show us under the TRUE and UNALTERED Authoritative Guidance for US GAAP and / or US GAAS where there is a requirement to complete this so called "re-evaluation". There is no requirement to do so in US GAAP or GAAS. Based on **Exhibits 1217**, **1218** and **1257** and the original 7 agreements no we would not have concluded that BHCA was improperly consolidated. BHCA was properly consolidated in accordance with US GAAP. Also with the execution and disclosure of **Exhibits 1217**, **1218** and **1257** there were clearly no events of default or reasons to reconsider "re-evaluating" the prior period conclusions. Additionally, the consolidation of entities is an accounting policy that is governed, controlled by Accelera's management. Not its auditors. The paragraph intentionally mischaracterizes the auditors role. Based on this "re-evaluation" A&C, Wahl and Deutchman would have consolidated BHCA from November 11, 2013 to January 1, 2016, see Respondents **P.F.F# 658** to **P.F.F #666**.

313. In planning the 2014 audit, Accelera also recognized that there were significant risks in the 2014 audit, including risks with Accelera's control environment and its revenue recognition.[507] This meant that Anton & Chia needed to perform "a lot of substantive testing."[508]

LIE #313 A&C completed a lot of "substantive testing" please see **Exhibit 1205; Exibit 1225; Exhibit 1241; Exhibit 1242; Exhibit 1244; Exhibit 1245 and Exhibit 1249.** This is not an exhaustive list of all substantive work for A&C on the 2014 audit but it included critical testing of Revenue, AR, Revenue cutoff, goodwill impairment and $18MM proposed audit adjustments by A&C.

314. In the Planning Memo for the 2014 audit, Anton & Chia determined the materiality threshold to be $41,000.[509]

d. Red Flags Regarding BHCA Acquisition

315. As detailed below, Wahl, Deutchman and Anton & Chia failed to appropriately address numerous red flags relating to the consolidation of BHCA during its 2014 audit. Furthermore, Deutchman failed to document the conflicting information available to the engagement team and the impact such information could have had on Accelera's financial statements.[510] Accordingly, they violated AU 230 (*Due Professional Care*), AS No. 15 (*Audit Evidence*), AU 333 (*Management Representations*), and AS No. 3 (*Audit Documentation*).[511]

LIE #315 The Division fraudulently changed and / or misquoted (See **Lie**

#15 to **Lie #110) AU 230**; **AU 230.03**; **AU 230.05**; **AU 230.07; AU 230.08**; **AU 230.03**; **AS 3.1**; **A3.3 Appendix A. A4**; and **AS 3 Appendix A 10** for the purpose of deceiving this court.

Devor's laundry list of unsupported allegations continues in **Footnotes 510** and **511** see **Exhibit 88.1 255; 224; 249**, which he can't provide a specific paragraph in the standards which is tied a specific credible fact that would support a violation.

i. Freeman's Continued Questions Regarding Consolidation

316. On February 2, 2015, Freeman sent an e-mail to Deutchman and others, containing a draft agenda with the following items: "To consolidate or not to consolidate

[505] Ex. 88.1 (Devor Report) ¶ 254.
[506] *Id.* ¶ 254.
[507] Ex. 174 (2014 Risk Assessment Summary Form); Tr. (Vol. VIII Shek) 2225:8-19.
[508] Tr. (Vol. VIII Shek) 2325:20-2326:14.
[509] Ex. 171 (2014 audit Planning Memo) 2.
[510] Ex. 88.1 (Devor Report) ¶ 255.
[511] *Id.* ¶¶ 224, 249.

Behavior Health," and "The SEC implications to the company and officers on the above positions."[512]

317. Also on February 2, Freeman e-mailed Deutchman directly, informing him that he "expect[ed] the issue of why Behavior was consolidated at December 31, 2013 will come up" on the upcoming call. Freeman further wrote that "[t]he word back from Timothy [Neher] was that since the entities were purchased by a wholly owned subsidiary that we owned we could consolidate because we controlled the subsidiary. However, the subsidiary never controlled the entity so it doesn't sound to me there should have been a consolidation."[513]

318. The conference call to discuss the consolidation of BHCA was held on February 9, 2015.[514] During that call, Freeman "outlined the issues that [he] saw with the consolidations, the problems that we had, not having control of BHCA, the 2013 10-K and the 2014 10-Qs were misleading because they included BHCA in the financial statements."[515] Accelera's attorneys did not express an opinion during the call regarding the consolidation.[516] Deutchman said that "the financial statements were fine, that they did not need to be restated," but he did not offer any reasons for his opinion.[517]

319. On the February 9th call, "[t]he resolution was that [Accelera's attorney] Bob Acri would meet with Wolfrum with a supplemental agreement which essentially would say that

[512] Ex. 223 (Feb. 2, 2015 email from Freeman).
[513] Ex. 222 (Feb. 2, 2015 email from Freeman); *see also* Tr. (Vol. I Freeman) 109:4-110:17.
[514] Ex. 225 (Feb. 3, 2015 email re: telephone conference); *see also* Tr. (Vol. I Freeman) 121:2-20.
[515] Tr. (Vol. I Freeman) 123:1-5.
[516] Tr. (Vol. I Freeman) 122:19-23 ("Q And did either Laz or Laura express an opinion about the propriety of consolidating Behavioral? A No, they did not. They reminded me they were attorneys not accountants."); *id.* at23:6-10 ("Q Did either Laz or Laura speak on this call? A Yes, they did. Q What did they say? A They requested information from Michael Deutchman as far as his opinion.").
[517] Tr. (Vol. I Freeman) 123:11-17.

Behavioral would be under the control of Accelera to get around the issue of consolidation."[518] Such a supplemental agreement, however, was never actually entered into.[519]

320. Prior to the conference call, Freeman had obtained a second opinion from the AICPA hotline, confirming that BHCA had been inappropriately consolidated, which opinion he passed along to Deutchman.[520]

Lie #320 there is not one shred of evidence that this call to the AICPA occurred. The AICPA is non-authoritative guidance. If Freemen was serious about properly assessing BHCA's consolidation he would have:

1) Drafted an accounting position memorandum himself.

2) Used one of the four accounting firm's he interacted with while with Accelera to draft the accounting position memorandum.

3) He could have contacted the SEC's corporate finance group for an opinion but he would have needed to complete step 1 or step 2.

Based on **Exhibits 1217**, **1218** and **1258** and the original 7 agreements no we would not have concluded that BHCA was improperly consolidated. BHCA was properly consolidated in accordance with US GAAP. Also with the execution and disclosure of **Exhibits 1217, 1218** and **1257** there were clearly no events of default or reasons to reconsider "reevaluating" the prior period conclusions. Additionally,

the consolidation of entities is an accounting policy that is governed, controlled by Accelera's management. Not its auditors. The paragraph intentionally mischaracterizes the auditors role.

321. Freeman resigned from Accelera on March 20, 2015.[521] He resigned in part because of "the inappropriate consolidation of Behavioral with Accelera."[522]

LIE #321 The demonization of A&C by the Division, Devor and Freeman an incompentent individual is disgusting since they have not provided one credible shred of evidence that BHCA should have been de-consolidated from November 11, 2013 to January 1, 2016. Freeman was the CFO of Accelera, he had ultimate and primary responsibility for Accelera to ensure they had proper accounting policies and procedures to comply with US GAAP.

322. Deutchman never informed the other members of the engagement team about Freeman's objections to consolidation.[523] Shek would have wanted to know about the objections, as they would have led him to perform additional audit procedures regarding the consolidation.[524] The failure to discuss Freeman's concerns with the engagement team was inconsistent with standards of due professional care.[525]

323. Deutchman did not perform any additional audit tasks in response to Freeman's questioning the BHCA consolidation. He opined that, "before I would change the firm's work or

[518] Tr. (Vol. I Freeman) 123:18-23.

[519] *Id.* at 23:24-124:1 ("Q. And to your knowledge was such a supplemental agreement ever actually entered into? A. Not to my knowledge.").

[520] Tr. (Vol. I Freeman) 120:19-121:1 ("Q Referring back to your testimony about the opinion rendered to you by the AICPA, did you tell anybody at Anton & Chia about the AICPA's opinion that you were right and Behavioral had been inappropriately consolidated? A Yes, I did. Q And who did you convey that to? A Michael Deutchman.").

[521] Ex. 117 (Mar. 20, 2015 Form 8-K).

[522] Tr. (Vol. I Freeman) 125:22-126:7; *see also* Ex. 227 (Mar. 20, 2015 resignation email from Freeman).

[523] Ex. 88.1 (Devor Report) ¶ 230 ("There is no evidence in Anton & Chia's workpapers or in the testimony that he did so.").

[524] Tr. (Vol. VIII Shek) 2336:7-14 ("Q. Mr. Shek, were you aware during the 2014 audit engagement for Accelera, that Accelera's CFO Daniel Freeman had voiced his opinion that Behavioral had been improperly consolidated into Accelera's public financial statements? A. No, I'm not aware of it. Q. Nobody told you that? A. No. Q. And would you have wanted to know that information as manager of that audit engagement? A… A. Yes, I need to know, because then I don't need to audit the company. Q. If you had known, do you think that you would have performed additional audit procedures in response to that information? … A. Yes.").

[525] Ex. 88.1 (Devor Report) ¶ 260 ("Mr. Deutchman, in his role as EQR, and in compliance with AS 7, should have discussed Mr. Freeman's significant reservations surrounding the consolidation of BHCA with the engagement team (or at least the Engagement Partner) before he approved the audit and permitted the issuance of the audit report.").

be in the process of changing the firm's work, I would need to see a properly prepared document from the CFO of this public company that the treatment should be different."[526]

324. Deutchman felt that "[i]f [Anton & Chia] analyzed this back then and they were comfortable with it, it wasn't my … place to question them."[527] To the contrary, it was Deutchman's place, as EQR, to evaluate the judgments made by the engagement team and the conclusions they reached on difficult or contentious matters.[528]

LIE #324 there was no hard or credible evidence to go back and copmlete such analysis. If Freemen was serious about properly assessing BHCA's consolidation he would have:

1) Drafted an accounting position memorandum himself.
2) Used one of the four accounting firm's he interacted with while with Accelera to draft the accounting position memorandum.
3) He could have contacted the SEC's corporate finance group for an opinion but he would have needed to complete step 1 or step 2 before doing so.

325. Because Deutchman was aware that Freeman did not agree with the consolidation of BHCA into Accelera's financial statements and that he resigned on March 20, 2015, he "should have exercised due professional care and critically assessed the conclusion [the engagement team] had reached with respect to Accelera's consolidation of BHCA.[529] Specifically, Anton & Chia should have performed additional procedures, such as inquiries of Wolfrum with respect to who controlled BHCA

and Wolfrum's purported employment agreement, consultation with an attorney or others internally at Anton & Chia, and review to ensure terms of the amendments to the Stock Purchase Agreement were complied with, in order to assess whether the consolidation of BHCA was appropriate.[530]

Lie #325 The original 7 agrements and the 4 amendments are very clear that consolidation is required. Wolfrum is a suspendend pshyciatrist where the Illinois Department of Professional Regulation suspended his license…saying he's a danger to the public and as an officer and a director of Accelera since 2013 he was day trading in Accelera's stock.

326. Deutchman also should have ensured that Freeman's reservations and Anton & Chia's response were documented within its 2014 audit workpapers. He failed to do so.[531] Anton & Chia never documented Freeman's concerns and the engagement team's response in its 2014 audit workpapers.[532]

LIE #326 There is no requirement to do this under US GAAS. This paragraph clearly demonstrates the Divisions lack of understanding of US GAAS.

[526] Tr. (Vol. III Deutchman) 707:22-708:2.
[527] Ex. 839.6 (Prior Testimony Designations) 480 (Deutchman June 25, 2019 Dep. at 156:23-25); *see also id.* at 491 (Deutchman June 25, 2019 Dep. at 63:24-64:2) ("[I]t wasn't my place to go back to the beginning and challenge my own firm's accounting position that they had taken on this company's accounting treatment of its acquisition.").
[528] Ex. 88.1 (Devor Report) ¶ 227 (citing AS 7.10 and AS 7.15).
[529] *Id.* ¶ 232.
[530] *Id.* ¶ 232.
[531] *Id.* ¶ 261.
[532] *Id.* ¶ 261.

327. According to PCAOB standard AS 7, the role of the EQR during an audit is to provide an objective evaluation of the significant judgments made and conclusions reached by the engagement team. If the EQR becomes aware of a significant engagement deficiency, the EQR should **prohibit the audit firm from providing an audit report to be used in a company's financial statements**.[533]

Lie #327 The first sentence mistates **AS7.9**, "In an audit engagement, the engagement quality reviewer **should** evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report."

Concurring Approval of Issuance

AS7. 12. "In an audit, the engagement quality reviewer **may provide** concurring approval of issuance only if, after performing with due professional care [6/] the review required by this standard, he or she is not aware of a significant engagement deficiency.

Note: A *significant engagement deficiency* in an audit exists when (1) the engagement team failed to obtain sufficient appropriate evidence in accordance with the standards of the PCAOB, (2) the engagement team

reached an inappropriate overall conclusion on the subject matter of the engagement, (3) the engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client.

AS7.13. In an audit, the firm may grant permission to the client to use the engagement report only after the engagement quality reviewer provides concurring approval of issuance."

The actual standard does not say which is represented in the Divisions Proposed Fact 327 and Deutchman in his professional judgement determined that there was no evidence that there was significant engagement deficiency and that includes the entire engagement team. Devor and the Division again intentionally changed US auditing standards to deceive this court. **AS7.12** and **AS7.13** don't say "**prohibit**" amongst other statements.

328. Deutchman violated his duties under AS 7 by approving the issuance of the audit report as EQR even though Anton & Chia did not adequately address Freeman's concerns regarding the continuing consolidation of BHCA, and Anton & Chia failed to document Freeman's concerns in its 2014 audit workpapers.[534]

Lie #328 Deutchman did not violate his duties. See **Lie #327**.

Freeman thought Accelera was on NASDAQ, the AICPA is non-authoritative guidance and he had to pay $14,000 to get the job. Accelera thought his work was so bad they never paid back the $14,000 or for his services and Freeman admitted that he was not "the smartest guy" **TR Page 173 Line 12-14**.

ii. Wolfrum's Evidence that Accelera Did Not Own BHCA

329. For the 2014 year-end audit, Anton & Chia requested that Wolfrum execute a confirmation of liability that made clear that the entire purchase price – of the $4.55 million under the SPA – was unpaid.[535] Wolfrum signed the confirmation, agreeing that Accelera had not paid any of the purchase price for the BHCA shares. Wolfrum added language clarifying that "To the extent the terms of this letter conflict with the terms of the parties' Stock Purchase Agreement, the terms of the Stock Purchase Agreement shall control."[536]

330. Wahl and Deutchman knew about the confirmation of liability.[537] Both Wahl and Deutchman signed off in the workpapers as having reviewed this confirmation letter.[538]

[533] Ex. 88.1 (Devor Report) ¶ 259.
[534] *Id.* ¶ 262.
[535] Wahl Answer ¶ 57; Ex. 239 (Apr. 13, 2015 letter signed by Wolfrum).
[536] Wahl Answer ¶ 57; Ex. 239 (Apr. 13, 2015 letter signed by Wolfrum); Tr. (Vol. I Wolfrum) 269:6-270:20; *see also* Tr. (Vol. I Wolfrum) 354:2-14.
[537] Ex. 840 (Stipulated Facts) ¶ 38; Wahl Answer ¶ 58; Deutchman Answer ¶ 58.
[538] Ex. 147 (2014 audit workpaper sign-off index); *see also* Tr. (Vol. VIII Shek) 2338:13-23.

331. No one from Anton & Chia contacted Wolfrum regarding the language he wrote into the confirmation letter.[539] Neither Wahl nor Deutchman instructed Shek to perform any additional audit procedures based on the language that Wolfrum added to the confirmation.[540]

Lie #331 No one would be required to contact Wolfrum because he confirmed that Accelera owed him the $4.5MM in accordance with the original 7 agreements and the 4 amendments. The executed agreements and amendments clearly document the requirements of transferring control of the business in compliance with **ASC 805** and **ASC 820**, see Respondents **P.F.F#653** to **P.F.F#666**.

332. Prior to the field work in 2015, Wolfrum sent an e-mail to individuals from Anton & Chia, including Deutchman, instructing them that "[t]he purpose of the audit should not be disclosed to anyone at BHCA, … other than for 'internal review,'" because, "[o]nly Ann or Blaise Wolfrum and, possibly, my banker are aware of the **Accelera deal**."[541]

333. When Anton & Chia staff came to perform field work at BHCA in 2015, Wolfrum told them that "Accelera hasn't paid yet, and I still own a hundred percent of the company."[542]

LIE #333 Sounds like Wolfrum is a danger to himself. No one from Anton & Chia can confirm this so called statement. Additionally**, Exhibit 1207** states Secured Party ("Indebtedness") wherein Debtor purchased

l00% of the shares of stock of Behavioral Health Care Associates, Ltd., an Illinois corporation, (the "Company") from Secured Party.

The Escrow agreement says Wolfrum legally doesn't have control of BHCA's shares**. Exhibit# 188** clearly states that BHCA shares are held in escrow (**TR 275 Lines 12-14)** until the payment of the $4.5MM promise to pay, similarly under **Exhibit 1210 section 5.4**, where under **Exhibit #188 paragraph 4e**, Accelera ("Pledgor") shall operate the business in a similar manner until the $4.5MM is paid.

4 (e) **Operation of the Business**, Pledgor shall conduct the Business of the Company in a commercially reasonable manner, including but not limited to, consistent with past practices in terms of salary, bonuses, hiring and firing of officers, executives, and other management type positions, until the Purchase Price is paid in full. This same paragraph in the **SPA EXHIBIT 1210 SECTION 5.4.**

334. During the BHCA field work in 2015 (for the 2014 audit), Anton & Chia had access to BHCA's bank records, which showed that BHCA never paid any of its revenues to Accelera.[543]

Lie #334 BHCA wouldn't pay any of its revenues to Accelera as a wholly owned subsidiary. This comment clearly demonstrates that the Division attorneys understand very little regarding basic business.

335. The facts that Wolfrum informed Anton & Chia staff that Accelera did not own BHCA and BHCA's cash and income did not belong to Accelera, no cash was going from BHCA to Accelera were red flags that BHCA was improperly consolidated.[544]

Lie #335 BHCA has negative cash flows from operations and therefore no cash could be transferred to Accelera.

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[539] Tr. (Vol. I Wolfrum) 270:21-271:2 ("Q. Did anyone from Anton & Chia ever get in touch with you to talk to you about what you wrote here on the second page? A. No. Q. Did anyone from Accelera ever talk to you about what you wrote on the bank? A. I don't believe so.").

[540] Tr. (Vol. VIII Shek) 2339:2-21 ("Q. Did Deutchman ask you to perform any additional audit procedures based on the language that Wolfrum has included here?… THE WITNESS: No. Q Did Wahl ask you to perform any additional audit procedures or follow-up questions based on the language that Wolfrum added here? … THE WITNESS: No. Q And did you, in fact, perform any additional audit procedures based on this language that Wolfrum added to the confirmation? A No.").

[541] Ex. 238 (email from Wolfrum) 1; *see also* Tr. (Vol. I Wolfrum) 261:4-25.

[542] Tr. (Vol. I Wolfrum) 264:11-18.

[543] Tr. (Vol. I Wolfrum) 266:12-17 ("Q Did Anton & Chia have access to Behavioral's bank statements during the 2015 audit? A Yes. Q And did those bank records show that Behavioral never paid any of its revenues to Accelera? A That is correct.").

[544] Ex. 88.1 (Devor Report) ¶ 237 ("BHCA's owner, Wolfrum also supplied Anton & Chia with information that was a red flag indicating that Accelera did not acquire BHCA. For instance, Wolfrum informed Anton & Chia staff, who were present at BHCA to conduct audit procedures, that Accelera did not own BHCA. Wolfrum also informed

336. However, there is no indication in the work papers or testimony that Anton & Chia performed any additional procedures or analyses in response to these communications from Wolfrum.[545]

Lie #336 Wolfrum's statements have no relevance to any fact or contract other than he is confirming the contracts are effective. Devor in Exhibit 88.1 240 provides no evidence why this is a red flag and which specific US GAAP or GAAS standard this ties into.

See Respondents **P.F.F#653** to **P.F.F#666**.

iii. Shek's Questions Regarding Which Entities to Audit

337. At the beginning of the audit, Shek questioned Deutchman and Wahl as to "which entity are we auditing and consolidating" for the 2014 financials.[546] Deutchman told Shek "he would find out."[547] But Deutchman never got back to Shek one way or another about which entities should be included in the 2014 financial statements.[548]

Lie #337 Please see **ASC 805** and **ASC 820**. See Respondents **P.F.F#653** to **P.F.F#666**.

338. On March 31, 2015 and again on April 6, 2015, Shek asked Deutchman via e-mail to "[p]lease make sure you speak with the attorneys on Accelera to make sure you determine what entities need to be audited."[549] Although Deutchman responded, "[f]or sure," and "[t]op of the list,"[550] Deutchman was only "placating him, because [he] couldn't understand why he would be asking attorneys an accountant question."[551]

Lie #338 Please see **ASC 805** and **ASC 820**. See Respondents **P.F.F#653** to **P.F.F#666**.

339. On April 11, 2015, Shek represented to Accelera (in an email where both Deutchman and Wahl were CCed) that Deutchman would call Accelera's attorney regarding a "legal representation for business they acquired in 2013 and 2014."[552]

Lie #339 Please see **ASC 805** and **ASC820**. See Respondents **P.F.F#653** to **P.F.F#666**.

Anton & Chia that BHCA's cash and income did not belong to Accelera."); *id.* ¶ 237 n.52 ("Anton & Chia also knew, or should have known, based on procedures it performed at BHCA, that BHCA was still owned by Wolfrum. For example, Anton & Chia would have seen no cash going to Accelera and that cash from BHCA was going to Wolfrum and that Wolfrum was taking a salary (from BHCA) that was different from that listed in the operating agreement between Wolfrum and Accelera.").

[545] Ex. 88.1 (Devor Report) ¶ 240.

[546] Tr. (Vol. VIII Shek) 2327:4-2329:21.

[547] Tr. (Vol. VIII Shek) 2329:25-2330:5.

[548] *Id.* at 333:4-8 ("Did you ever hear back from Deutchman one way or another about which entities should be included in the 2014 financial statements? A. No.").

[549] Ex. 240 (Apr. 1, 2015 email chain); Ex. 241 (Apr. 6, 2015 email chain).

[550] Ex. 240 (Apr. 1, 2015 email chain); Ex. 241 (Apr. 6, 2015 email chain).

[551] Tr. (Vol. III Deutchman) 798:15-799:6.

[552] Ex. 249 (Apr. 11, 2015 email chain); *see also* Tr. (Vol. III Deutchman) 806:9-18; Tr. (Vol. VIII Shek) 2334:22- (Q. And what are you asking for there? And I'll specifically refer to the first part of that request, 'legal

340. Deutchman acknowledged that "the only way I would be able to make a determination as an accountant as to the accounting treatment [of a potential default on the SPA] would be to get a legal opinion as to whether or not they had control."[553]

Lie #340 Deutchman is discussing a "potential default on the SPA" which **Exhibits 1217**, **1218** and **1257** cured the events of default so Deutchman knew that no legal opinion was to be considered. Deutchman was also aware of all the other matters influencing a consolidation **ASC 805** and **ASC 820**. Such as the fact that we were auditing their revenues year after year. A legal opinion may have been helpful but it was only one of many other factors that entered into my judgement to support the company's determination to consolidate.

More mischaracterization and exaggeration on the part of the division. A pattern of egregious behavior that needs to be dealt with appropriately.

341. But Deutchman never obtained the requested legal opinion.[554]

Lie #341 **Exhibits 1217**, **1218** and **1257** cured the events of default so Deutchman knew that no legal opinion was to be considered.

iv. Amendments to the SPA

342. On April 10, 2015, Boerum transmitted the first, second, and third amendments to the SPA to Anton & Chia.[555] The 2014 audit was the first time that any of the amendments appeared in Anton & Chia's working papers.[556] In her cover e-mail, Boerum disclosed that none of the shares required under the three amendments had ever been issued to Wolfrum.[557]

Lie #342. This entire paragraph is circumstantial at best and is not based on any fact. Accelera is responsible for their financial statements and **Exhibits 1217** and **1218** were effective before A&C's audit report was issued. Respondents received **Exhibits 1217** and **1218** before we filed our audit opinion on April 15, 2014 (**Koch Inv, Test Nov 1, 2016, at 55-56**). This is further corroborated as **Exhibit 1218** puts Accelera on the hook for the $4.5MM liability and A&C obtained a confirmation from Blaise Wolfrum that Accelera legally were obligated to pay the $4.5MM (see **Exhibit 1248**).

The shares under **Exhibits 1217**, **1218 and 1257** which A&C proposed the audit adjustments for the compensation owed to Wolfrum were legally enforced. A&C forced management to record these legal share transactions in the financial statements and ensured that the share compensation journal entries were recorded by management to ensure compliance with US GAAP (see **Exhibits 1217**, **1218** and **1257**). Whether Wolfrum had these shares or not is only relevant to Wolfrum and Accelera. A&C's responsibility was to ensure that management recorded the share based compensation in the financial statements to comply with US GAAP. A&C forced Accelera management to record these transactions.

343. After the e-mail from Boerum, Anton & Chia, Wahl, and Deutchman knew about the amendments to the SPA. After the 2014 audit, the amendments were included in the workpapers for the Accelera engagements. Both Wahl and Deutchman reviewed and signed off on those workpapers.[558]

v. Other Acquisitions Accounted for Inconsistently

344. As the purchase agreements for Grace and Watson were included in the workpapers for the 2014 audit, the engagement team – including Wahl and Deutchman – were aware of the agreements and their terms.[559]

representation for business that they acquired in 2013 and 2014.' A. Just like, from the attorney perspective, is this stuff still complete or not.").

[553] Ex. 839.6 (Prior Testimony Designations) 499 (June 20, 2018 Deutchman Dep. at 160:11-14).

[554] Ex. 839.6 (Prior Testimony Designations) 477 (June 25, 2019 Deutchman Dep. at 103:3-6) ("Q. My question to you is: Do you remember getting an opinion whether it was inane or not? A. I don't remember getting an opinion from an attorney about anything."); Tr. (Vol. VIII Shek) 2333:9-16 ("Did you ever see a legal representation about which companies ought to be included in the 2014 financial statements of Accelera? …. A. No."); Tr. (Vol. III Deutchman) 807:3-808:7, 809:17-810:17.

[555] Ex. 247 (Apr. 10, 2015 email from Boerum).

[556] Ex. 138 (2013 audit workpaper sign-off index); Ex. 139 (same); Ex. 141 (Q1 2014 workpaper sign-off index); Ex. 144 (Q2 2014 workpaper sign-off index); Ex. 145 (Q3 2014 workpaper sign-off index).

[557] Ex. 247 (Apr. 10, 2015 email from Boerum).

[558] Ex. 840 (Stipulated Facts) ¶ 36; *see also* Deutchman Answer ¶ 45.

[559] Ex. 147 (2014 audit workpaper signoff index) 0418.01, 0419.01.

345. Grace and Watson were not consolidated into Accelera's 2014 financial statements. Shek "look[ed] at the agreement[s], and [] ask[ed] the company ... the status," and concluded they "didn't have control."[560] Shek did not perform those same procedures for BHCA, because he "expect[ed] that the [2013 audit] team [had] look[ed] at Behavioral acquisition."[561]

Lie #345 The Nurse didn't record Wolfrum's shares in the financial statements see **Exhibit 1217, 1218** and **1257**. Based on **Exhibits 1217**, **1218** and **1258** and the original 7 agreements no we would not have concluded that BHCA was improperly consolidated. BHCA was properly consolidated in accordance with US GAAP. Also with the execution and disclosure of **Exhibits 1217, 1218** and **1257** there were clearly no events of default or reasons to reconsider "reevaluating" the prior period conclusions. Additionally, the consolidation of entities is an accounting policy that is governed, controlled by Accelera's management, not its auditors. The paragraph intentionally mischaracterizes the auditors role.

346. Deutchman was not "comfortable" with and "had never seen anything quite like it" the way Accelera was "conducting themselves" vis-à-vis these unfinished acquisitions.[562]

347. Nevertheless, there is no evidence in the workpapers of any attempt by Anton & Chia to reconcile Accelera's decision to consolidate the financial results of BHCA with its decision not to consolidate the financial results of Grace and Watson.[563]

Lie #347 There is no audit, PCAOB, AICPA, US GAAS requirement to "reconcile" this between BHCA. This would not have changed A&C's decision.

Based on **Exhibits 1217**, **1218** and **1258** and the original 7 agreements no we would not have concluded that BHCA was improperly consolidated. BHCA was properly consolidated in accordance with US GAAP. Also with the execution and disclosure of **Exhibits 1217, 1218** and **1257** there were clearly no events of default or reasons to reconsider "reevaluating" the prior period conclusions. Additionally, the consolidation of entities is an accounting policy that is governed, controlled by Accelera's management. Not its auditors. The Divisions' paragraph intentionally mischaracterizes the auditors role.

vi. Incomplete Acquisition Audit

348. Members of the engagement team, including Wahl and Deutchman, understood

that the SEC requires a company to file a Form 8-K containing the financial statements of any acquired entities.[564] Anton & Chia was retained to audit the financial statements for that filing with respect to BHCA.[565]

#348 Anton & Chia was required to be paid for its audit services. Anton & Chia cannot force a client to file an 8-K that is the requirement of the SEC to enforce securities laws in the United States of America.

[560] Tr. (Vol. VIII Shek) 2340:14-22.
[561] *Id.* at 340:23-2341:18.
[562] Ex. 839.6 (Prior Testimony Designations) 491 (June 20, 2018 Deutchman Dep. at 61:24-63:8).
[563] Ex. 88.1 (Devor Report) ¶ 244.
[564] Ex. 839.6 (Prior Testimony Designations) 110 (July 2, 2019 Wahl Dep. at 274:13-24) ("Did you – you understood that there was an SEC requirement for Accelera to file audited financials for acquired entities with the SEC within 75 days of acquisition. Is that correct? A. I believe there was an effort to get the AK [sic] completed by the company."); Ex. 214 (Dec. 9, 2014 email from Freeman to Deutchman) ("I know the audits are required if we actually acquired the entities…").
[565] Ex. 839.6 (Prior Testimony Designations) 110 (July 2, 2019 Wahl Dep. at 274:13-24) ("Did you – you understood that there was an SEC requirement for Accelera to file audited financials for acquired entities with the SEC within 75 days of acquisition. Is that correct? A. I believe there was an effort to get the AK [sic] completed by the company. Q. Did – was that ever completed? A. I don't know if it was completed or not. Q. Anton & Chia was engaged to perform that audit for Behavioral. Right? A. I believe we were.").

349. The acquisition audits had not been completed by the time of the 2014 audit of Accelera.[566]

#349 Anton & Chia was required to be paid for its audit services. Anton & Chia cannot force a client to file an 8-K that is the requirement of the SEC to enforce securities laws in the United States of America.

350. Accelera's failure to complete the required post-acquisition filings should have provided further evidence to Anton & Chia that the purported BHCA acquisition was never completed. Yet Anton & Chia did not document this failure in its workpapers and did not perform any additional procedures.[567]

#350 Anton & Chia was required to be paid for its audit services. There is no PCAOB, US GAAS, AICPA requirement to document this in A&C's working papers and no additional work is required. Anton & Chia cannot force a client to file an 8-K that is the requirement of the SEC to enforce securities laws in the United States of America.

vii. Goodwill Impairment

351. By the time of the 2014 audit, Accelera had not performed its own goodwill impairment analysis or a purchase price allocation, despite the fact that it was required to have done both.[568]

LIE #351 A&C in its communication to the board of directors for the 2013 audit requested that Accelera management complete both purchase price allocation and a goodwill analysis See **Exhibit 1205 Page 10 Material Weakness second paragraph**. On **page 6** of **Exhibit 1205** Financial Statement Disclosures A&C identified the purchase price allocation and goodwill as "significant" and "sensitive" disclosures.

352. As part of the Accelera 2014 audit, Anton & Chia prepared a workpaper documenting its own goodwill impairment analysis. This workpaper addressed whether goodwill pertaining to the BHCA and At Home acquisitions should be impaired.[569] The memo was drafted by Shek, and reviewed by both Wahl and Deutchman.[570]

[566] Tr. (Vol. VIII Shek) 2345:20-23 ("Q. Had Accelera completed an acquisition audit by the time that you were working on the 2014 10-K audit? A. No."); Ex. 839.6 (Prior Testimony Designations) 494 (Deutchman June 20, 2018 Dep. at 105:11-20).

[567] Ex. 88.1 (Devor Report) ¶ 247.

[568] Tr. (Vol. VIII Shek) 2342:20-2343:19 ("Q So at the time of the 2014 audit engagement, had Accelera performed its own goodwill impairment analysis? A No. Q And based on your understanding, should they have? A Yes. Q Why is that? A. Because it's required by GAAP. And a lot of factors indicate the goodwill may be impaired. Q Now, at this time during the 2014 audit engagement, had Accelera ever performed a purchase price allocation for the Behavioral transaction? A No. Q And, again, based on your understanding, should they have? A Yes. Q And why is that? A So normal practice, you need to allocate the purchase price. Q And by this time in April 2015, this transaction had been booked for over a year, right? A Correct.").

[569] Ex. 146 (goodwill impairment memo workpaper).

[570] Ex. 147 (2014 audit workpaper signoff index) 4501.

353. In the memo, Shek determined that the entire amount of goodwill, $4,217,062, was impaired.[571] He proposed writing down Accelera's goodwill, due to, among other things, the fact that "the Company [did] not have sufficient support to validate the goodwill for BHCA."[572]

354. In other words, Anton & Chia deemed the entire putative investment in BHCA to be worthless, as – after removing the goodwill – virtually no BHCA assets remained on Accelera's balance sheet.[573] Considering that Accelera still had not paid any of the $4,550,000 purchase price, and Anton & Chia deemed the majority of the BHCA business worthless, this should have been a red flag and caused Anton & Chia to re-examine Accelera's purported acquisition of BHCA and whether consolidation was appropriate.[574]

Lie #354 the goodwill was impaired due to the losses BHCA was incurring. Accelera recorded BHCA's cash and accounts receivable on the 2014 financial statements. The impairment of goodwill has no correlation with whether Accelera's management should consolidate BHCA or not. The impairment of goodwill is indicators that Accelera made a poor investment in BHCA, which is why Accelera's investment bankers couldn't raise capital for the company (**Exhibit 274**).

e. Work Not Performed

355. The workpapers for the 2014 audit do not contain any workpapers analyzing the issue of whether BHCA should be consolidated into Accelera.[575]

LIE #355 The BHCA transaction was handled as part of the 2013 audit, where **Exhibits 1217** and **1218** were effective before April 15, 2014, see also **Lie #256. Exhibit 1257** was effective May 30, 2014 and kicked out all payments under the SPA until 2015 and 1.1.1.1 of the original SPA **Exhibit 1210** was terminated. The $4.5MM liability was recorded as a long term liability. There was no evidence or AICPA, PCAOB or US GAAS standard to put the previous audit work for 2013 in the 2014 binder.

356. The Acquisition Memo is not among the workpapers for the 2014 audit of Accelera. Nor are the SPA, the Bill of Sale, the Stock Powers Certificate, the Written Action of the BHCA Board, or the Escrow Agreement.[576]

Lie #356 All of the agreements were in A&C's permanent files, prior year audit work papers and are publicly filed on Form 8-K **(Exhibit 103).**There is no requirement to keep rolling forward documents from prior year where the documents are already retained.

[571] Ex. 146 (goodwill impairment memo workpaper).
[572] Ex. 146 (goodwill impairment memo workpaper); *see also* Tr. (Vol. VIII Shek) 2343:20-2344:9.
[573] Ex. 146 (goodwill impairment memo workpaper).
[574] Ex. 88.1 (Devor Report) ¶ 235; Tr. (Vol. IV Devor) 1200:2-22 ("[A] … Here's another example. In 2014 we've heard testimony that they wrote off the goodwill. It was impaired and they wrote it off. Now, you're the second

partner on this. You're the gatekeeper. And you're looking at these financial statements – and the write-off means basically that the assets they bought – or allegedly bought are worthless. Yet none of the payments have been made for the stock. And there's all these agreements well, we'll pay you later and we'll extend the date out, whatever. … They haven't paid yet. … And now they're admitting that everything they bought was worthless. They're never going to pay. And there's not a word about that in the papers. So, you know, it's – again, it's an example of due professional care, but also – it's a red flag. They just wrote off the impairment.").

[575] Tr. (Vol. IV Devor) 1160:7-23, 1162:4-16 ("Q. And have you reviewed the work papers for all the engagements related to Accelera that are at issue in this case? A. Yes. Q. Other than this memo, is there anything in the work papers that analyzes whether Behavioral should be consolidated into Accelera? A. Not that I've seen.").

[576] Ex. 147 (2014 audit workpaper signoff index).

357. As Deutchman acknowledged, if a document was not included in the workpapers, then it is "likely to be the case" that he did not review it.[577]

358. Despite all the red flags discussed above, Deutchman never brought up the issue of whether Accelera controlled BHCA with the engagement team. Instead, he just "assumed that it was handled correctly initially."[578]

359. Similarly, Deutchman never asked anyone from Accelera whether or not it had acquired the stock of BHCA, "because it was a complicated issue, and [he] assumed that [the] firm's position was correct."[579]

360. Deutchman also never asked Wolfrum if Accelera acquired BHCA.[580] He never asked Wolfrum about the nature or status of the SPA.[581]

361. This was wrong. An auditor cannot simply assume the prior year's audit was done correctly. An auditor cannot disregard a potential improperly handled accounting matter simply because the financial statements were already filed with the SEC. Instead, an auditor is required to explore the matter to assess the impact, if any, on the previously filed, as well as current, financial statements.[582]

Lie #361 is nothing more than opinion from Devor, makes no reference to an Audit Standard (US GAAS) or US GAAP and is not a fact. There was no tangible evidence provided by Accelera's management that BHCA was consolidated incorrectly. Additionally, the consolidation of an entity is an accounting policy decision which is to be determined by Accelera's management, not its auditors.

Here is Accelera's "Basis of Presentation" policy in its consolidated financial statements for 2013 (**Exhibit 105 Note 5 page F-10**).

"November 29, 2013, the Company formed Accelera Healthcare Management Service Organization LLC that will operate **newly acquired Behavioral Health Care Associates, Ltd. as a 100% owned subsidiaries of Accelera**. The consolidated financial statements include the accounts of Accelera and 100% owned subsidiaries. Significant intercompany accounts and transactions have been eliminated in consolidation."

362. During the 2014 audit, Deutchman "never assumed an opinion one way or the other" when it came to the propriety of consolidating BHCA. Instead, he "just deferred to the

[577] Ex. 839.6 (Prior Testimony Designations) 486 (Deutchman June 20, 2018 Dep. at 41:11-21).
[578] Ex. 839.6 (Prior Testimony Designations) 508 (Deutchman June 26, 2016 Inv. Test. at 141:2-142:4).
[579] Tr. (Vol. III Deutchman) 711:3-18 (quoting Ex. 9 at 154:24); *see also* Tr. (Vol. IV Deutchman) 1056:22-23 ("So basically I assumed the firm's position was correct."); *id.* at057:20-21 ("So I just assumed that the company's position was correct."); Ex. 839.6 (Prior Testimony Designations) 478-479 (June 25, 2019 Dep. at 154:24-155:8).
[580] Tr. (Vol. IV Deutchman) 1066:23-25 ("Q. You also never asked Wolfrum if Accelera acquired Behavioral, right? A. I never discussed those matters with him.").
[581] Tr. (Vol. IV Deutchman) 1066:16-22 ("Q. But you agree then that you never asked Wolfrum about the nature or status of the Stock Purchase Agreement? A. I never got into the – it wasn't my role and I never got into the details of …. those aspects with Wolfrum.").
[582] Ex. 88.1 (Devor Report) ¶ 228 (internal quotes omitted).

firm's initial assessment.[583] This is contrary to his mandated role, as EQR, to "evaluate" the judgments made by the engagement team and the conclusions they reached on "difficult or contentious matters."[584]

Lie #362 Remember Devor calling the consolidation of BHCA as easy or simple and he never had to look at the accounting. **AS 7.10** says "In an audit, the engagement quality reviewer **should**" and **AS 7.12** only says if there is only a "significant engagement deficiency" which there wasn't. See Respondents **P.F.F# 653** to **P.F.F.#666**.

363. Deutchman failed to question the engagement team as to how they reached the conclusion that it was appropriate for Accelera to consolidate BHCA.[585]

364. No one from Accelera ever told Deutchman whether or not Accelera had the ability to hire or fire employees of BHCA. Deutchman felt it "wasn't [his] position to ask those questions."[586]

365. Deutchman "never asked Dr. Wolfrum about the nature or status of the Stock Purchase Agreement," or whether Accelera had acquired BHCA.[587] In fact, no one from the engagement team never asked Wolfrum whether or not Accelera owned BHCA.[588]

Lie #365 A CPA cannot rely on a Suspended Psychiatrist's ability to understand legal contracts and how it relates to **ASC 805** and **ASC 820**.

366. During the field work in 2015, no one from Anton & Chia ever asked Wolfrum

whether (a) Accelera controlled BHCA, (b) Accelera had access to BHCA's bank accounts, (c) Accelera had a controlling financial interest in BHCA, (d) Wolfrum had received the shares

Lie #366 Wahl and Deutchman were not part of the 2015 audit.

[583] Tr. (Vol. IV Deutchman) 1060:9-15.
[584] Ex. 88.1 (Devor Report) ¶ 227 (citing AS 7.10 and AS 7.15).
[585] Tr. (Vol. IV Devor) 1198:1-1199:8 (1198:5 "What are the bases for that opinion? A. Well, first of all keep in mind what Mr. Deutchman's job is. He was the EQR, the engagement quality reviewer. In essence that's the last person to look at this, independent of the audit team, before the report hits the street. So he's the – if there ever was something that really should be called the gatekeeper, he's the gatekeeper. … The whole discussion – I mean there's nothing in the work papers about this issue that – as we've discussed, about the reasons for consolidating this thing in the – in the face of an agreement saying there's no control. So, you know, Mr. Deutchman would have been required to – any second partner looking at this would have been required to say hey, how'd you reach this conclusion? But even more so, in the third quarter of '14, he's directly confronted by someone saying look at this, it's wrong. Look at it again. Tell me how in the world you guys reached this conclusion. And apparently based on the record, ignores it. So you know that's not exercising due professional care or professional skepticism.").
[586] Ex. 839.6 (Prior Testimony Designations) 479-80 (June 25, 2019 Deutchman Dep. at 155:23-156:10).
[587] Tr. (Vol. IV Deutchman) 1065:24-1066:5, 1066:23-25.
[588] Tr. (Vol. VIII Shek) 2349:14-25 ("Q During the 2014 audit, did you ever ask Wolfrum whether or not Accelera owned Behavioral? A No. Q To your knowledge, did anyone on the engagement team for the 2014 audit ask Wolfrum whether or not Accelera owned Behavioral? A No. Q Did either Mr. Deutchman or Mr. Wahl ever instruct you to ask Wolfrum whether or not Accelera owned Behavioral? A No.").

under the amendments to the Stock Purchase Agreement, (e) Wolfrum was employed by Accelera, or (f) Wolfrum was paid a salary by Accelera.[589]

367. During the field work in 2015, no one from Anton & Chia ever requested a proof of payment under section 1.1.1.1 of the Stock Purchase Agreement or the stock certificates that were issued under the amendments to the Stock Purchase Agreement.[590]

Lie #367 Wahl and Deutchman were not part of the 2015 audit.

368. Neither Deutchman nor Wahl ever instructed Shek to ask Accelera whether it controlled BHCA, to inquire about who controlled the revenues earned by BHCA, or to inquire about whether Accelera had the power to hire or fire BHCA employees; and Mr. Shek never asked those questions.[591]

Lie #368 If this is pertaining to the 2015 audit, Shek, Wahl and Deutchman were not involved. Based on **Exhibits 1217**, **1218** and **1258** and the original 7 agreements no we would not have concluded that BHCA was improperly consolidated. BHCA was properly consolidated in accordance with US GAAP. Also with the execution and disclosure of **Exhibits 1217, 1218** and **1257** there were clearly no events of default or reasons to reconsider "reevaluating" the prior period conclusions. Additionally, the consolidation of entities is an accounting policy that is governed, controlled by Accelera's management. Not its auditors. The paragraph intentionally mischaracterizes the auditors role.

369. During the 2014 audit, the engagement team never had any discussions about whether or not Accelera controlled BHCA.[592]

Lie #369 Based on **Exhibits 1217**, **1218** and **1258** and the original 7 agreements no we would not have concluded that BHCA was improperly consolidated. BHCA was properly consolidated in accordance with US GAAP. Also with the execution and disclosure of **Exhibits 1217, 1218** and **1257** there were clearly no events of default or reasons to reconsider "reevaluating" the prior period conclusions. Additionally, the consolidation of entities is an accounting policy that is governed, controlled by Accelera's management. Not its auditors. The paragraph intentionally mischaracterizes the auditors role.

See Respondents **P.F.F# 653** to **P.F.F.#666**.

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[589] Tr. (Vol. I Wolfrum) 265:5-266:3 ("During the 2015 audit, did Anton & Chia ever ask you whether Accelera controlled Behavioral? A You're saying 2016? Q I'm sorry. No, 2015. A No. Q During the 2015 audit did Anton & Chia ever ask you whether Accelera had access to Behavioral's bank accounts? A No. Q During the 2015 audit did Anton & Chia ever ask you whether Accelera had a controlling financial interest in Behavioral? A No. Q During the 2015 audit did Accelera – did Anton & Chia ever ask you whether you received the shares as required under the amendments to the Stock Purchase Agreement? A No. Q During the 2015 audit did Anton & Chia ever ask you whether you were employed by Accelera? A No. Q During the 2015 audit did Anton & Chia ever ask you whether you were paid a salary by Accelera? A No.").

[590] Tr. (Vol. I Wolfrum) 266:4-11 ("Q During the 2015 audit did Anton & Chia ever request proof of payment under section 1.1.1.1? A No. Q During the 2015 audit did Anton & Chia request the stock certificates that were issued to you pursuant to the amendments to the Stock Purchase Agreement? A No.").

[591] Tr. (Vol. VIII Shek) 2346:22-2349:13. (Q During the 2014 audit, did Mr. Deutchman ever instruct you to ask Accelera whether it controlled Behavioral? … THE WITNESS: No. Q During the 2014 audit engagement, did Mr. Wahl ever instruct you to ask Accelera whether it controlled Behavioral? MR. WAHL: Objection. Foundation.

…11 THE WITNESS: No. Q And during the 2014 audit engagement, did you ask Accelera any questions about whether they controlled Behavioral? A No. Q During the 2014 audit of Accelera, did Mr. Deutchman ever instruct you to inquire about who controlled the revenues earned by Behavioral? A No. Q And during the 2014 audit, did Mr. Wahl ever instruct you to inquire about who controlled the revenues earned by Behavioral? A No…. Q During the 2014 audit of Accelera, did you inquire about who controlled the revenues earned by Behavioral? ... THE WITNESS: No. Q During the 2014 audit of Accelera, did Mr. Deutchman ever instruct you to inquire about whether Accelera had the power to hire or fire Behavioral employees? A No. Q During the 2014 audit of Accelera, did Mr. Wahl ever instruct you to inquire about whether Accelera had the power to hire or fire Behavioral's employees? … THE WITNESS: No. Q And during the 2014 audit of Accelera, did you, in fact, inquire about whether Accelera had the power to hire or fire Behavioral's employees? A No.").

[592] Tr. (Vol. VIII Shek) 2346:17-21 ("Q. So during the 2014 audit engagement for Accelera, did you have any discussions with others at Anton & Chia about whether or not Accelera controlled Behavioral? A. No.").

370. Deutchman understood that the SEC can give an opinion regarding the propriety of consolidation. In fact, Deutchman himself had contacted the SEC for technical questions "on numerous occasions." Nevertheless, neither Deutchman nor anyone else from Anton & Chia contacted the SEC to ask for an opinion regarding the accounting treatment of BHCA.[593] He never contacted any third-party or specialist regarding the issue of BHCA's consolidation into Accelera.[594]

Lie #370 Again the SEC is mischaracterizing and lying about the role and responsibilities of the auditor. Accelera's management is responsible to ensure the accounting policies for consolidation are in accordance with US GAAP. In order to contact the SEC or a third party specialist, management would be required to provide a memorandum that tied out all of the 7 agreements and four amendments which would be required to be provided to the SEC and the third party.

See Respondents **P.F.F# 653** to **P.F.F.#666**.

f. Anton & Chia's Audit Report

371. Anton & Chia opined that Accelera's financial statements, "present fairly, in all material respects, the consolidated financial position of Accelera Innovations, Inc. as of December 31, 2014 and 2013, and the consolidated results of their operations and their cash flows for each of the years then ended, in conformity with accounting principles generally accepted in the United States of America."[595]

372. Anton & Chia also represented that it had "conducted [its] audits in accordance

with the standards of the Public Company Accounting Oversight Board (United States)." [596]

373. The report also included what a going concern disclosure, disclosing "substantial doubt about the Compay's ability to continue as a going concern."[597] A going concern disclosure or warning in an audit opinion does not minimize the auditor's responsibility for conducting an audit that complies with the applicable auditing standards.[598]

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[593] Ex. 839.6 (Prior Testimony Designations) 488-89 (June 20, 2018 Deutchman Dep. at 52:7-54:2).

[594] Ex. 839.6 (Prior Testimony Designations) 490 (June 20, 2018 Deutchman Dep. at 60:10-14) ("More broadly than that, while you were at Anton & Chia, did you contact any third-party or specialist regarding the issue of the consolidation of Behavioral into Accelera's financial statements? A No.").

[595] Ex. 114 (Accelera 2014 Form 10-K) F-2; *see also* Ex. 840 (Stipulated Facts) ¶¶ 32-34.

[596] *Id.*

[597] Ex. 114 (Accelera 2014 Form 10-K) F-2.

[598] Tr. (Vol. IV Devor) 1210:17-1211:17 ("Q. Mr. Devor, in your expert opinion, does it – does a going concern disclosure or warning in an audit opinion minimize or absolve an auditor's responsibility for conducting an appropriate audit? A. Of course not. Q Does it have any bearing on the quality of an audit that an auditor is required to perform? A. No. Q. Why not? A. There's an opinion that was shown on that screen, I believe when Mr. Deutchman was up here, Anton & Chia's opinion. It was a statement that says we conducted the audit in accordance

374. Anton & Chia – through Wahl – signed this audit report.[599] Wahl and Deutchman anticipated that Accelera's Form 10-K would include Anton & Chia's opinion.[600]

Lie #374 Wahl never signed the report. The report is issued by Anton & Chia by electronic signature.

g. Anton & Chia's Audit Fees

375. For the 2014 audit of Accelera, Anton & Chia charged Accelera $95,148.[601]

4. 2015 Quarterly Reviews

376. As detailed below, Anton & Chia failed to conduct the 2015 quarterly reviews in accordance with PCAOB standards.[602]

Lie #376 This is a matter of opinion and is clearly circumstantial is not fact the statement is alleged by Devor who has never completed a review for a public company in accordance with PCAOB standards.

a. Staffing

377. On all three quarterly reviews in 2015, Yu-Ta Chen was staff, Tommy Shek was manager, Deutchman was EQR, and Wahl was the engagement partner.[603]

378. In 2015, when he worked on Accelera's 2015 reviews, Chen was working on "between 30 to 40" other audits and reviews.[604]

b. Planning

379. In the 2015 quarterly reviews, Anton & Chia left blanks when asked in the

Interim Review Program workpaper to identify "[s]ignificant financial accounting and reporting

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with PCAOB standards. So you're not absolved of performing an audit in accordance with Generally Accepted Auditing Standards, PCAOB standards, just because the company is struggling to make money. … By the way, if you were, why would you do the audit? Think about that. Common sense. Why – if it didn't matter what you did or the audit didn't matter, why would you go to the expense of hiring an auditor to do the audit if you didn't have to because there's a going concern statement?").

[599] Wahl Answer ¶ 66.

[600] Wahl Answer ¶ 111; Deutchman Answer ¶ 111.

[601] Ex. 284 (Apr. 15, 2015 Invoice for $60,000); Ex. 308 (All Transactions for Accelera Innovations, Inc.).

[602] Ex. 88.1 (Devor Report) ¶ 293.

[603] Ex. 839.6 (Prior Testimony Designations) 115 (July 2, 2019 Dep. at 288:23-289:10); Ex. 1.6 (Q1 2015 Planning Memo) 3; Ex. 1.11 (Q2 2015 Planning Memo) 3; Ex. 1.14 (Q3 2015 Planning Memo); Ex. 308 (All Transactions for Accelera Innovations, Inc.).

[604] Tr. (Vol. II Chen) 470:20-24.

matters that may be of continuing significance," denoting that the BHCA transaction was not of "continuing significance" during those reviews.[605]

Lie #379 The consolidation was fully dealt with in 2013. No relevance to 2015. See Respondents **P.F.F# 653** to **P.F.F.#666**.

380. Anton & Chia and Wahl should have identified the purported acquisition of BHCA by Accelera and the associated consolidation of the assets, liabilities, and results of BHCA's operations as "significant financial accounting and reporting matters that may be of continuing significance." The fact that Accelera never paid for any shares of BHCA, and thus never acquired any shares of BHCA, certainly had "continuing significance" to Accelera's financial statements.[606]

Lie #380 The SEC's consistently biased and inept CPA Devor having no practical experience in auditing public companies and his non-PCAOB exeperience provides no facts to support this statement and is pure opinion its maliciously unsupported opinion of this purported "expert".

381. By failing to identify the BHCA transaction as a significant financial accounting and reporting matter in any of the interim quarterly reviews, Anton & Chia and Wahl failed to properly plan its interim quarterly reviews of the financial statements of Accelera in accordance with PCAOB standards.[607]

Lie #381 Were these the PCAOB standards that the SEC fraudulently changed or the actual authoritative standards that would conclude that the BHCA consolidated in 2013 has no relevance to the 2015 reviews?

c. Red Flags Regarding BHCA Acquisition

382. In the second quarter of 2015, Anton & Chia noted that Accelera had not made any payments to BHCA. The fact that Accelera had not made any payments did not cause the engagement team to re-assess whether BHCA's financials should be consolidated.[608]

Lie #382 Section 1.1.1.1 of the original SPA (**Exhibit 1210**) was deleted. Accelera management did not provide any documentation of an event of default. Blaise Wolfrum provided no such documentation. The consolidation of BHCA was handled in the 2013 audit. See Respondents **P.F.F# 653** to **P.F.F.#666**.

383. Anton & Chia was aware of the fact that Accelera entered into a purchase agreement with Traditions on January 5, 2015, and that it did not consolidate that transaction.[609]

Lie #383 Well Accelera didn't consolidate General Motors shame on them.

[605] Ex. 1.9 (Interim Review Program workpaper for Q1 2015 review) 4(a)(iv); Ex. 1.12 (Interim Review Program workpaper for Q2 2015 review) 4(a)(iv); Ex. 1.15 (Interim Review Program workpaper for Q3 2015 review) 4(a)(iv).
[606] Ex. 88.1 (Devor Report) ¶ 297.
[607] Ex. 88.1 (Devor Report) ¶ 298 (citing AU 722).
[608] Tr. (Vol. II Chen) 582:17-584:4 (Q Did this issue – seeing this, in effect, that the seller had not made any payments to Behavioral cause the engagement team to re-assess whether Behavioral's financials should be consolidated with Accelera? …. THE WITNESS: I don't think that happens.BY HAYES: Q Okay. You don't think you re-assessed? A Yeah. Q You don't think it's part of the Q3 – Q2 review the engagement team went back and looked to determine whether it was appropriate to consolidate Behavioral's financials into Accelera? …. THE WITNESS: I don't think so."); Ex. 88.1 (Devor Report) ¶ 308.
[609] *See* Ex. 839.6 (Prior Testimony Designations) 491 (Deutchman June 20, 2018 Dep. at 62:3-9).

In addition, Anton & Chia was aware of the fact that Accelera entered into amendments extending the deadline for payment on those agreements (as it had with BHCA), because those extensions were in Anton & Chia's workpapers.[610]

384. By July 2015, Anton & Chia – including Wahl and Deutchman – was aware that Accelera was under an SEC investigation relating to its financial reporting, and specifically relating to the consolidation of BHCA.[611] However, Wahl specifically instructed Deutchman not to tell Anton & Chia's compliance consultant, Shane Garbutt.[612]

Lie #384 Wahl was minimizing collateral damage as if the SEC terrorists got a hold of another staff accountant or Shane they would have deposed them and put them in the December 4, 2017 press release and continue to threaten, bully them and their families.

d. Work Not Performed

385. "[T]he issue of Accelera's consolidation of Behavioral" did not come up with the engagement team during any of the 2015 quarterly reviews.[613]

Lie #385 The consolidation of Behavioral was handled in the 2013 audit and is not relevant for 2015. See Respondents **P.F.F# 653** to **P.F.F.#666**.

386. The workpapers for the 2015 quarterly reviews did not contain any workpapers analyzing the issue of whether BHCA should be consolidated into Accelera's financial statements.[614]

Lie #386 The consolidation of Behavioral was handled in the 2013 audit and is not relevant for 2015. See Respondents **P.F.F# 653** to **P.F.F.#666**.

387. The workpapers for the 2015 quarterly reviews did not include key documents related to the BHCA transaction. The Bill of Sale, Escrow Agreement, Operating Agreement, and Acquisition Memo were not among the workpapers for any of the three quarterly reviews.[615]

Lie #387 The consolidation of Behavioral was handled in the 2013 audit and is not relevant for 2015. See Respondents **P.F.F# 653** to **P.F.F.#666**.

[610] *See, e.g.*, Ex. 123 (May 7, 2015 Amendment to Purchase Agreement with Grace); Ex. 148 (June 30, 2015 amendment to Traditions purchase agreement workpaper).
[611] Ex. 840 (Stipulated Facts) ¶ 40.
[612] Ex. 260 (July 11, 2015 email from Wahl) ("You cant mention to anyone regarding SEC investigation. This includes Shane. He is not part of the engagement team. Don't mention it to employees either. You opened your mouth last time and created problems with bioadaptives, etc. You need to shut the fuck up when it comes to these matters. I don't want any email correspondence between us and the Company until I get next steps approved from our counsel.").
[613] Tr. (Vol. II Chen) 548:7-12; Tr. (Vol. VIII Shek) 2352:12-16, 2353:4-8, 2353:22-2354:1.
[614] Tr. (Vol. IV Devor) 1160:7-23, 1162:4-16 ("Q. And have you reviewed the work papers for all the engagements related to Accelera that are at issue in this case? A. Yes. Q. Other than this memo, is there anything in the work papers that analyzes whether Behavioral should be consolidated into Accelera? A. Not that I've seen.").
[615] Ex. 150 (Q1 2015 workpaper signoff index); Ex. 153 (Q2 2015 workpaper signoff index).

Although the first quarter workpapers included the SPA and the Employment Letter, Wahl did not sign off as having reviewed those documents.[616]

388. PCAOB standards prescribe that inquiries should be designed to address identified significant events and transactions. Specific inquiries "should be tailored to the engagement based on the accountant's knowledge of the entity's business"[617] Wahl failed to comply with PCAOB standards with respect to performing inquiries during the quarterly reviews in 2015.[618] He failed to tailor inquiries of Accelera management in light of information that was known by the engagement team, including red flags about Accelera's accounting treatment of BHCA.[619]

Lie #388 The consolidation of Behavioral was handled in the 2013 audit and is not relevant for 2015. See Respondents **P.F.F# 653** to **P.F.F.#666**. Devor read a few books and thinks he understands PCAOB standards but could never apply them in reality. This is just more of the same from Devor. Wolfrum never communicated to Wahl or Deutchman that BHCA should not be consolidated and there is no evidence that he ever did this.

389. There is no evidence in Anton & Chia's interim quarterly review workpapers indicating the engagement team properly reviewed Accelera's continued consolidation of BHCA.[620]

Lie #389 The consolidation of Behavioral was handled in the 2013 audit and is not relevant for 2015. There is no AICPA, PCAOB or US GAAS requirement to review this continued consolidation. See Respondents **P.F.F# 653** to **P.F.F.#666**.

390. "Deutchman, and/or Wahl should have inquired about (1) the multiple amendments to the Stock Purchase Agreement, (2) Accelera's plan, if any, to pay in order to comply with the amendments to Stock Purchase Agreement, (3) Accelera's defaults on the Stock Purchase Agreement as of May 31, 2014 and again as of October 1, 2015, and (4) the basis for Accelera consolidating BHCA's financial results."[621]

LIE #390 if there were any issues with any of these matters Accelera should have communicated these matters to Wahl and Deutchman. Accelera is responsible for the financial statements not Wahl or Deuctman. These are matters related to management in their operation of Accelera not an auditor's responsibility. See Respondents **P.F.F# 653** to **P.F.F.#666.**

391. Neither Wahl nor Deutchman ever instructed the Shek, during the 2015 quarterly reviews, to inquire into whether Accelera controlled BHCA, who controlled the revenues earned

[616] Ex. 150 (Q1 2015 workpaper signoff index) 0415.201, 0440.301.
[617] Ex. 88.1 (Devor Report) ¶ 299 (citing AU 722.15).
[618] *Id.* ¶ 299.
[619] *Id.* ¶¶ 299-300.
[620] *Id.* ¶ 301 ("In reviewing Anton & Chia's interim quarterly review workpapers, I have seen no indication that the engagement team sufficiently reviewed Accelera's continued consolidation of BHCA.").

by BCHA, who had the power to hire or fire BHCA employees, or whether or not Accelera owned BHCA; and Shek never in fact performed those inquiries.[622]

LIE #391 The consolidation of Behavioral was handled in the 2013 audit and is not relevant for 2015. See Respondents **P.F.F# 653** to **P.F.F.#666.**

392. As with the quarterly reviews in 2014, Anton & Chia's interim quarterly review workpapers included an *Interim Review Inquiries Checklist.* This checklist consisted of a standardized template of questions, with "Yes / No" checkmark responses. These checklists did not include any questions relating to the purported acquisition of BHCA.[623]

LIE #392 The consolidation of Behavioral was handled in the 2013 audit and is not relevant for 2015. See Respondents **P.F.F# 653** to **P.F.F.#666.**

393. In the respective Interim Review Inquiries Checklist for each of the quarters in 2015, Anton & Chia failed to identify the specific person at Accelera who received and purportedly responded to Anton & Chia's purported inquiries.[624] Without identifying to whom these inquiries were made, there is no written record to confirm whether inquiries were made of the appropriate person or whether inquiries took place at all.[625]

LIE #392 The Division didn't tell us who changed US GAAP and GAAS standards in their briefs, proposed facts, the OIP and at trial. See Respondents **P.F.F# 653** to **P.F.F.#666.**

394. Each of the *Interim Review Inquiries Checklists* included the following question:

> Have there been any unusual or complex situations or significant unusual transactions that may have an effect on the financial statements (for example, business combinations, disposal of a segment, restructuring plans or charges, litigation, or other significant unusual transactions occurring in the last several days of the interim period)?

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[622] Tr. (Vol. VIII Shek) 2354:2-2355:19 ("Q Now I'm going to ask you some of the same questions that I asked you before, but earlier I was referring to the 2015 audit engagement. So now I'm going to ask similar questions with respect to the 2015 quarterly reviews. So during the 2015 quarterly reviews, did either Deutchman or Wahl ever instruct you to ask Accelera whether or not it controlled Behavioral? A No. Q And during the 2015 quarterly reviews, did you, in fact, ask Accelera whether or not it controlled Behavioral? A No. Q During the 2015 quarterly reviews of Accelera, did either Deutchman or Wahl instruct you to inquire about who controlled the revenues earned by Behavioral? A No. Q And during the 2015 quarterly reviews, did you, in fact, inquire about who controlled the revenues of Behavioral? A No. Q During the 2015 quarterly reviews of Accelera, did either Deutchman or Wahl instruct you to inquire about whether Accelera had the power to hire or fire Behavioral's employees? A No. Q And did you, in fact, during any of the 2015 quarterly reviews inquire about whether or not Accelera had the power to hire or fire Behavioral's employees? A No. Q During the 2015 quarterly reviews did either Deutchman or Wahl ever ask you to ask Wolfrum whether or not Accelera owned Behavioral? A No. Q And did you, in fact, during any of the 2015 quarterly reviews ask Wolfrum whether or not Accelera owned Behavioral? A No.").

[623] Ex. 1.10 (Interim Review Inquiries Checklist workpaper for Q1 2015); Ex. 1.13 (Interim Review Inquiries Checklist workpaper for Q2 2015); Ex. 1 (Accelera workpapers) Q1, Q2, Q3 2015 review – WP REF 3001.

[624] *Id.*

[625] Ex. 88.1 (Devor Report) ¶ 305.

In each checklist, Anton & Chia erroneously responded "No."[626]

LIE #395 The consolidation of Behavioral was handled in the 2013 audit and is not relevant for 2015. See Respondents **P.F.F# 653** to **P.F.F.#666.**

395. The purported acquisition of BHCA was not only "significant" to Accelera's financial statements, but was a business combination, one of the scenarios outlined in the checklist.[627] The engagement team should have identified the purported acquisition of BHCA and adjusted its inquiries and review procedures accordingly, but there is no evidence in the workpapers that they did not do so.[628]

LIE #395 The consolidation of Behavioral was handled in the 2013 audit and is not relevant for 2015. See Respondents **P.F.F# 653** to **P.F.F.#666.**

e. Anton & Chia's Fees

396. For the 2015 quarterly reviews, Anton & Chia charged Accelera at least $22,500.[629]

5. Summary

397. Anton & Chia violated PCAOB standards during its 2013 and 2014 audits as well as its quarterly reviews performed for the quarters from March 31, 2013 through September 30, 2015."[630]

LIE #397 The BHCA transaction was handled as part of the 2013 audit. **Exhibit 1257** was effective May 30, 2014 and kicked out all payments

under the SPA until 2015 and 1.1.1.1 of the original SPA **Exhibit 1210** was terminated. The $4.5MM liability was recorded as a long term liability. The Division decided to intentionally change and / or misquote **AU 722.12**, **AU 722.13**, **AU 722.51** and **.52** in **Lie #76**; **Lie #77**; and **Lie #81**. See Respondents **P.F.F# 653** to **P.F.F.#666.**

398. Wahl and Deutchman repeatedly failed to follow PCAOB standards during this period.[631] Specifically, they failed to:

LIE #398 This is simply a laundry list of allegations which the Division has no evidence to support these allegations.

- exercise an appropriate level of due professional care and professional skepticism;
- appropriately consider and/or address known red flags;

[626] Ex. 1.10 (Interim Review Inquiries Checklist workpaper for Q1 2015) #2; Ex. 1.13 (Interim Review Inquiries Checklist workpaper for Q2 2015) #2; Ex. 1.16 (Interim Review Inquiries Checklist workpaper for Q3 2015) #2. [627] *Id.*; Ex. 88.1 (Devor Report) ¶ 307.
[628] Ex. 88.1 (Devor Report) ¶ 307.
[629] Ex. 288 (May 19, 2015 invoice for $7,500); Ex. 290 (July 7, 2015 invoice for $7,500); Ex. 293 (Sept. 15, 2015 invoice for $7,500).

[630] Ex. 88.1 (Devor Report) ¶ 312.

- failed to properly plan their audits, including their failure to assess and consider deficiencies in Accelera's control environment;
- staff the audit with persons having adequate training and proficiency as an auditor;
- adequately supervise the audit staff;
- adequately consider audit evidence obtained and audit results;
- sufficiently document relevant information obtained; and
- adequately perform engagement review procedures.[632]

PREMIER

A. Premier-Related Entities

399. **Premier Holding Corporation** is a Nevada corporation with its principal place of business in Tustin, California. At all relevant times, Premier was a provider of a large array of energy services through its subsidiary companies. Premier's common stock is and was at all relevant times registered with the Commission pursuant to Section 12(g) of the Exchange Act and quoted on the OTC Link, under ticker PRHL. Premier files periodic reports, including Forms 10-K and 10-Q, with the Commission pursuant to Section 13(a) of the Exchange Act and related rules thereunder. Premier's fiscal year ends on December 31st. Throughout the relevant period, Premier raised funds through private sales of stock.[633] (Premier is sometimes referred to hereafter in this Section as the "Company.")

[632] Ex. 88.1 (Devor Report) ¶ 314.
[633] Ex. 840 (Parties' Second Agreed Stipulations of Fact) ¶ 26.

400. Anton & Chia audited Premier's 2012, 2013, and 2014 financial statements, among others.[634] Wahl was the engagement partner on Anton & Chia's audit of Premier's FY 2013 financial statements.[635]

401. Anton & Chia received a total of $31,246 for its audit of Premier's FY 2013 financial statements.[636]

402. **WePower Ecolutions, Inc.** was a wholly-owned subsidiary of Premier formed in November 2011 for the purpose of "offer[ing] renewable energy production and energy efficiency products and services." In January 2013, Premier effectively sold the business, including the name. On February 26, 2013, WePower Ecolutions' name was changed to Energy Efficiency Experts,[637] which was sometimes referred to as E^3.[638]

403. **WePower Eco Corp. ("New Eco")**, a Delaware corporation located in Aliso Viejo, California, effectively acquired WePower Ecolutions in January 2013.[639]

404. **The Power Company USA, LLC ("TPC")** was a privately-owned deregulated power broker that brokered power to both residential and commercial users in the twelve states that allowed the distribution of deregulated power. At all relevant times, since February 28, 2013, TPC has been 80% owned by Premier.[640]

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[634] Exs. 401, 402, 1119, 1120 (Premier 2012, 2013, 2014 and 2015 Forms 10-K) F-1 (Anton & Chia Reports of Independent Registered Public Accounting Firm).
[635] Ex. 840 ¶ 42
[636] Ex. 482 (Jan. 8, 2014 invoice to Premier showing total fees of $31,200 for audit of 12/31/2013 financial statements); Ex. 826 (Apr. 1, 2014 invoice to Premier showing $46.00 due for domestic confirmations).
[637] *Id.* ¶ 27; Ex 401 (Premier 2012 Form 10-K) 46 ("On February 26, 2013, WePower Ecolutions, Inc. changed its name to Energy Efficiency Experts Inc.").
[638] Ex. 411 (Premier Form 8-K filed on Dec. 27, 2012 attaching open letter to shareholders) 3 of the shareholder letter ("As the new CEO, we will change WEPOWER to Energy Efficiency Experts (E^3).').
[639] Ex. 840 ¶ 28.
[640] Ex. 840 ¶ 29. After the relevant period, Premier acquired the remaining 20% interest in TPC and subsequently agreed to sell TPC in exchange for shares of AOTS 42, Inc., a private company. *See* Ex. 1125 (Mar. 23, 2018 Membership Interest Exchange and Contribution Agreement in whicb Premier, then the sole member of TPC, agreed

to sell TPC and another subsidiary to AOTS). Premier announced the consummation of the share exchange agreement in a press release issued on April 1, 2019.

B. The Note Transaction

1. Premier's Acquisition of Green Energy Assets

405. In 2011, Premier's primary line of business was selling discount caskets to Native Americans and low income groups.[641] Premier recorded revenues of only $10,000 in 2011 and no revenues in 2010.[642]

406. At the end of 2011 and beginning of 2012, Premier embarked upon a new line of business, exiting the casket business and entering the green energy business.[643] As the Company disclosed in a Form 8-K filed on January 5, 2012:

> On December 31, 2011, Premier Holding Corp. ("Premier" or the "Company") completed the Asset Purchase Agreements with WePower, LLC, a Delaware limited liability company, and Green Central Holdings, Inc., a Nevada corporation. . . .
>
> . . . The Company entered agreements to acquire assets from WePower, LLC and Green Central Holdings, Inc. in order to start a second line of business. The business will offer products and services to commercial buildings to help the buildings reduce their energy consumption. Premier has formed PRHL Subsidiary A, Inc. to focus in this area.[644]

[641] Ex. 400 (Premier 2011 Form 10-K) 3 ("Since [September 2008], the company developed a plan of operations to exploit an opportunity it had with Ace Casket Company to order caskets for below the normal wholesale cost of $685 per unit. The caskets were marketed to Indian reservations and to low income groups at a discounted retail price of $750 per unit."); Premier 2010 Form 10-K/A 6 ("We have not yet begun to purchase or market or sell caskets. The Company intends to begin the purchase of caskets and initiate marketing efforts once the company is able to seek a quotation of its securities on a quotation medium such as the over-the-counter bulletin board."). The Court may take judicial notice of this document, which is publicly available at https://www.sec.gov/Archives/edgar/data/1030916/000108671511000069/f10k4.htm.

[642] *Id.* at 8 ("Revenue for the year ended December 31, 2011 included the sale of $10,000 worth of caskets, . . . No revenue was recorded for the year ended December 31, 2010.") and 18.

[643] Ex. 401 (Premier 2012 Form 10-K) 5 ("In 2012, Premier discontinued the casket line of business, and began offering clean energy products and services.").

[644] Ex. 407 (Premier Form 8-K filed on Jan. 5, 2012) Item 2.01. *See also* Ex. 400 (Premier 2011 Form 10-K) 9 ("At year end, the Company formed a wholly-owned subsidiary, WePower Ecolutions Inc., and acquired assets from WePower, LLC and Green Central Holdings, Inc. WePower, LLC will offer clean energy products and services to commercial markets and developers and management companies of large scale residential developments.").

407. Premier acquired the green energy in exchange for Premier stock.[645] Specifically, Premier acquired assets such as sales leads, marketing materials, intellectual property, and distribution and joint venture agreements.[646] In exchange, WePower, LLC and Green Central collectively received approximately 30.5 million shares of Premier common stock.[647]

408. As of December 31, 2011, as a result of the exchange of assets for stock, WePower LLC and Green Central owned almost 70% of Premier's outstanding common stock.[648]

409. At the time of the acquisitions, WePower LLC was controlled by Marvin Winkler and Green Central was controlled by Randall Letcavage.[649]

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[645] Ex. 401 (Premier 2012 Form 10-K) 12 ("On December 29, 2011, Premier issued 16,497,695 shares of common stock to WEPOWER, LLC, a related party, valued at $1,649,770 based on the market price of Premier's stock, to acquire the assets, of We Power, LLC. On December 29, 2011, Premier issued 14,053,595 shares of common stock to Green Central Holdings, Inc., a related party, valued at $1,405,359 based on the market price of Premier's stock, to acquire the assets of We Power LLC.").

[646] Ex. 407 Item 2.01 ("The assets acquired in these transactions consists of phone list, marketing database, marketing materials, various trademarks and patent applications, sales leads, distribution agreements, and joint venture agreements relating to green energy products and services."); Tr. (Vol. 5 Winkler) 1294:18-24 ("Q . . . . And so what was – what were you selling to Premier Holding, to your recollection? A Different assets of WePower. Q And what kind of assets? A IP inventory, customer lists, you know, patents.").

[647] Ex. 401 (Premier 2012 Form 10-K) 12 ("On December 29, 2011, Premier issued 16,497,695 shares of common stock to WEPOWER, LLC, a related party, valued at $1,649,770 based on the market price of Premier's stock, to acquire the assets, of We Power, LLC. On December 29, 2011, Premier issued 14,053,595 shares of common stock to Green Central Holdings, Inc., a related party, valued at $1,405,359 based on the market price of Premier's stock, to acquire the assets of We Power LLC."); Tr. (Vol. V. Winkler) 1298:19-1299:2 ("Do you recall there being a stock split where you – your 3 million shares, 3 million-some-odd shares became 16 million? A I believe so. Q Okay. So if we see in exhibits – or witness testimony referring to WePower getting 16-million-and-some-odd shares as part of its sale of assets to Premier, you think that's right? A I do.").

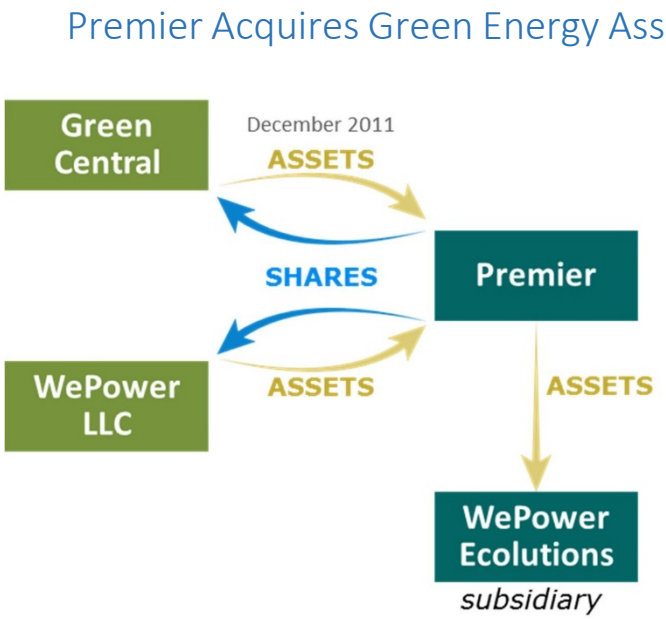
[648] Ex. 400 (Premier 2011 Form 10-K) 14 (table of shareholdings by beneficial owners of more than 5% of outstanding common shares).

[649] Tr. (Vol. XXIII Letcavage) 5764:4-5764:10 ("Q And Green Central had been your company – A Yes." "Q And WePower had been Marv Winkler's company? A Yes.") Tr. (Vol. V Winkler) 1290:25-1291:2 ("Q And you mentioned

you started [WePower LLC]. What was your title? A I was chairman and CEO." *See also* Ex. 433 (Asset Purchase Agreement between Premier and WePower LLC signed by Winkler as Managing Member of WePower LLC.).

410. Premier contributed the newly-acquired assets to a newly-formed subsidiary, which was later named WePower Ecolutions Inc., through which it planned to operate the green energy business.[650]

411. The following diagram illustrates the basics of the transaction:[651]



412. Premier also changed its management shortly after purchasing the green energy assets. On February 22, 2012, the Company appointed Kevin Donovan as a director of Premier, and as CEO of WePower Ecolutions.[652] (Winkler, who had worked with Donovan before,[653] recommended that Premier hire Donovan.[654]) Two days later, two other directors of Premier

[650] Ex. 407 (Premier Form 8-K filed on Jan. 4, 2012) Item 1.01 ("These assets [acquired from WePower LLC], along with assets acquired form [sic] Green Central . . . will be contributed to PRHL Subsidiary A, Inc."); Ex. 400 (Premier 2011 Form 10-K) 3 ("At year end, the Company formed a wholly-owned subsidiary, WePower Ecolutions Inc., and acquired assets from WePower, LLC and Green Central."); *id.* at 9 (same).
[651] Ex. 88.1 (Devor Report) ¶ 331, Figure 5.
[652] Ex. 401 (Premier 2011 Form 10-K) 5 ("Premier appointed Kevin Donovan to lead the effort to establish the energy services business as Chief Executive Officer of Ecolutions on February 22, 2012."); Ex. 839.5 (Donovan Inv. Test. Designations) at 33:8-18.); Tr. (Vol. V Winkler) 1301:6-19.

[653] Tr. (Vol. V Winkler) 1301:9-11 ("Q How do you know Donovan? A I worked with Kevin years before that in other companies.").
[654] Tr. (Vol. V Winkler) 1301:17-19 ("Q Okay. And how did he get that job at Premier, if you know? A I recommended Kevin to the company.").

resigned, making Donovan the sole director.[655] On April 12, 2012, the day Premier filed its 2011 Form 10-K, [656] Donovan became the CEO of Premier.[657]

2. Doty Scott's Valuation of the Green Energy Assets

413. "GAAP **requires** that identifiable assets acquired in a business combination be recognized at their fair value."[658]

LIE #413a. See **Lie #18** which demonstrates this is not what GAAP says. US GAAP says "**shall**" not "requires".

Here is **ASC 805-20-30-1** in its native format: **"**The acquirer **shall** measure the identifiable assets acquired, the liabilities assumed, and any noncontrolling interest in the acquiree at their acquisition-date fair value."

"Because small companies such as Premier usually do not have the expertise to perform the valuation of hard-to-value and/or illiquid assets, they typically hire independent experts . . . to determine the fair value of such assets."[659]

LIE #413b. This is not a fact. This is simply an opinion. How would Devor, a discredited CPA be able to determine what small public companies actually do when he has never audited a public company in accordance with PCAOB standards in his life?

"One additional benefit that a company receives from using independent, qualified firms to determine the values of hard- to-value assets is that auditors typically regard such valuations as more reliable forms of audit evidence than a valuation determined by the company itself."[660]

LIE #413c. Footnote 660 references **Auditing Standard 15.** This is pure opinion**. Auditing Standard 15** doesn't say any of this.

414. Sometime in early 2012, Premier engaged a valuation firm, Doty Scott Enterprises, Inc., to perform a purchase price allocation for the transactions with WePower LLC and Green Central.[661] (Doty Scott is sometimes referred to hereafter as the "firm.") As part of that engagement, Doty Scott valued the assets Premier acquired as of December 29, 2911.[662]

415. Doty Scott provides independent professional valuation services, including valuations of public and private businesses and related securities, derivative financial

[655] Ex. 400 (Premier 2011 Form 10-K) 27 ("On February 24, 2012, two of the Company's directors, Jack Gregory and Jasmine Gregory, submitted their resignations as directors of the Company. As such, Donovan is the sole director of the Company.").
[656] Ex, 400 (2011 Form 10-K) Attestation ("Attached is a copy of Premier Form 10-K, annual report, for the fiscal year ended December 31, 2011, received in this Commission on April 11, 2012, . . .").
[657] Ex. 401 (Premier 2012 Form 10-K) 5 ("Donovan was also appointed as director and CEO of Premier on April 11, 2012."); Ex. 408 (Premier Form 8-K filed on April 12, 2012) Item 5.0 announcing the departures of Jack Gregory as Premier's CEO and Jasmine Gregory as CFO and the appointment of Kevin Donovan as Premier's CEO.").
[658] S*ee generally* Paragraph 18 above.
[659] Ex. 88.1 (Devor Report) ¶ 350.
[660] *Id*. (citing AS 15).
[661] Tr. (Vol. V Scott) 1362:25-1363:2 ("We did purchase price allocations for two transactions they [Premier] completed in the fourth quarter of 2011."). *See also* Ex. 440 (Doty Scott Assets Valuation and Purchase Price Allocation Report).
[662] Ex. 440, first page defining valuation date.

instruments, and tangible and intangible assets at the request of auditors, attorneys, executive management, business development companies, investment bankers and hedge funds. The valuations are required in many contexts including financial reporting, merger and acquisition transactions, and investment analysis.[663] On several occasions, Doty Scott has been hired by an audit firm that lacks the necessary expertise to review the work of another independent valuation expert.[664] The firm is headed by Phil Scott, president[665] and Al Haddad, managing director.[666]

416. Scott is a chartered financial analyst with more than twenty-five years of valuation, corporate advisory, merger and acquisition and restructuring experience.[667] He has a B.S. from California Institute of Technology and an MBA from the University of San Diego.[668] He is a member of CFA Institute and the National Association of Certified Valuation Analysts. Scott performs and supervises Doty Scott's valuation and other analytical work and he reviews and signs all of Doty Scott's reports.[669]

417. Haddad has more than seventeen years of experience with financial technology services[670] and joined in Doty Scott in 2006.[671] Haddad has degrees in electrical engineering

[663] Ex. 472 at Bates numbered page 76.
[664] Tr. (Vol. V Scott) 1357:2-5 ("Q Okay. And have you ever, Doty Scott, been hired as an expert to – on behalf of an auditing firm to review another valuation firm's work? A Yes. We've done that several times.").
[665] Tr. (Vol. V Scott) 1345:17-18 ("What is your title at Doty Scott? A I'm technically the president.").
[666] Tr. (Vol. VII Haddad) 1991:1-2("Q And what's your title at Doty Scott? A Managing director.").
[667] Ex. 472 at 77 (Bates); Tr. (Vol. V Scott) 1342:25-1343:3, 1344:2-6.
[668] Ex. 472 at 77 (Bates).
[669] Tr. (Vol. V Scott) 1345:19-24 ("Q And what is your role? A I operate the valuation work. I sign all of the reports. I review all of the reports. Q Do you also prepare reports? A Yes. Reports. And I do the analysis, financial analysis.").
[670] Tr. (Vol. VII Haddad) 1990:4-9 ("Q And what did you do after '99? A I went – I came to California to run a small technology company and spent three years there running that company, eventually sold it. And then I went on to a couple financial services technology companies until 2006.").
[671] Tr. (Vol. VII Haddad) 1990:10-14 ("Q What happened in 2006? A I – – I joined Phil's company").

systems, systems engineering, and computer science from the University of Massachusetts.[672] Haddad does most of Doty Scott's financial modeling and analytics.[673]

418. As part of this engagement, Doty Scott sent Premier a series of draft reports, each approximately forty pages long.[674] Like the final report Doty Scott issued on April 24, 2012, the draft reports contained detailed explanations of the assumptions and methodology Doty Scott used to determine the fair value of the acquired assets.[675]

419. Doty Scott valued the assets WePower Ecolutions acquired from WePower LLC and Green Central at $48,874.[676] According to Doty Scott's report, the technology and trade name and trademarks were worth $31,000; the inventory acquired was valued at cost, of roughly $17,000.[677]

3. Premier's Accounting for the Green Energy Assets

420. In its 2011 Form 10-K, Premier attributed no value to the green energy assets it had just acquired. The Company stated that the acquisitions from WePower LLC and Green Central were related-party transactions and explained that because they were related-party transactions and because the inventory acquired had been found to be impaired, at December 31, 2011, the Company valued the assets acquired at zero.[678]

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[672] Tr. (Vol. VII Haddad) 1989:13-16 ("I went to school at the University of Massachusetts, graduated in 1979. I have a degree in electrical engineering, systems engineering and computer science.").
[673] Tr. (Vol. VII Haddad) 1991:5-8 ("I do most of the valuation modeling and analytics relative to derivatives to valuing securities, valuing enterprises, purchase price allocations.").
[674] Exs. 437, 439.
[675] Exs. 437, 439, 440 (draft and final reports).
[676] Ex. 440 at 2.
[677] *Id.*
[678] Ex. 400 (Premier 2011 Form 10-K) 27: "No pro forma reporting was prepared for this acquisition as the underlying assets acquired to not have any past revenues associated with their operations. As the assets acquired

were from a related party, and no value was assigned to the identified assets noted above, the assets were brought into the Company at their cost of $0, with the total value of stock issued recorded in expense." *See also* Note 9 description of acquisition of WePower LLC (same except also discussing impairment of inventory).

4. The Swap of the Green Energy Assets for the Note

421. WePower Ecolutions was unsuccessful in operating the green energy assets in 2012,[679] generating a loss of $756,912.[680]

422. In October of 2012, Premier announced that it intended to spin off WePower Ecolutions.[681] The Company also announced another change of management, disclosing that Kevin Donovan was ending his role as an officer and director of Premier and Randall Letcavage had been appointed Premier's CEO, President, Treasurer, Principal Executive Officer, and Principal Accounting Officer.[682] Letcavage, Winkler, and one other individual also became directors.[683]

423. One month later, Premier announced an agreement in principle to transfer certain green energy assets from WePower Ecolutions to a newly-formed entity controlled by Donovan, WePower Eco Corp (hereafter referred to as "New Eco") in exchange for a promissory note with a face amount of $5,000,000.[684]

424. There are three unaffiliated "WePower" entities: (1) WePower LLC, the company owned by Winkler that sold green energy assets to Premier, (2) WePower Ecolutions, the Premier subsidiary that operated those green energy assets and the green energy assets obtained

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[679] Tr. (Vol. V Winkler) 1313:22-23 ("Q Was Donovan ultimately successful? A No."); *see also* Tr. (Vol. V Winkler) 1308:13-23.
[680] Ex. 401 (Premier 2012 Form 10-K) 14, 46 (disclosing loss from discontinued operations of $756,912).
[681] Ex. 409 (Premier Form 8-K filed on Oct. 5, 2012) Item 5.07 ("As a result, the Company intends to spin-off WePOWER Ecolutions, Inc., a wholly owned subsidiary incorporated in Delaware, to the Company's stockholders.").
[682] Ex. 409 (Premier Form 8-K filed on Oct. 5, 2012) Item 5.02; Ex. 411 (Premier Form 8-K filed on Dec. 27, 2012 with attached open letter to shareholders) 2 of the shareholder letter.
[683] Ex. 409 (Premier Form 8-K filed on Oct. 5, 2012) Item 5.02.
[684] Ex. 410 (Premier Form 8-K filed on Nov. 29, 2012), Item 8.01 ("PRHL has reached an agreement in principle to sell certain assets to WePOWER Eco Corp., a newly formed entity, controlled by Kevin B. Donovan, PRHL's former CEO for a $5,000,000 promissory note."); Ex. 411 (Premier Form 8-K filed on Dec. 27, 2012 attaching open letter to shareholders) 3 of the shareholder letter ("These opportunities [to be transferred from WePower Ecolutions to New Eco] are expected to be exchanged for a note in the amount of $5,000,000, which will become an asset of Premier.').

from Green Central, and later sold green energy assets to the third WePower entity, and (3) New Eco (WePower Eco Corp.), the entity controlled by Donovan, which issued the Note in exchange for the assets obtained from WePower Ecolutions.[685] New Eco is also sometimes referred to in these findings as the borrower or the buyer.

425. As a result of this agreement in principle, Premier classified its WePower Ecolutions subsidiary as "discontinued operations"[686] and in its 2012 financial statements recognized a "loss from discontinued operations" of $756,912, the amount of WePower Ecolutions' net operating loss for 2012.[687]

426. Effective January 7, 2013, Premier (through WePower Ecolutions) entered into an asset purchase agreement with New Eco.[688] Under that agreement, WePower Ecolutions sold New Eco "certain assets related [to] solar energy, wind power projects, energy efficiency projects in real estate, and fuel efficiency for diesel and gasoline engines."[689] Among those assets were three patents, six trademarks, and twenty-eight contracts.[690] WePower Ecolutions also granted New Eco "certain exclusive business opportunities, fifteen exclusive opportunities and nineteen exclusive for six months."[691] In addition, WePower Ecolutions agreed to immediately cease using the WePower name or any derivation thereof and to change its name within ten days.[692]

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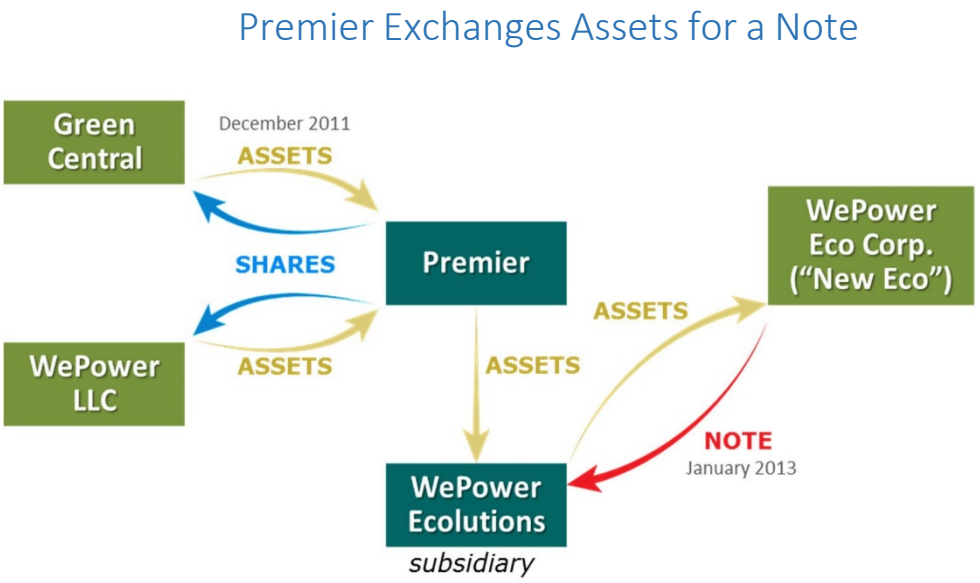
[685] *See* Paragraphs 410-11, 423.
[686] Ex. 401 (Premier 2012 Form 10-K) 46 "(In year 2012, WEPOWER Ecolutions Inc. is classified as held for sale . . . and therefore, the result of its operations is reported in discontinued operations . . . .The Transactions contemplated by the Purchase Agreement were deemed to be effective as of January 7, 2013 (see Note 10).").
[687] *Id.*; *see also id.* at 28 (reporting loss from discontinued operations of $756,912).
[688] Ex. 442 (Asset Purchase Agreement effective Jan. 7, 2013 between WePower Ecolutions and New Eco).
[689] Ex. 401 (Premier 2012 Form 10-K) 46; Ex. 402 (Premier 2013 Form 10-K) F-14.
[690] *Id.*
[691] *Id.*
[692] Ex. 442 (Asset Purchase Agreement effective Jan. 7, 2013 between WePower Ecolutions and New Eco) Paragraph 6(h). *See also* Ex. 412 (same filed on Form 8-K).

427. A number of the assets transferred from WePower Ecolutions to New Eco were originally purchased from WePower LLC) in December of 2011 (*e.g.*, trademarks, patents, and certain contracts).[693] The assets transferred to New Eco also contributed to the $756,912 loss from discontinued operations that Premier recognized for 2012.[694]

428. In exchange for the assets, WePower Ecolutions received from New Eco a promissory note in the principle amount of $5,000,000 and assumed roughly $100,000 in liabilities.[695]

429. The following diagram illustrates the transactions and relationships between the three unaffiliated "WePower" entities:[696]



[693] Ex. 402 (Premier 2013 Form 10-K) F-14, Note on Discontinued Operations ("The Company acquired assets from WEPOWEWR LLC during 2011. . . In 2012, WEPOWER Ecolutions was classified as held for sale . . . On January 7, 2013, Premier Holding Corporation . . . completed the sale of assets under an Asset Purchase Agreement with WEPOWR Eco Corp. . . ") 46; *compare* Schedule 1 to Ex. 433 (Asset Purchase Agreement made on Dec. 29, 2011 between Premier and WePower, LLC) *with* Schedule 2(a) to Ex. 442 (Asset Purchase Agreement effective January 7, 2013 between WePower Ecolutions and New Eco).

[694] [694] Ex. 401 (Premier 2012 Form 10-K) 46, Note on Discontinued Operations ("Premier acquired assets from WEPOWER, LLC at year [end] 201. . . . Loss from discontinued operations (756,912)."

[695] Ex. 401 (Premier 2012 Form 10-K) 46; Ex. 402 (Premier 2013 Form 10-K) F-14; Ex. 442 (Asset Purchase Agreement effective Jan. 7, 2013 between WePower Ecolutions and New Eco) ¶ 2(b)).

[696] Ex. 88.1 (Devor Report) ¶ 345, Figure 6.

430. The Note was unsecured,[697] and its terms were very generous to New Eco.[698]

Under the terms of the Note, the interest rate was 2.00% per annum.[699] Interest on the principal balance was to be paid semi-annually but New Eco was not required to pay any interest for eleven months.[700] Thus, New Eco's first required payment was its initial semi-annual interest payment, of $50,000, which was due on December 7, 2013.[701] New Eco would be in default fifteen days after failing to make a required payment.[702] New Eco was not required to pay any principal for five years,[703] and had fifteen additional years to pay the principal an all accrued and unpaid interest.[704] Thus, the unpaid portion of the principal, as well as all accrued and unpaid interest, was due on January 7, 2033 – that is, twenty years after the Note was executed.[705]

431. There was little or no reason to think that New Eco would be able to pay the Note.

New Eco was a newly formed company,[706] so it had no financial track record. Moreover, the assets acquired by New Eco generated losses of $756,912 for Premier totaling in 2012.[707]

Lie #431 Exhibit 401 page 46 and **Exhibit 402 at F-14** do not say "There was little or no reason to think New Eco would be able to pay the Note" and "so it had no financial track record."

Winkler testimony establishes that his technology had a track record of generating revenue. **TR 1340 Lines 6-9**

A Well, they had a few million in sales. And I don't know the exact years, but the first years it did quite well. And the second, I think, we did a couple million dollars in sales.

432. Also, Donovan, who had led WePower Ecolutions to those losses in 2012, was slated to lead New Eco.[708] According to Letcavage, Donovan was so unsuccessful in running WePower Ecolutions, that he (Letcavage) had to get rid of him:

> A So the two entities that moved their assets into Premier were generating revenue previously. When Donovan took over, he had generated nothing for about eight or nine

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[697] Ex. 412 (Premier Form 8-K announcing entry into Asset Purchase Agreement effective Jan. 7, 2013 between WePower Ecolutions and New Eco) Ex. 10.3 thereto (promissory note) ¶ 2; also promissory note, part of Ex. 442 (Asset Purchase Agreement) ¶ 2.
[698] Tr. (Vol. V Scott) 1448:23-1449:2 ("Q Okay. Going back to that second bullet, you mentioned that the terms were very generous. A Generous to New Eco. Q Okay. The borrower? A Correct.").
[699] *Id.* ¶ 1(a).
[700] *Id.* ¶ 1(a).
[701] *Id.* ¶ 1(a).
[702] *Id*. ¶ 4(a).
[703] *Id*. ¶ 1(b).
[704] *Id.* ¶ 1(c)
[705] *Id.* ¶ 1(c).
[706] Ex. 401 (Premier 2012 Form 10-K) at 46; Ex. 402 (Premier 2013 Form 10-K) at F-14.
[707] *Id.*
[708] *Id*.

month, maybe longer. And my investors that were now shareholders in Premier, previously in Green Central, they were upset about it, because he wasn't performing. And I think he only had one sale during that time, which was a sale that we referred to him. It was a small sale for wind turbines, 50,000, somewhere along those lines.[709]

. . . .

Q So basically in order for you to create value for shareholders at that point in time, you had no choice but to dispose of the – of the –

A I had to get Donovan out by almost any means necessary, and I had to get a company in there that was operating and had some potential.[710]

433. Donovan himself thought there was a "big chance" that New Eco would default on the Note at some point.[711]

434. By February 23, 2013, Letcavage was hoping to sell the Note to Winkler in exchange for 5,000,000 shares of Premier stock.[712] As discussed below, that sale did not occur until more than a year later and it was for only 2,500,000 shares.

Lie #434. The Division provides no support for the last sentence and this is factually incorrect.

As Mr. Letcavage states that "the Compromise was to clean up all the liabilities and was a global agreement."(**TR 5702 Lines 16-19**) This was confirmed with Mr. Letcavage before we completed the Form 10-K (**TR 5694 Lines 10-14**).

The additional shares that were issued were confirmed by the Compromise agreement which was effectively signed as of March 4, 2014 and disclosed in the notes for the 10-K. The 2,500,000 shares was additional consideration for the Note (**Exhibit 454 Page 6 Exhibit B, Point 2**). The initial 5,000,000 was already confirmed based on **Exhibit 1116** and **Exhibit 1100**. The shares paid to The Power Company were settled and provided on February 28, 2013 (**See Exhibit 1116 page Section 2.2 a**), not on March 4, 2014.

Exhibit 46 Page 106 Lines 14-25:

we looked at the looked at the valuation report and ***got comfortable with the 869***. But ***what I did is I took the consideration that they received, which is the 7.5 million shares, and looked at what the stock price was on the date that they settled, which was about 13 cents. And we looked at that consideration being greater than the 869. We felt comfortable with that valuation of the 869 on the books. So that was kind of like an analytic that we did, to overall get comfortable with that, what they***

booked was a reasonable valuation as of the balance sheet date.

Exhibit 46 Page 107 Lines 11-22:

THE WITNESS***: I just took the 7.5 million shares times the stock price on March 4, which I think is the date closest to March 2, multiplied it by the 7.5 million, 0.13, and I got about 975,000 in terms of value inconsideration received for that note.*** BY MR. PALEY: Do you remember doing that? ***Yeah, I do.*** Before***? I did. I did do that, during the audit we did that, because that's how I got comfortable with, okay, 869 is reasonable.***

5. Doty Scott's Engagement to Value the Note

435. In order to prepare its financial statements, Premier needed to assign a value to the Note. As it had for the green energy assets, Premier engaged Doty Scott to determine the fair value of the Note as of the acquisition date (January 7, 2013).[713] Scott and Haddad worked on the valuation of the Note.[714]

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[709] Tr. (Vol. XXIII Letcavage) 5664:7-5664:18.
[710] Tr. (Vol. XXIII Letcavage) 5687:21-5688:1.
[711] Ex. 839.5 (Donovan Dep. Designation) 76:25-77:5.
[712] Ex. 1100 (minutes of Feb. 23, 2013 meeting of Premier's board of directors) first page ("RESOLVED, the Company approves the agreement between WePower LLC/WePower Energy Corp. (WE) and WePower Eco Corp. (ECO), whereby, WE will purchase the 5,000,000 Promissory Note and transfer 5,000,000 shares of PHRL to TPC for consideration. Alternatively, the Company has the option to return these shares to treasury, without further action by the Board of Directors").

[713] Ex. 443 (Mar. 18, 2013 email from Rosenberg to Scott re valuations); *see also* Tr. (Vol. VII Haddad) 1994:11-1995:5 ("Q This [Ex. 444] was from March 18, 2013, … So is this around the time that you were engaged by Premier to value the WePower note transaction? A Right. Yes.").

[714] Ex. 447 (Mar. 29, 2013 email from Scott to Young, attaching PRHL WEPOWERECO - Assets Valuation 12-31- 12 v1 - Draft - Report.XLSX and attachment summary page) (Email: "We used two primary methods to value the

436. Doty Scott was going to determine the fair value of the Note by discounting the expected cash flows on the Note at New Eco's estimated weighted average cost of capital,[715] or "WACC." The value of the Note depended on New Eco's ability to pay it, however. As a result, Doty Scott also needed to value New Eco.[716]

437. Accordingly, to perform the valuation, Doty Scott needed information about New Eco and the performance of its assets. By email dated March 19, 2013, Scott asked Eric Rosenberg for the following information:

- Regarding the Buyer (WEPOWER Eco Corp):
  - Is this a new entity?
  - Do they have a balance sheet/historical financials/projected financials?
- Regarding the Seller
  - Can you provide historical financials for the segment of the business that are related to the assets sold?[717]

438. Together with Joseph Greenblatt, Rosenberg was "responsible for the accounting function" at Premier at the time.[718]

439. Instead of providing the requested information, Premier told Scott to speak to Kevin Donovan.[719] Accordingly, Scott requested the information from Donovan, as well as Marvin Winkler, but "they didn't have financial projections, and they were unwilling to provide

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promissory note: … Discounted cash flows of the promissory note per contract discounted at the estimated buyer's WACC") (Attachment Summary Page: "Fair Value - Promissory Note Valuation (using WACC 27.91 %)"). *See generally* Tr. (Vol. V Scott) 1379:17-23; Tr. (Vol. VII Haddad) 1994:11-2030:22; Tr. (Vol. XXV Scott) 6002:3- 6048:13.

[715] Tr. (Vol. XXV Scott) 6006:9-16 ("Q So let's look at the bottom value [on the summary page of Ex. 452.2], which is $698,377. . . . What does that value represent? A That would be the fair value of the promissory note using a discounted cash flow methodology, discounting the cash flows at a weighted average cost of capital of 27.9 percent.").

[716] Ex. 447 ("We . . . valued the buyer with the expectation that the note is not worth more than the buyer's total equity.").

[717] Ex. 444.

[718] Tr. (Vol. VII Rosenberg) 2186:2-5.

[719] Tr. (Vol. V Scott) 1389:18-22 ("So in response to my request for data, they said, 'Well, you should speak to Kevin Donovan.' So Kevin Donovan is with the buyer of the assets, and, 'he should be able to provide you with that information.'").

any even if they did have them."[720] In fact, New Eco never provided any information to Doty Scott.[721]

LIE #439 Exhibit 445: "**could I get one number – projected revenue in 2018"**. Then Doty Scott completed the projections for the one year they didn't have the projections and completed the financial model, which was completed correctly and in accordance with appropriate valuation standards.

440. Scott therefor reached back out to Greenblatt, telling him that, given Donovan's and Winkler's lack of cooperation, Doty Scott would "need [Premier] to provide your best estimates of future projections based on the sales leads you were able to generate during your year of ownership."[722] Premier never sent Doty Scott any up-to-date projections or other data.[723]

LIE #440 Exhibit 445: "**could I get one number – projected revenue in 2018"**. Then Doty Scott completed the projections for the one year they didn't have the projections and completed the financial model, which was completed correctly and in accordance with appropriate valuation standards.

6. Doty Scott's Initial Valuation Tables

441. In the meantime, Haddad prepared a template of the valuation model that Doty

Scott would use to value New Eco and the Note, once it received the necessary information.[724]

LIE #441 Exhibit 445: "**could I get one number – projected revenue in 2018"**. Then Doty Scott completed the projections for the one year they didn't have the projections and completed the financial model, which was completed correctly and in accordance with appropriate valuation standards.

442. Those initial valuation tables did not use financial projections for New Eco because Doty Scott had not received any. (*See* ¶¶ 437-440, *supra*.) Instead, Haddad used financial projections for WePower Ecolutions that Doty Scott had received when it valued the assets Premier had acquired from WePower LLC and Green Central at the end of 2011.[725] Thus those projections were a year old by the time that Haddad prepared the spreadsheets.

Lie #442 Exhibit 445: "**could I get one number – projected revenue in 2018"**. Then Doty Scott completed the projections for the one year they didn't have the projections and completed the financial model, which was completed correctly and in accordance with appropriate valuation standards.

[720] *Id.* at 389:23-1390:7; *see also* Ex. 445 (Mar. 21, 2013 email Email from Donovan to Haddad); Ex. 446 (Mar. 22, 2013 email from Scott to Greenblatt) ("We spoke with Kevin Donovan and Marvin Winkler. Neither of them can or will provide any financial projections for the Wepower assets sold."); Ex. 839.5 (Donovan Inv. Test) 96:6-17.

[721] Tr. (Vol. V Scott) 1391:5-10 ("Q And did you at any point in time ever get any data from New Eco, the – … the borrower? A – no. They refused to provide any information.").
[722] Ex. 446 (Mar. 22, 2013 email from Scott to Greenblatt).
[723] Tr. (Vol. V Scott) 1392:2-15 ("Q Did you ever get data in response to this request? A Not specifically, no. Q Okay. So let's look – and when you say, "not specifically," what do you mean by that? A I mean, I've had data from the client relative to this business segment in the past. I did not get any updated information based on these0 specific requests. Q Okay. So they never provided you any future projections of the – these assets other than what you already had? A From the work that we had done based on the December 2011 transaction.").
[724] Tr. (Vol. VII Haddad) 2005:11-16 ("But in this case, we had nothing, so I went through and built the models and built some valuations based on some of my own assumptions unsupported, of course. And we used those tables as a starting point to discuss the valuation"); Tr. (Vol. XXV Scott) 6027:11-13 ("And basically this was prepared as a template for the methodology so the auditors could sign off on the methodology.").
[725] Tr. (Vol. VII Haddad) 2011:1-12 ("Q Okay. And do you see at the top where it says, "Asset valuation WePower LLC to WePower Ecolutions Inc. as of 12/31/12"? A Right. Q Is that – are those the two entities that were involved in the 2011 transaction that you were undertaking to value in early 2012? A Yes, I believe it was – Q Right. So – A – because those are – from the old – yeah, because I used – I started with the old model and built on top of that.").

443. On March 29, 2013, in order to elicit information about New Eco's performance and prospects, so that Doty Scott could complete a valuation,[726] Scott sent Premier "initial valuation tables."[727] The tables were contained in an Excel file named "PRHL WEPOWERECO - Assets Valuation 12-31-12 vi - Draft – Report" and showed the outputs of the models Doty Scott planned to use to value the Note and New Eco. Scott emailed the tables to Larry Young, [728] Letcavage's right-hand man[729] who had been designated Doty Scott's contact at Premier.[730]

444. The tables were "hard-coded," meaning that they did not contain active formulas, which would have revealed Doty Scott's methodologies, which were proprietary.[731]

445. In his transmittal email, Scott described the methodologies reflected in the initial valuation tables. He explained that Doty Scott sought to value New Eco, in addition to the Note itself, because the firm expected that the Note could not be worth more than the buyer (New Eco, the borrower, which issued the Note). And he cautioned that the values for New Eco were based on old assumptions that had not been verified and for which Doty Scott had no support:

- The buyer refused to provide us with any information, therefore we made the following assumptions, which need to be verified by management and hopefully management can provide some supporting documentation
    - We used the previous projections, pushed out 1 year
    - The original valuation assumed 1%, 2%, and 4% realization of the projections (averaged)

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[726] ¶¶ 439-439 above; Tr. (Vol. V Scott) 1396:14-18 ("Q Okay. So these are just tables; is that rIght? A Right. The purpose of this was just to elicit additional information so that we could complete a valuation."); Tr. (Vol. VII) 2008:2-5 ("I had no evidence of anything. This was just me sitting in front of the computer making up numbers until we got some data. And then I could plug those real numbers in.").

[727] Ex. 447 (Mar. 29, 2013 email from Scott to Young).

[728] *Id.*

[729] Tr. (Vol. XXIII Letcavage) 5753:4-10 ("And Larry Young worked for you at Premier, correct? A Yes. Q We've heard – we've seen him referred to as your right-hand man. Would that be accurate? A Sure.").

[730] Tr. (Vol. V Scott) 1393:2-4 ("A L.R. Young was working on behalf of Premier. We were instructed to communicate with him regarding this project.").

[731] Tr. (Vol. V Scott) 1393:12-19 ("Q And the attachment listed is the PRHL WePower Eco asset valuation 12-31-12 version 1 draft report.XLSX; is that right? A Right. So it's an Excel tables file. Q All right. And that's not an operating

table like you described. It's a hard-coded table? A It's not a valuation model. It's an output of some of the results.").

- Based on the $1M invested in sales leads and opportunities,[732] we increased these realization numbers to 5%, 25%, 50%,75% (averaged)

This last item is the primary driver of value and will need to be reviewed by management. We should have a discussion regarding the projections and what support exists relative to the revenues.[733]

446. Finally, Scott warned, "[t]his preliminary valuation is not to be quoted at this time."[734]

447. Scott's transmission of the initial tables was consistent with Doty Scott's usual practice. The firm typically sends its clients draft tables, "primarily to make sure that [the firm] got all the data appropriately."[735]

448. The initial valuation tables Scott sent to Young contained three potential valuation figures: one figure for the fair value of the Note, and two figures for the fair value of New Eco:

(a) Fair value of the Note: $698,377
(b) Fair value of the enterprise (New Eco): $869,000 and
(c) Fair market value of the intellectual property, patents, and trade secrets acquired by New Eco: $861,000.[736]

7. The $869,000 Note Valuation in Premier's 2012 Form 10-K

449. Even though Doty Scott had clearly advised Premier that the figures in its initial valuation tables were "not to be quoted,"[737] a few weeks after Premier received the tables, the Company used the $869,000 as the value of the Note in its 2012 Form 10-K, which it filed on

[732] Haddad testified that he didn't know what the "$1M invested in sales leads and opportunities" meant and whether it was true. Tr. (Vol. VII Haddad) 2008:6-19 ("Q Okay. But you had learned from Premier, it says in that last bullet, that they had invested a million dollars in sales leads and opportunities? A I don't know. You know, I don't know what that really meant, because the companies will tell us they invest in something like that, and, you know, until you see the financials, you don't really know what the investments mean. And did they really put in a million dollars? And what did they spend it on? And did they increase the value of the assets? There were a lot of open-ended questions in that. Because just throwing out a number like a million doesn't mean anything.").
[733] Ex. 447 (Mar. 29, 2013 email from Scott to Young).
[734] *Id.*

[735] Tr. (Vol. V Scott) 1352:6-16.
[736] Ex. 447 (Mar. 29, 2013 email from Scott to Young) 2.
[737] Ex. 447 (Mar. 29, 2013 email from Scott to Young).

April 22, 2013.[738] In the Subsequent Events Note to its 2012 financial statements, Premier represented that the "preliminary valuation on the note is $869,000."[739] The Company also stated that New Eco's "product line and prospects have been conservatively valued at approximately $869,000."[740]

Lie #449 Exhibit 452 Haddad sends the tables to Wen and copies Scott. Nothing is mentioned regarding "not to be quoted" or this only for a "methodology assessment". Even further to this see **TR 3454 Lines 18-21**

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

8. Radio Silence on the Note Valuation

450. On April 24, 2013, Scott reached out to Premier again. Referring to, and forwarding, his March 29th email, Scott told Young, Greenblatt, and Rosenberg that there were still "several issues related to the WePower Eco Note valuation." "Before we issue a report," he added, "we would like some input on the assumptions detailed below."[741] Premier never provided the requested information.[742]

Lie #450 Exhibit 452 Haddad sends the tables to Wen and copies Scott. Nothing is mentioned regarding "not to be quoted" or this only for a "methodology assessment". Even further to this,

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

451. As discussed below, about a month later, in May 2013, Doty Scott communicated with Anton & Chia. After those communications, the Note valuation project "went radio silent," and Doty Scott ceased working on it for about a year.[743]

9. Anton & Chia's Q1 2013 Review of the Note Valuation

452. The Note first impacted Premier's balance sheet and income statement in the first quarter of 2013. As part of Anton & Chia's review of Premier's Q1 2013 financial statements, "one of [Chris Wen's] first assignments … [was] to evaluate whether Premier's note receivable balance as of March 31, 2013 was appropriately recorded."[744]

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[738] Ex. 401 (2012 Form 10-K) attestation.
[739] Ex. 401 (2012 Form 10-K) 46.
[740] Ex. 401 (2012 Form 10-K) 5.
[741] Ex. 450.
[742] Tr. (Vol. V Scott) 1413:9-11 ("Q Did Premier ever provide the information that you were requesting? A No."). [743] Tr. (Vol. V Scott) 1426: 5-14 ("Q All right. So after you sent the model, the three files to Wen, did you have any further work on this project in 2013 to your recollection? A No. I believe it went radio silent. Q Okay. You didn't communicate with anyone from Premier? A No. Right. Nobody contacted us. Q Did you continue to do any work? A No."). See below regarding resumption of work on the Note valuation in April 2014.
[744] Tr. (Vol. VII Wen) 2118:23-2119:10.

453. Wen graduated from college in 2010 or 2011.[745] He started working at Anton & Chia in June of 2012. Before that, he worked as a salesperson in an AT&T retail store.[746] Wen was not a CPA.[747]

454. Wen started at Anton & Chia as an intern and became an employee in December 2012 or January 2013.[748] He was promoted to senior sometime in 2014.[749]

455. Before he went to work at Anton & Chia, Wen had never done any type of accounting or auditing work.[750] Wahl knew that Wen had no accounting or auditing experience because he hired Wen, who told him during the interviewing process that he (Wen) had no auditing or accounting experience.[751]

456. Wen asked Premier's accounting consultants, Greenblatt and Rosenberg, for support for the $869,000 value for the Note. The consultants told him that the $869,000 "was validated by a third-party firm" and sent him a copy of the hard-coded initial valuation tables.[752]

457. Wen wanted to see a "live" version of the tables, *i.e*. a version that was not hard-coded and included the formulas, and asked Greenblatt and Rosenberg for help getting them.[753]

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[745] Tr. (Vol. VII Wen) 2108:18-22 ("Q And then how many did you spend at the University of California Riverside? A Two years. Q So what year did you graduate? A 2010 or '11.").
[746] Tr. (Vol. VII Wen) 2109:14-2110:3 ("A I was working at an AT&T retail store in Rowland Heights. Q And what was your position at the AT&T retail store? A Sales rep. … A I keep working at that store ... – for a while, and then got hired by Anton & Chia").
[747] *Id.* at 109:2-6 ("Q Are you a licensed CPA? A No.").
[748] Tr, (Vol. VII Wen) 2114:21-24 ("Q All right. And when did you get that promotion or become a full-time employee? A So I went in there June, after six month – around December '12 or January '13.").
[749] Tr, (Vol. VII Wen) 2115:22-:24 ("A Yeah. I got another promotion to senior – I don't remember – I think it was – I think 2014, around there.").
[750] *Id.* at 112:19-2113:4 ("Q. So you mentioned that you started at Anton & Chia in June of 20 – of 2012; is that right? A Yes. Q And prior to beginning at Anton & Chia, had you ever done any type of accounting work before? A No. Q And when you started at Anton & Chia, had you ever done any type of audit work before? A No.").
[751] Tr. (Vol. VII Wen) 2114:5-13 ("Q And before he hired you, did Wahl interview you? A Yes, he did. Q And did you tell Wahl that you had no accounting experience? A Yes. Q Did you tell Wahl that you had no auditing experience? A Yes.").
[752] Tr. (Vol. VII Wen) 2119:11-2121:10.

[753] *Id.* at 123:21-2124:2 ("So you wanted one with the formulas, right? A Yes. Q Okay. Did you ask Premier, the folks at Premier, Eric and Joe, did you ask them to help get you a copy of the spreadsheet with the formulas? A Yes, I did.").

Accordingly, on May 22, 2013, Rosenberg asked Haddad to send copies of the Excel spreadsheets that were not hard-coded to Anton & Chia.[754]

458. Shortly after Rosenberg sent his request, Haddad sent Wen three Excel files that contained the formulas[755]: (a) PRHL WEPOWERECO -Assets Valuation 12-31-12 vi - Draft – Auditor, (b) WePower Ecolutions Financial Projections 12-31-12 vi –Auditor, and (c) an Excel report file.[756] In his transmittal email, Haddad told Wen, "Our models are proprietary, please do not share with the client or outside of your firm – Thanks."[757]

459. Haddad also provided a brief explanation of the models:

> The model reflects one scenario/valuation at a time - to sequence to the various scenarios and valuations change the cell Cover B 1 in the Asset Valuation model and cell Scenarios B 1 in the Financial Projections model. The models have multiple scenarios/valuations (4 weighted scenarios and financial projections), so if you enter the number of the scenario/valuation into either cell B 1 and hit return the model will recalculate that that value or financial projections. The model does require circular references to be enabled (under Excel options - Formulas) in both models.
>
> Please email any questions.[758]

460. Typically, Doty Scott (or its clients) provides its clients' auditors with drafts of its reports and, if asked, with its models.[759] The purpose of sending the firm's models to the auditors is so that the auditors can confirm that they are comfortable with Doty Scott's methodology.[760]

Lie #460 Exhibit 452 Haddad sends the tables to Wen and copies Scott. Nothing is mentioned regarding "not to be quoted" or this only to "confirm that the methods we use and the implementation of those methods is correct". Even further to this,

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

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[754] Ex. 451 (May 22, 2013 email from Rosenberg to Haddad) ("Our auditors Anton Chia [sic] are requesting the formulas for the WePower valuation.").
[755] Tr. (Vol. VII Wen) 2125:21-25 ("Do you recall getting this email [Ex. 452]? A Yeah. Yes. Q And are these the files that you got that had the formulas? A Yes.").
[756] Ex. 452.
[757] Ex. 452.
[758] Ex. 452.
[759] Tr. (Vol. V Scott) 1353:6-16 ("Q Okay. And what do you typically send the auditor? A Well, we – actually, we instruct the client to send the report to the auditor, and many times the auditor will come back to us and say, 'Hey, we need to review this in more detail.' All right. So they would ask for our actual valuation models. Q Okay. And do you provide that to the auditors? A Yes. If they request it."); *Id* at. 1423:24-1424:1 ("Well, the auditors have the right to check our work, and so we have to provide that, these files for them.").
[760] Tr. (Vol. VII Haddad) 2030:11-2030:22 ("But the purpose of me sending models to auditors typically is so they can go through and confirm that the methods we use and the implementation of those methods is correct.").

After the auditors receive the draft report and/or models, they will either "do their own valuation and then compare their results to [Doty Scott's] results," or "determine whether [Doty Scott] did the calculations properly and [had] the right assumptions and the right inputs," and then "send [Doty Scott] a list of questions."[761]

461. The audit firms Doty Scott deals with typically will either "have a whole segment of people that do valuation work for external clients," or "retain outside consultants" to evaluate the valuation.[762] Haddad therefore assumed that Wen was a valuation expert.[763]

462. At that time, however, Wen had no prior experience working with a valuation.[764] He did not know what a valuation report was, and had never seen one.[765] He was not even familiar with complex Excel tables, in general.[766] He did not understand what an enterprise value was,[767] did not know what a discount rate was,[768] did not know was a WACC (weighted average

[761] Tr. (Vol. V Scott) 1353:21-1354:13. *See also id.* at423:24-1424:8.

[762] Tr. (Vol. V Scott) 1354:14-1355:23. *See also* Tr. (Vol. VII Haddad) 2032:7-2032:15 ("Q And do all those firms have a valuation group like your firm? A The audit teams? Q Yeah. A I would say – I would say a good 30 percent do. And another 30 percent have auditors who have valuation expertise. And then probably the last third will outsource consultants to assess the valuations for them, so").

[763] Tr. (Vol. VII Haddad) (2028:10-2028:240 ("I kind of thought when I was – they had given me Chris's name, that he was one of the kind of people I typically deal with, which are the more analytic part of an audit firm where they're more familiar with Excel and models and math and the mechanics of how you can develop these values. I really didn't think he was an auditor themselves. I thought I was dealing with somebody more geeky. . . . He was more of a tech – techy kind of guy. Like kind of people that I typically will interact with when I send the model."); *Id.* at 030:15-2030:18 ("And that's why I put this little explanation in there afterwards of how to run the model, how to ensure that the circular references were working.").

[764] Tr. (Vol. VII Wen) 2122:1-4 ('Q Now, let's see. So was this your first experience working with a aluation during an engagement at – of any kind? A Yes.").

[765] Tr. (Vol. VII Wen) 2122:11-2123:5 ("Q Now, was Wahl aware that you had never dealt with a valuation before when – in connection with the first quarter interim review in 2013? . . . . THE WITNESS: I should say yes, because I got no accounting experience before, no auditing experience before. BY QUALLS: Q Okay. Did you tell him specifically about that you had never done – worked on a valuation before? A I did not tell him that. I don't think I did. Q Okay. But he knew that you had no accounting experience of any kind? A Right.").

[766] Tr. (Vol. VII Wen) 2126:24-2127:2 ("Q Had you had any familiarity working with complex Excel tables like the one attached to Exhibit 452? A No.").

[767] Tr. (Vol. VII Wen) 2128:13-16 ("Q Okay. At the time you reviewed this in the first quarter of 2013, did you know what an enterprise value was? A Not exactly.").
[768] Tr. (Vol. VII Wen) 2131:8-11 ("Q When you reviewed this [the Doty Scott spreadsheets he received], did you know what a discount rate was? A No. I do not know what was the discount rate that they use.").

cost of capital) was,[769] and did not understand the relationship between the three valuation figures that appeared on the Doty Scott spreadsheets.[770]

463. After reviewing both the hard-coded and live initial valuation tables, Wen did not understand the models, the assumptions used,[771]or the relationships between the three fair value figures produced by the models.[772]

464. Wen and Scott had a "short conversation" in which Scott provided "some basic information about how to look at [Doty Scott's] files," "so that [Wen] could at least navigate the files and use them on his computer so that he could do some review."[773]

465. Scott did not tell Wen, or anyone else from Anton & Chia, that Doty Scott had concluded that the fair value of the promissory note was $869,000. As Scott explained, no one from Doty Scott would have told Wen, or anyone, to use the $869,000 figure, both because it was not supported and because it was not even a figure for the value of the Note:

> Q And in this conversation that you had with Wen, did you ever inform him that the fair value of the promissory note was $869,000?
> A No. I wouldn't have done that. Q Why not?

[769] Tr. (Vol. VII Wen) 2131:18 -21("Q Okay. And I should have said, at the time when you reviewed this in 2013, did you know what the WACC or "WACC" was? A No").
[770] Tr. (Vol. VII Wen) 2129:5-14 ("Q And do you see that the three boxes, the three gray boxes we've got, the first one and – 869,000, the second one at 861,000, and the third one at $698,377 – well, dollars. Do you see those? A Yes. Q At the time when you reviewed this file in 2013, did you understand the relationship between those three figures? A No.").
[771] Tr. (Vol. VII Wen) 2127:23-2128:8 ("Q And did you – when you reviewed this file in connection with the Q1 interim review, did you know what the model, the valuation model was that the Doty Scott firm was using? A No. Q And did you understand the model that was contained in Exhibit – it's 452.1? A No. Q Did you understand the assumptions used in 452.1? A No.").
[772] Tr. (Vol. VII Wen) 2129:5-14 ("Q And do you see that the three boxes, the three gray boxes we've got, the first one and – 869,000, the second one at 861,000, and the third one at $698,377 – well, dollars. Do you see those? A Yes. Q At the time when you reviewed this file in 2013, did you understand the relationship between those three figures? A No.").
[773] Tr. (Vol. V Scott) 1424:21-1425:12 ("A I believe we did. I mean, I did not have a scheduled conference call scheduled with Chris to go over this, but I believe we had a short conversation in which he wanted some basic information about how to look at our files. Q Okay. And do you have a particular recollection of the conversation? A Well, the only recollection is that it was a short conversation. And I believe we basically explained the same

information that's in the second paragraph so that he could at least navigate the files and use them on his computer so that he could do some review.").

A Because we hadn't come to a conclusion of the fair value.
Q Okay. And was 869,000 even the preliminary number for the promissory note?
A No. ... That was a preliminary number for the entity that acquired the assets.
Q Did you ever communicate with anyone else from Anton & Chia that the fair value of the promissory note was $869,000?
A I did not.[774]

Lie #465 Exhibit 452 Haddad sends the tables to Wen and copies Scott. Scott talks to Wen and nothing is mentioned regarding "not to be quoted" or this only to

"confirm that the methods we use and the implementation of those methods is correct". Even further to this,

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

466. For the same reasons, Scott did not tell anyone at Premier to use the $869,000 figure for the value of the Note:

Q And did you ever tell anyone at Premier or any Premier consultant to use the $869,000 value for the promissory note?
A No.

Q And how can you be so sure that you never [told anyone at Anton & Chia or Premier to use the $869,000 value for the Note]?
A Because it wasn't even a number that we would have concluded, right? We wouldn't have even concluded the 698 number, because we're still waiting for information to support it. So we had no support on any of the financial projections. And basically this was prepared as a template for the methodology so the auditors could sign off on the methodology.[775]

Lie #466 Exhibit 452 Haddad sends the tables to Wen and copies Scott. Scott talks to Wen and nothing is mentioned regarding "not to be quoted" or this only to "confirm that the methods we use and the implementation of those methods is correct". These are standard valuation models and even further to this,

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

467. After his conversation with Scott, and after doing some research, Wen still did not understand the Doty Scott spreadsheets; he still "did not get it."[776]

[774] Tr. (Vol. V Scott) 1425:13-1426:4; *see also id.* at479:7-16 ("Q So who told – who from your firm told Anton & Chia to use the 869,000? A Nobody. Ever. Q You're saying that nobody told Chris Wen to use 869,000? A That's

correct. Q Then who did? A No one ever told him to use that. We would never have told him that. It's not even the right number."); *id.* at487:9-10 ("We did not tell him [to use $869,000]. I know for a fact we did not tell him that."); Tr. (Vol. VIII Shek) 2473:19-24 ("Q. And in any communications with the company or Doty Scott, Chris Wen, was there any communication from those parties that the 869 was incorrect? A. Well, I don't have any answer. No one says yes this correct or not.").

[775] Tr. (Vol. XXV Scott) 6027:4-6027:13. *See also* Tr. (Vol VII Haddad) 2023:5-13 ("Q Was the $869,000 number any more meaningful for the note? . . . . . A It was not – it was unsupported, and I think the company and the auditors would not want to. I wouldn't think they would want to report those numbers.").

[776] Tr. (Vol. VII Wen) 2140:17-22.

468. Wen told Wahl that he did not understand the Doty Scott spreadsheet.[777] In response, Wahl told Wen to just "make sure that the formula … can be properly calculated to the ending results;" essentially, to make sure that the math worked.[778]

469. At the time of the Q1 2013, Wahl was aware the Premier had already disclosed to investors that the $5 million promissory not have a preliminary value of $869,000.[779]

470. Wen "never pa[id] attention to … line 27 [which contained the $698,377 Note value]," but rather "just focused on line 17 which is the $869,000 line."[780]

471. In connection with the first quarter 2013 review, Wen prepared a workpaper for the Note valuation.[781] The workpaper consisted of Doty Scott's initial draft spreadsheet with six lines of text that Wen inserted at the top of the summary sheet.[782] Wen's insert purported to describe the purpose of Anton & Chia's review of the Note valuation, the procedures it followed, and the conclusions it reached:

Purpose:	To evaluate the value of the Note receivable balance as of March 31, 2013 appropreately recorded.
Procedures:	AnC has directly contact the thrid party Appraiser to obtain the valuation report. AnC team has review the reasonableness of the assumptions, estimates of the fair value.
Conclusion:	Based on the review of the reasonableness of the valuation, AnC agreed that the estimated fair value appropreately presented.[783]

[777] Tr. (Vol. VII Wen) 2141:1-4 ("Q And did you tell him that you didn't understand the spreadsheet that you got from Doty Scott? A Yes.").
[778] Tr. (Vol. VII Wen) 2140:23-2141:18.
[779] Tr. (Vol. XXII Wahl) 5306:20-25 ("Q So going into the Q1 2013 interim review, you were aware that Premier had already disclosed to investors the $869,000 value for the promissory note, right? A Well, yeah, it's disclosed in the notes, so yes.").
[780] Tr. (Vol. VII Wen) 2130:6-22.

[781] Ex. 860 (Q1 2013 valuation workpaper); *see also* Tr. (Vol. VII Wen) 2134:13-20 ("A Oh, that's [Ex. 860] probably the work paper for our quarterly review of first quarter. Q Okay. Did you prepare the work paper for the first quarter? A Yes.").
[782] Ex. 860.
[783] Ex. 860.

472. But Wen had not carried out the procedures set forth in the workpaper at the time that he inserted the description in the workpaper.[784] He had not "reviewed the reasonableness of the assumption estimates of the fair value" when he prepared the workpaper.[785]

473. Moreoever, because Wen did not understand those assumptions, he could not have reviewed their reasonableness at any time during the quarterly review or the audit.[786]

10. Premier's Q1 2013 Form 10-Q Note Valuation

474. Premier included the Note as an asset worth $869,000 in its financial statements for the first quarter of 2013.[787] The Company also represented that the Note had "been independently valued at approximately $869,000.[788]

475. Premier also reported a gain from the sale of discontinued operations of $985,138 comprised of the purported $869,000 value of the Note and New Eco's assumption of $116,138 in liabilities.[789]

11. New Eco's Default

476. As Donovan had anticipated (*see* ¶ 433, *supra*), New Eco defaulted on the Note. New Eco failed to make the first required payment – an interest payment of $50,000 – to Premier on December 7, 2013. Therefore, by December 22, 2013, the Note was in default.[790]

Lie #476. All defaults were curred before the financial statements were issued as the Note was settled for 7,500,000 shares on March 4, 2014 (**See Exhibit 454**).

[784] Ex. 860; *see also* Tr. (Vol. VII Wen) 2137:5-13 ("Q – this is the report, right? The next sentence says, 'A&C team has reviewed the reasonableness of the assumption estimates of the fair value.' Do you see that? A Yes. Q Had you done that at the time you wrote this in the top? A No.").
[785] Ex. 860; *see also* Tr. (Vol. VII Wen) 2137:14-16 ("Q So how did it work? You wrote down the procedures before you actually did them? A Yes.").
[786] *See* ¶ 462-63, 467, *supra*.
[787] Ex. 404 (Form 10-Q dated Mar. 31, 2013) 3 ("Notes Receivable" of "$869,000"); *id.* at 19 ("preliminary valuation on the note is $869,000").
[788] *Id.* at 20, *see also id.* at 9 ("The preliminary appraised value of the note is $869,000.").
[789] *Id.* at 9.
[790] Ex. 441 (Promissory Note) ¶ 4(a)(listing as an event of default, a failure by New Eco to make "any payment of principal or interest within fifteen (15) days after the same shall become due and payable.").

477. New Eco never paid any interest on the Note.[791] No one from Premier ever made any attempt to collect on Note.[792]

Lie #477. All defaults were cured before the financial statements were issued as the Note was settled for 7,500,000 shares on March 4, 2014(**See Exhibit 454**) (**TR 5702 Lines 16-19**).

12. The Note-for-Stock Swap

478. On March 4, 2014, Premier entered into an agreement to, among other things, transfer the Note to WePower LLC (the company owned by Marvin Winkler that was the source of many of the green energy assets Premier obtained in December of 2011[793]) in exchange for the return of 2.5 million shares of Premier common stock.[794]

479. The agreement (the Compromise Agreement and Mutual Release, effective March 4, 2014) resolved multiple disputes, among multiple parties.[795] One of those disputes related to Premier's purchase of The Power Company ('TPC'). Winkler had previously promised to return 5,000,000 shares of Premier stock to facilitate the TPC acquisition but had not yet done so:

> Q … Back sometime after the original transaction where you sold your assets to Premier in December 2011, Letcavage mentions that he wants Premier to purchase The Power Company?
> A Correct.
> Q And to help facilitate that purchase, he asks you to return 5 million shares of Premier stock in order to increase the overall percentage ownership that TPC would have if it – if the deal went through?
> A Correct.
> Q But you never actually returned those 5 million shares? A Not until later.[796]

[791] Ex. 839.5 (Donovan Inv. Test. Designations) 82:3-8; Ex. 839.5 (Donovan Dep. Designations) 84:6-12.

[792] Tr. (Vol. V Winkler) 13218:18-21 ("Q Okay. And was Donovan ever successful running his new company such that you were paid anything on that note? A No, he was not. Q Did you ever get – did you ever receive any payments under the note? A No."); Ex. 839.5 (Donovan Inv. Test. Designations) 85:14-21, 88:5-18, 90:23-91:10; Ex. 839.5 (Donovan Dep. Designations) 84:13-15.
[793] *See* ¶¶ 406-409, *supra*.
[794] Ex. 402 (2013 Form 10-K**)** F-14, Notes 8 and 9 ("The Company acquired assets from WePOWER, LLC during 2011. . . . Subsequent to the period ended December 31, 2013 . . . . Additionally, WePower LLC returned 5,000,000 common shares of the Company previously issued related to the sale of TPC, and in exchange for the promissory note in the face amount of $5,000,00 (and valued at 869,000 on the Company's financial statements as of December 31, 2013), the Company had returned an additional 2,500,000 common shares.").
[795] Ex. 454 (Compromise Agreement and Mutual Release); Tr. (Vol. V Winkler) 1318:18-21 ("Q Okay. And so was this Compromise Agreement and Mutual Release a kind of effort to resolve all those differences? A Correct.")
[796] Tr. (Vol. V Winkler) 1322:12-1323:1.

LIE #479 Exhibit 1116 supports that the purchase price was settled February 28, 2013 for 30,000,000 shares. The compromise agreement was determined on March 4, 2014 over a year after The Power Company received its shares. Winkler wouldn't have known that The Power Company received its shares on February 28, 2013(**TR 5702 Lines 16-19**).

480. According to Ex. B to the Compromise Agreement, to resolve the dispute related to the TPC Acquisition, "WEPOWER LLC [was to] return 5,000,000 shares of PRHL common stock to PRHL." In addition, "WEPOWER LLC [was to] deliver[ ] 2,500,000 shares of PRHL common stock to [Premier] in exchange for the $5,000,000 Promissory Note executed by Kevin Donovan as President of [New Eco]."[797]

LIE #480 Exhibit 1116 supports that the purchase price was settled February 28, 2013 for 30,000,000 shares. The compromise agreement was determined on March 4, 2014 over a year after The Power Company received its shares. Winkler wouldn't have known that The Power Company received its shares on February 28, 2013 (**TR 5702 Lines 16-19**).

481. Winkler's agreement to return the 5 million shares he had previously promised to return and his agreement to exchange 2.5 million shares for the Note were entirely separate.[798]

Lie #481 Exhibit 1116 supports that the purchase price was settled February 28, 2013 for 30,000,000 shares. The compromise agreement was determined on March 4, 2014 over a year after The Power Company received its shares. Winkler wouldn't have known that The Power Company received its shares on February 28, 2013. Therefore, the entire 7,500,000 shares were allocated to the Note Receivable (**TR 5702 Lines 16-19**).

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Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

13. Doty Scott's Zero Valuation Report

482. At Premier's request, Doty Scott resumed working on the Note valuation in early April 2014, roughly a year after the firm had last heard from Premier. Premier's request appears to have been prompted in turn by the request of Tommy Shek, the manager on Anton & Chia's audit of Premier's FY 2013 financial statements,[799] for a valuation report.

LIE #482 There is no support or information that indicates that "At Premier's request, Doty Scott resumed working on the Note valuation in

early April, 2014, roughly a year after the firm last heard from Premier's." Footnote 799 only discusses audit staffing for A&C's audit.

483. On March 7, 2014, Wen emailed Phil Scott about the upcoming audit of Premier's 2013 financial statements. In his email, Wen told Scott: "the consultant of [Premier] requested to review the "assets [sic] valuation report provide[d] by your Company."[800]

Lie #483 Exhibit 1116 supports that the purchase price was settled February 28, 2013 for 30,000,000 shares. The compromise agreement was determined on March 4, 2014 over a year after The Power Company received its shares. Winkler wouldn't have known that The Power Company received its shares on February 28, 2013. Therefore, the entire 7,500,000 shares were allocated to the Note Receivable (**TR 5702 Lines 16-19**).

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Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

[797] Ex. 454 (Compromise Agreement and Mutual Release) Ex. B.

[798] Tr. (Vol. V Winkler) 1325:8-17("Q So your understanding is that in order to just get all of these disputes resolved in one document, they put it in here? A Correct. Q Okay. But as I understand your testimony, the return of the 5 million shares to facilitate the purchase of TPC and your purchase of the note for 2.5 million shares, [were] entirely separate transactions? A Totally.").

[799] The Premier 2013 audit was staffed by: (a) Monique Lai, Chris Wen, and Ivan Shing as staff; (b) Tommy Shek as the manager; (c) Richard Koch as EQR; and (d) Greg Wahl as engagement partner. Ex. 419 (Planning Memo for Premier 2013 audit); *see also* Tr. (Vol. VIII Shek) 2218:14-2219:2, 2222:1-3.); Ex. 840 (Parties' Second Agreed Stipulation of Facts) ¶ 42 ("Wahl was the engagement partner on Anton & Chia's audit of Premier's FY 2013 financial statements.").

[800] Ex. 455 (Mar. 7, 2014 email from Scott to Wen) SEC-DS-E-3.

484. After reviewing Doty Scott's file, Scott responded that the firm had not prepared a report on the Note valuation: "I went back and reviewed this project. We only issued the excel tables. We have not drafted a report for this project. Upon payment, we will prepare a report."[801]

LIE #484 Exhibit 1116 supports that the purchase price was settled February 28, 2013 for 30,000,000 shares. The compromise agreement was determined on March 4, 2014 (**Exhibit 454**) over a year after The Power Company received its shares. Winkler wouldn't have known that The Power Company received its shares on February 28, 2013. Therefore, the entire 7,500,000 shares were allocated to the Note Receivable on March 4, 2014 (**TR 5702 Lines 16-19**). Scott's email on April 7, 2014 makes no mention that the numbers are going to materially change. Then on April 9, 2014 Scott email's Premier with a report that is materially different than the draft tables originally provided. A&C never received this "draft" report. Starting on March 7, 2014 three days after the Note Receivable was settled Scott communicated with A&C's staff (**Exhibit 455**); April 3, 2014 (**Exhibit 465**); April 7 (**Exhibit 466**); April 7 (**Exhibit 469**) nowhere in this communication does Scott say the tables are incorrect, or subject to materially change. Wahl and Koch were not on

any of these communications. Then sends a “draft” unsigned report on April 9 and doesn’t tell the auditors is suspect at best.

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Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

485. On April 1, 2014, Tommy Shek, the manager on the 2013 audit,[802] reached out to Premier, explaining to Connie Absher, Letcavage’s secretary,[803] “[t]he valuation report is how the third party consultant calculate the $5million into $869,000. I only have a file with all number but I assume he will provide an official report.”[804]

LIE #485 Exhibit 1116 supports that the purchase price was settled February 28, 2013 for 30,000,000 shares. The compromise agreement was determined on March 4, 2014 over a year after The Power Company received its shares. Winkler wouldn’t have known that The Power Company received its shares on February 28, 2013. Therefore, the entire 7,500,000 shares were allocated to the Note Receivable (**TR 5702 Lines 16-19**).

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Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

486. The next day, Absher responded, telling Shek: "I spoke to Randy regarding this email. He feels that you should have everything since it was something that handled in 2012 and should already show up in the 2012 l0K."[805]

LIE #486 Exhibit 1116 supports that the purchase price was settled February 28, 2013 for 30,000,000 shares. The compromise agreement was determined on March 4, 2014 over a year after The Power Company received its shares. Winkler wouldn't have know that The Power Company received its shares on February 28, 2013. Therefore, the entire 7,500,000 shares were allocated to the Note Receivable (**TR 5702 Lines 16-19**).

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Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

487. Shek then checked with Wen about what Anton & Chia had previously received

from Doty Scott.[806] He then confirmed to Absher, "What I have so far is only numbers from your third party consultant and I need to spend a lot of time to understand his calculations without anything in writing."[807]

Lie #487 Exhibit 1116 supports that the purchase price was settled February 28, 2013 for 30,000,000 shares. The compromise agreement was determined on March 4, 2014 over a year after The Power Company received its shares. Winkler wouldn't have known that The Power Company received its shares on February 28, 2013. Therefore, the entire 7,500,000 shares were allocated to the Note Receivable (**TR 5702 Lines 16-19**).

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

488. Intentionally omitted.

489. On April 3, 2014, Shek reached out to Scott directly to see if Doty Scott would prepare a report: "My understanding is you sent us an excel regarding the asset valuation of a $5

[801] *Id*. at SEC-DS-E-1.
[802] Tr. (Vol. VIII Shek) 2218:14-2219:2 ("Q Do you recall working on the Premier Holding audit for 2013? A Yes. .

. . Q Okay. And what was your role at that time? A I'm the manager there, so – Q You're the audit manager? A Yes.").

[803] Tr. (Vol. XXIII Letcavage) 69:8-20 ("So on April 9, 2014, Doty Scott transmits a valuation arriving at a value of $0. And on the next day, Absher is setting up a call between you and Scott to talk about the valuation, right? A Okay. Q But it's your testimony that you didn't see this $0 valuation? A Yeah. I might not have read my email the day before – . … A – told my secretary in the morning to get ahold of this guy.").

[804] Ex. 461 (email chain) SEC-AC-E-13227 (Apr. 1, 2014 email from Scott).

[805] *Id.* at SEC-AC-E-13226 (Apr. 2, 2014 2:14 PM email from Absher).

[806] Ex. 460 (Apr. 2, 2014 2:59:22 email from Scott to Wen) ("Did you talk to the guy who prepared this schedule? I thought he will issue something in writing so we can understand his calculations.").

[807] Ex. 461 (Apr. 2, 2014 9:39 pm email from Scott to Absher).

million note receivable. Please let us know whether you will officially have a report on your calculation or not."[808]

490. In an April 7, 2014 email, Scott explained to Shek that the Excel spreadsheets Doty Scott had prepared in 2013 were merely a "draft analysis" and that the firm would need additional information in order to complete its analysis and prepare a report:

> Tommy,
>
> I was following up on your inquiry about the valuation of the [Note]. I reviewed this project this morning. We had issued a DRAFT ANALYSIS of the promissory note/enterprise valuation/intangible valuation in March, 2013. In order for us to complete the valuation, we will need the following information:
>
> - Actual date of issuance (it was previously indicated to be a 12/31/12 transaction)
> - Financial statements of the Borrower at issuance of the note
> - Budget/Financial projections of the borrower
> - Status of payment due in November/December 2013 If
>
> you have any of this information, please forward.[809]

491. A few hours later, Anton & Chia staff accountant Monique Lai[810] forwarded Scott's email to Shek to Absher, copying Letcavage and another individual.[811]

Lie #491 Exhibit 1116 supports that the purchase price was settled February 28, 2013 for 30,000,000 shares. The compromise agreement was determined on March 4, 2014 over a year after The Power Company received its shares. Winkler wouldn't have known that The Power Company received its shares on February 28, 2013. Therefore, the entire 7,500,000 shares were allocated to the Note Receivable on March 4,

2014 (**TR 5702 Lines 16-19**). Scott's email on April 7, 2014 makes no mention that the numbers are going to materially change. Then on April 9, 2014 Scott email's Premier with a report that is materially different than the draft tables originally provided. A&C never received this "draft" report. Starting on March 7, 2014 three days after the Note Receivable was settled Scott communicated with A&C's staff (**Exhibit 455**); April 3, 2014 (**Exhibit 465**); April 7 (**Exhibit 466**); April 7 (**Exhibit 469**) nowhere in this communication does Scott say the tables are incorrect, or subject to materially change. Wahl and Koch were not on any of these communications. Then sends a "draft" unsigned report on April 9 and doesn't tell the auditors is suspect at best.

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

492. Also on April 7, 2014, Absher told Scott that New Eco had paid "nothing" on the

Note and Premier had no financial information from New Eco. She added, "I don't believe we have any bank statements from them. I'm not sure they will be willing to give them to us."[812] Absher closed her email by emphasizing the urgency of the situation: "Please advise us on how we should handle this. We do need to get this completed ASAP."[813]

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[808] Ex. 465 (Apr. 3, 2014 email from Shek).
[809] Ex. 466 at 131 (Apr. 7, 2014 12:02 pm email from Scott) (all caps in original).
[810] Ex. 419 (Planning Memo for Premier 2013 audit) SEC-AC-E-000'1857 (identifying engagement team).
[811] Ex. 466 (Apr. 7, 2014 18:14 pm email from Lai).
[812] *Id.* SEC-NYRO-J-7544 (Apr. 7, 2014 4:20 pm email from Absher).
[813] Ex. 469 (email chain) SEC-NYRO-J-7544 (Apr. 7, 2014 4:20 pm email from Absher).

493. Scott responded the next day, reiterating Doty Scott's need for financial information to prepare the valuation: "Can you forward me the 2012 financial statements for WePower?"[814] He later added: "I need the data to complete the analysis since we have no information from the buyer on the balance sheet or the projections of the buyer."[815]

494. In response to his request for financial statements, Scott received an email from Larry Young. Instead of providing the requested financial statements, Young emailed Scott a copy of the Asset Purchase Agreement and some unspecific, unconfirmed information about financing New Eco might receive, "hoping this is sufficient as we are in a hurry."[816]

495. Although neither New Eco or Premier had provided Doty Scott with the financial information the firm had requested, Doty Scott completed its analysis using the information it had, including WePower Ecolutions's 2012 performance as reported by Premier in its FY 2012 Form 10-K.[817]

496. On April 9, 2014, a week before Premier filed its 2013 Form 10-K, Doty Scott sent Premier a report that valued the Note at $0 (*i.e.*, it was worthless).[818] Consistent with Doty Scott's usual practice, this first report was labeled "**DRAFT**."[819]

497. In the report, Doty Scott gave the following reasons for valuing the Note at $0:

- The Note was unsecured and secondary to all secured debt obtained by the Borrower.

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[814] *Id*. at SEC-NYRO-J-7543 (Apr. 8, 2014 email from Scott). [815] *Id*. at SEC-NYRO-J-7542 (Apr. 8, 2014 email from Scott). [816] *Id*. at SEC-NYRO-J.7542 (Apr. 8, 2014 email from Young).

[817] Tr. (Vol. VII Haddad) 2051:6-20 ("A We did look at the filings, and we did notice that there was some information in the filings on Premier); Tr. (Vol. V Scott) 1453:20-1454:3 ("Q You testified earlier about the lack of revenue and about the losses that Premier had incurred? A Yeah. Q How – how did you know that? A Well, I either was provided that information or I found it in their 10-K. Q Okay. This would be the 2012 10-K? A Yeah.").

[818] Ex. 472 (Apr. 9, 2014 email from Scott transmitting draft report "WePower Eco Corp Promissory Note Valuation as of January 7, 2013" and cover letter).

[819] Tr. (Vol. V Scott) 1350:22-1351:11 (Q Okay. Let's talk about your **draft** reports for a minute. What are the features of the report that indicates that it's a **draft**? A We put a watermark on the first page and sometimes multiple pages that say "**draft**," and then many times at the bottom in the footer, there would be a notation **draft.** Q Okay. And what about the file name? A The what? Q The file name of the document. A Oh, yeah, the file name. Right.
Internally, if the – if we send the document to people, the file name says "**draft**" in the report name.").

- The Note was for 20 years with no principal payments for 5 years. The interest rate was significantly below market at 2% with interest payments deferred until 11 months after issuance.

- New Eco (the payor under the Note) was a start-up company (incorporated in late 2012) with no known assets other than those obtained in the Asset Sale.

- New Eco had no known revenues.

- New Eco had an undisclosed and unknown quantity of secured and unsecured liabilities.

- The assets transferred by Premier to New Eco generated no revenue for Premier in 2012.

- The assets generated a net loss in excess of $750,000 for Premier in 2011.[820]

- New Eco refused to provide any information regarding its financial status or financial projections.[821]

498. When he testified at the hearing, Scott explained the significance of the factors listed above. For example, he explained the significance of the Note being unsecured:

> A So I said, "The note is unsecured and secondary to all secured debt obtained by the borrower."
> Q Okay. Why is that important?
> A So the ability to receive any proceeds on liquidation or sale of the business is – is diminished, because it has no security. So there's no assets that are secured by it, and it doesn't have a primary debt position. So any primary debt, senior debt would get paid out first.
> Q So if borrower went into bankruptcy, the recovery for the noteholder might be minimal?

[820] The year that the assets transferred to New Eco had generated a loss in excess of $750,000 was 2012, not 2011. Scott acknowledged the typographical mistake. Tr. (Vol. V Scott) 1450:4-10, ("Q Okay. Let's go to bullet 7. A "The assets transferred or operated by the borrower in 2011 generated a net loss in excess of 750,000." One, I'm sure I was referring to 2012. It's probably a typo. But the same year that they operated it, they lost $750,000 in that subsidiary.").

[821] Ex. 472 (Apr. 9, 2014 email from Scott transmitting draft report "WePower Eco Corp Promissory Note Valuation as of January 7, 2013" and cover letter) 53.

A Right. It could be seriously diminished because of the fact that they're unsecured and secondary.[822]

. . . .

Q Okay. Bullet five.

A "The note was issued by a company with undisclosed and unknown quantity of secured and unsecured liabilities." So, again, this ties back to the fact that we're unsecured and secondary. We do not know what senior debt they have and what other unsecured debt they might have. So it's hard to tell where you are in line in the ability to get repaid.[823]

Lie #498 Scott just simply made the assumption that there were other debts of the New Eco. There is no evidence that there was any other debt in New Eco. Scott never took the proper time to understand the Note Receivable transaction and was clearly negligent in his conclusions subsequent to the settlement of the Note on March 4, 2014(**TR 5702 Lines 16-19**). **TR 5688 Lines 15-25** and **TR 5682 Lines 1-5**; **TR 6038 Lines 11-15** and **TR 6040 Lines 11-13** and **TR 6043 Lines 16-18** and **Lines 24-25** and **TR 6044 line 1-2**.

499. And Scott made clear that the other terms of the Note were very unusual and generous to New Eco:

Q Okay. Let's move on to the next bullet. What did you say here?

A So here, "The note is for 20 years with no principal payments for five years. The interest rate is significantly below market at 2 percent with interest payments deferred until 11 months after issuance." So this is indicating that: One, that the terms in the note, in general, are very unusual, right? Typically you wouldn't

> issue a promissory note for 20 years for this type of a transaction and not have any principal payments for five years. And you wouldn't typically charge an interest rate that's that low and defer any interest payments for almost a year. So on the surface, the terms appear extremely generous under the circumstances.[824]

500. In the report, Doty Scott gave the value of the Note on a discounted cash flow basis, this time with a WAAC of 52.1%, which Scott concluded was more reasonable under the circumstances than the 27.91% used in the initial valuation tables[825] The firm of also estimated the value of New Eco, which served as a cap on the value of the Note. Doty Scott found that the

[822] Tr. (Vol. V Scott) 1447:2-17.
[823] Tr. (Vol. V Scott) 1449:11-19.
[824] Tr. (Vol. V Scott) 1447:18-1448:10.
[825] Ex. 472 at 48; *see also* Tr. (Vol. V Scott) 1452:11-15 ("And we also did a discounted cash flow analysis. And under the circumstances, we adjusted the WACC to what we thought was a more reasonable WACC under the circumstances, and that netted a value of $272,488.").

net enterprise value of New Eco was less than $10,000 and the net value of New Eco's intangible assets was negative.[826] Accordingly, although the discounted cash flow analysis produced a value of $272,488, Doty Scott concluded that the Note was worthless.[827]

Lie #484 Exhibit 1116 supports that the purchase price was settled February 28, 2013 for 30,000,000 shares. The compromise agreement was determined on March 4, 2014 over a year after The Power Company received its shares. Winkler wouldn't have known that The Power Company received its shares on February 28, 2013. Therefore, the entire 7,500,000 shares were allocated to the Note Receivable on March 4, 2014(**TR 5702 Lines 16-19**). Scott's email on April 7, 2014 makes no mention that the numbers are going to materially change. Then on April 9, 2014 Scott email's Premier with a report that is materially different than the draft tables originally provided. A&C never received this "draft" report. Starting on March 7, 2014 three days after the Note Receivable was settled Scott communicated with A&C's staff (**Exhibit 455**); April 3, 2014 (**Exhibit 465**); April 7 (**Exhibit 466**); April 7 (**Exhibit 469**) nowhere in this communication does Scott say the tables are incorrect, or subject to materially change. Wahl and Koch were not on any of these

communications. Then sends a “draft” unsigned report on April 9 and doesn’t tell the auditors is suspect at best.

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

Doty Scott obtained a value of $272,488 **(Exhibit 473 page 6)** but then decided to put a zero value (Doty Scott works for the SEC (**TR 5702 Lines 16-19**)) on it without any due diligence, Scott was unaware that the Note was settled for 7,500,000 shares on March 4, 2014 (**TR 5702 Lines 16-19**); he never spoke to Randall Letcavage about the transaction; never obtained the board minutes; never discussed the transaction with the board of directors, never asked why Marvin Winkler gave back 7,500,000 shares to PRHL. Scott never took the proper time to understand the Note Receivable transaction and was clearly negligent in his conclusions subsequent to the settlement of the Note on March 4, 2014 (**TR 5694 Lines 10-14**). **TR 5688 Lines 15-25** and **TR 5682 Lines 1-5**; **TR 6038 Lines**

11-15 and **TR 6040 Lines 11-13** and **TR 6043 Lines 16-18** and **Lines 24-25** and **TR 6044 line 1-2**.

501. Despite its receipt of the Doty Scott zero valuation report on April 9, 2014,[828] in its quarterly and annual financial statements for 2013, Premier continued to represent to the public that the Note had a value of $869,000.[829]

Lie #501 Exhibit 1116 supports that the purchase price was settled February 28, 2013 for 30,000,000 shares (**See Exhibit 413** "The parties agreed to a Six Million ($6,000,000) purchase price payable with 30,000,000 shares of PRHL common stock based upon the average price during the prior 20 trading days.") The compromise agreement was determined on March 4, 2014 over a year after The Power Company received its shares. Winkler wouldn't have known that The Power Company received its shares on February 28, 2013. Therefore, the entire 7,500,000 shares were allocated to the Note Receivable on March 4, 2014. Scott's email on April 7, 2014 makes no mention that the numbers are going to materially change. Then on April 9, 2014 Scott email's Premier with a report that is materially different than the draft tables

originally provided. A&C never received this "draft" report. Starting on March 7, 2014 three days after the Note Receivable was settled Scott communicated with A&C's staff (**Exhibit 455**); April 3, 2014 (**Exhibit 465**); April 7 (**Exhibit 466**); April 7 (**Exhibit 469**) nowhere in this communication does Scott say the tables are incorrect, or subject to materially change. Wahl and Koch were not on any of these communications. Then sends a "draft" unsigned report on April 9 and doesn't tell the auditors is suspect at best.

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

Doty Scott obtained a value of $272,488 (**Exhibit 473 page 6)** but then decided to put a zero value (Doty Scott works for the SEC) on it without any due diligence, Scott was unaware that the Note was settled for 7,500,000 shares on March 4, 2014 (**TR 5702 Lines 16-19**); he never spoke to Randall Letcavage about the transaction; never obtained the board minutes; never discussed the transaction with the board of

directors, never asked why Marvin Winkler gave back 7,500,000 shares to PRHL. Scott never took the proper time to understand the Note Receivable transaction and was clearly negligent in his conclusions subsequent to the settlement of the Note on March 4, 2014 (**TR 5702 Lines 16-19**). **TR 5688 Lines 15-25** and **TR 5682 Lines 1-5**; **TR 6038 Lines 11-15** and **TR 6040 Lines 11-13** and **TR 6043 Lines 16-18** and **Lines 24-25** and **TR 6044 line 1-2**.

14. Premier's FY 2013 Form 10-K Note Valuation

502. On April 15, 2014, Premier filed its 2013 audited financial statements on Form 10-K and reported the Note as a note receivable valued at $869,000 on its balance sheet.[830] Based on the $869,000 "preliminary valuation" of the Note and New Eco's agreement to assume $116,138 of WePower Ecolutions' liabilities, Premier also reported $985,138 in income from discontinued operations.[831] (Premier treated the entire purported value of the Note as a gain because it had valued the assets obtained from WePower LLC and Green Central at zero, as discussed in Paragraph 420 above.)

Lie #502 The gain on the note was recorded in discontinued operations against a $5.19MM loss before non-controlling interest and discontinued operations (**Exhibit 402 page F-3**) hardly damaging to any investor.

[826] Ex. 472 at 48; Tr. (Vol. V Scott) 1451:11-1452:6 ("So if we took the – we knew what assets and liabilities were transferred into New Eco, and we could come up with knowing what those liabilities were and estimating an enterprise value of 113,000. But we basically said New Eco was essentially worthless, right? Q It was less than 10,000? A It was less than $10,000. So their ability with their current assets to repay a $5 million note was unreasonable. Q So that's the cap, is the way that you referred it to before? A Before. Is, like – if the asset's only worth $10,000, it's hard to argue that the fair value of the promissory note is worth more than the total assets. And then we also valued the intangible assets as much as we had done before, and we came up with $98,000. And netting out their liabilities, that actually comes up with a negative number. So that puts a cap of zero on the note.").

[827] Ex. 472 at 48; Tr. (Vol. V Scott) 1452:16-20 ("So even though the DCF provided a positive value, we felt because of all these other reasons and the fact that the company and the assets that that company owned had little to no value, that the promissory note was worthless.").

[828] Ex. 472 (Apr. 9, 2014 email from Scott transmitting draft report to Young).

[829] Ex. 404 (Q1 2013 Form 10-Q 20 ("The [promissory note has been independently valued at approximately $869,000."); Ex. 40 5(Q1 2013 Form 10-Q) 19 ("preliminary valuation on the note is $869,000."); 406 9 (Q3 2013 Form 10-Q (same);(Premier 2013 Form 10-K) F-4 ("The product line and prospects have been valued at $869,000."), F-9 ("The preliminary appraised value of the note is $869,000.") F-14 ("preliminary valuation on the note is $869,000."); *see also id*. F-2 F-4.

[830]Ex. 402 (2013 Form 10-K) F-2; *see also Id.* at F-4, F-9, F-14.

[831] Ex. 402 (2013 Form 10-K) F-3, F-14.

C. The TPC Acquisition

503. Separate and apart from the Note, Premier entered into another transaction in 2013 that had a significant impact on its reported assets.

Lie #503 The Power Company transaction is also significant because it provided Premier with revenues in 2013 of $1,804,980 and 2014 of $3,251,166 (**Exhibit 1119 page F-3**). Investors don't invest in the balance sheet. Investors invest because of expected profits, revenues and cash flow. They might invest in the balance sheet if the company has the cure for cancer.

504. On February 28, 2013, Premier acquired an 80% interest in The Power Company ("TPC), a deregulated power broker in Illinois,[832] in exchange for 30,000,000 shares of Premier stock (the "TPC acquisition").[833]

Lie #504 Instead of getting to the point and reviewing the actual contract for The Power Company transation the Division completely ignores the issue. **Exhibit 1116**: The agreement that was filed on Form 8-K. There are no assets and liabilities that were ***exchanged in the business combination transaction***. See **Exhibit 1116 Section 2.1** purchase price ***which does not identify which assets and liabilities***

come over.

505. Premier touted the acquisition in several public statements, and consistently emphasized the number and the value of TPC's customer contracts, which were the source of TPC revenue and receivables.[834] For example:

(a) In a December 27, 2012, open letter to shareholders, Letcavage extolled the acquisition, stating that TPC had "significant assets," including "receivables of over $1,000,000," and "power contracts with 8,600 customers that we believe represent in excess of $8,000,000 of assets that will become part of Premier Holding[.]"[835]

Lie #505 a A&C were never provided the Premier press relases and never issued an opinion or commentary on this press release. There is no audit opinion attached to the press release. The press release is not included in Premier's financial statements. No "receivables" and "power contracts" were transferred as part of the legal contract (**Exhibit 1116**). Simply b/c a company has assets and liabilities does not mean that those assets and liabilities are consummated as part of legal contract to close on the business transaction. In this case the contract is explicit that no assets and liabilities were transferred. For the accounting related to the TPC purchase price see Respondents **P.F.F#436** to **P.F.F#447**.

Exhibit 1116: The agreement that was filed on Form 8-K. There are no assets and liabilities that were ***exchanged in the business combination transaction***. See **Exhibit 1116 Section 2.1** purchase price ***which does not identify which assets and liabilities come over***.

> (b) In a February 27, 2013 press release announcing the TPC acquisition, Premier claimed that TPC had "contracts with over 14,000 customers representing assets estimated to be valued from $6,000,000 to $10,000,000."[836]

Lie #505 b A&C were never provided the Premier press releases and never issued an opinion or commentary on this press release. There is no audit opinion attached to the press release. The press release is not included in Premier's financial statements. No "receivables" and "power contracts" were transferred as part of the legal contract (**Exhibit 1116**). Simply b/c a company has assets and liabilities does not mean that those assets and liabilities are consummated as part of legal contract to close on the business transaction. In this case the contract is explicit that no assets and liabilities were transferred. For the accounting related to the TPC purchase price see Respondents **P.F.F#436** to **P.F.F#447**. Premier did not have a supplier, without owning the supplier

the contracts would have none to very little value. Valuing the TPC business combination in this manner is very aggressive and not conservative which does not comply with US GAAP or AU 230 Due Professional Care.

Exhibit 1116: The agreement that was filed on Form 8-K. There are no assets and liabilities that were ***exchanged in the business combination transaction***. See **Exhibit 1116 Section 2.1** purchase price ***which does not identify which assets and liabilities come over***.

> (c) In a May 30, 2013 press release, Letcavage was quoted as saying Premier believed that TPC's "contracts in hand today are worth approximately $20,000,000 if the company chose to sell them off in the deregulated energy markets" and that "The market value of [TPC's]contracts at year end, December 31, 2013, should exceed $35,000,000 . . . ."[837]

Lie #505 c The transaction closed on February 28, 2013, this press release was on May 30, 2013 which is three month after the closing. These assets would not become part of the purchase price allocation on February 28, 2013. Simply b/c a company has assets and liabilities does not mean that those assets and liabilities are consummated as part of legal contract to close on the business transaction. In this case the

contract is explicit that no assets and liabilities were transferred. For the accounting related to the TPC purchase price see Respondents **P.F.F#436** to **P.F.F#447**.

Exhibit 1116: The agreement that was filed on Form 8-K. There are no assets and liabilities that were ***exchanged in the business combination transaction***. See **Exhibit 1116 Section 2.1** purchase price ***which does not identify which assets and liabilities come over***.

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[832]Ex. 840 (Stipulation) ¶ 29 (stipulating that TPC was a deregulated power broker); Ex. 402 (Premier 2013 Form 10-K) 4 ("On February 28, 2013 Premier acquired an 80% ownership interest in [TPC], a deregulated power broker in Illinois.").

[833] Ex. 402 (Premier 2013 Form 10-K) F-11("On February 28, 2013,[Premier acquired 80% of the outstanding membership units of [TPC] . . . for 30,000,0000 shares of Premier's common stock valued at $4,500,000.").

[834] Tr. (Vol. VIII Shek) 2478:12-19 (" Q All right. And do you recall they receive commissions for these contracts; they didn't actually -- A Correct. Q They didn't fulfill energy, right? A Correct. Q They got commissions, right? A Right."

[835] Ex. 411 (Premier Form 8-K dated Dec. 27, 2012).

[836] Ex. 413 (Premier Form 8-K dated Feb. 27, 2013) Ex. 99.1.

[837] Ex. 414 (press release issued May 30, 2013) fourth paragraph.

(d) In its 2013 Q1 Form 10-Q, Premier reported that "[a]s of March 31, 2013, TPC had over 12,000 commercial contracts, and now has almost 18,000." And the Company reported "The Power Company has over 12,000 residential and commercial customers, and has been adding between 1,000 and 1,500 clients per month, and it expects to add over 2,000 residential and commercial customers per month beginning as early as May 2013."[838]

Lie 505 d EXHIBIT 1116: was signed and effective as of February 28, 2013, the press release and the Form 8-k was filed by the Premier on March 6, 2013, which is six days later. If the customer assets were acquired after February 28, 2013 then this is not part of the original agreement because the original agreement does not identify the assets. Therefore, there is no audit evidence to record this asset and Premier management would not be required to record a customer list for the Supplier contracts not the end customer contracts. The end customer contracts are between the Supplier and the end customer. The suppliers paid Premier commissions for providing new customers. The paragraph above is as of March 31, 2013 and is after the February 28, 2013 effective date this is simply not relevant to The Power Company transaction. For the accounting related to the TPC purchase price see Respondents **P.F.F#436** to **P.F.F#447**.

(e) In its 2013 Q2 Form 10-Q, Premier reported that TPC"clos[ed] second quarter 2013 with 18,000 contracts" and had "over 18,500 residential and commercial customers."[839]

Lie 505 e EXHIBIT 1116: was signed and effective as of February 28, 2013, the press release and the Form 8-k was filed by the Premier on March 6, 2013, which is six days later. If the customer assets were acquired after February 28, 2013 then this is not part of the original agreement because the original agreement does not identify the assets. Therefore, there is no audit evidence to record this asset and Premier management would not be required to record a customer list for the Supplier contracts not the end customer contracts. The end customer contracts are between the Supplier and the end customer. The suppliers paid Premier commissions for providing new customers. The paragraph above is as of June 30, 2013 and is after the February 28, 2013 effective date this is simply not relevant to The Power Company transaction. For the accounting related to the TPC purchase price see Respondents **P.F.F#436** to **P.F.F#447**.

(f) In its 2013 Q3 Form 10-Q, Premier reported that TPC "clos[ed] third quarter 2013 with 40,000 contracts" and had "over 18,500 residential and commercial customers."[840]

LIE 505 f EXHIBIT 1116: was signed and effective as of February 28, 2013, the press release and the Form 8-k was filed by the Premier on March 6, 2013, which is six days later. If the customer assets were acquired after February 28, 2013 then this is not part of the original agreement because the original agreement does not identify the assets. Therefore, there is no audit evidence to record this asset and Premier management would not be required to record a customer list for the Supplier contracts not the end customer contracts. The end customer contracts are between the Supplier and the end customer. The suppliers paid Premier commissions for providing new customers. The paragraph above is as of September 30, 2013 and is after the February 28, 2013 effective date this is not relevant to The Power Company transaction. For the accounting related to the TPC purchase price see Respondents **P.F.F#436** to **P.F.F#447**.

506. Premier engaged Doty Scott to do a purchase price allocation for the TPC acquisition and Doty Scott requested information it needed to value TPC's assets.[841] The firm never received the requested information, however, and never completed the TPC purchase price allocation.[842]

LIE #506 Doty Scott is the SEC's informant. No one will work with him after the unprofessional and fraudulent behavior he took with the Notes Receivable calculations.

1. Allocation of the Entire $4.5 Million Purchase Price to Goodwill

507. As discussed above, in its public statements Premier touted TPC's $6 million to $10 million in assets, including receivables and contracts. As discussed in Paragraphs 522, 644X-Y below, these assets were identifiable and should have been assigned a value before the remaining purchase price was recorded as goodwill.

LIE #507 EXHIBIT 1116: The assets (receivables and contracts) were not idenfied in the contract. Read the contract (**Exhibit 1116**) which was signed and effective as of February 28, 2013, the press release and the Form 8-k was filed by the Premier on March 6, 2013, which is six days later. If the customer assets were acquired after February 28, 2013 then this is not part of the original agreement because the original agreement does not

identify the assets. Therefore, there is no audit evidence to record this asset and Premier management would not be required to record a customer list for the Supplier contracts not the end customer contracts. The end customer contracts are between the Supplier and the end customer. The suppliers paid Premier commissions for providing new customers. For the accounting related to the TPC purchase price see Respondents **P.F.F#436** to **P.F.F#447**.

[838] Ex. 404 (Premier Form 10-Q for the quarter ended Mar. 30, 2013)20, 21.
[839] Ex. 405 (Premier Form 10-Q for the quarter ended June 30, 2013) 12, 21.
[840] Ex. 406 (Premier Form 10-Q for the quarter ended Sept. 30, 2013) 12, 16.
[841] Ex. 451 (Apr. 28, 2013 and May 17, 2013 emails from Haddad requesting information needed to perform the TPC acquisition purchase price allocation); Tr. (Vol. VII Haddad) 2027:4-25 ("Do you recall being engaged to value the – an acquisition of The Power Company? A Yes. It was – yes. Q All right. Did you ever prepare a valuation for that acquisition? A We put together information data requests, and we, again, asked for very similar items as we did before. . . . And then I did work on it, I believe, but I – I never generated any report or anything. I just worked on the models. . . . In anticipation they were going to send this data and retain us and all that kind of stuff. Q Okay. And nothing was ever sent to Anton & Chia – A No.")..
[842] See Tr. (Vol. VII Haddad) 2027:4-25, *supra*.

508. However, in its quarterly and fiscal year 2013 financial statements, **Premier attributed no value to any such identifiable assets. Instead, the Company stated that an independent valuation of TPC's identifiable assets and liabilities had not yet been completed**.[843] As a result, the Company explained, **it was reporting the entire $4.5 million purchase price – the purported value of the 30 million shares Premier issued to the sellers as consideration for the acquisition – as goodwill.**[844]

LIE #508 Nope **Exhibit 402 Page F-11** does not say this.

The Power Company USA, LLC Share Exchange

On February 28, 2013 Premier acquired 80% of the outstanding membership units of the The Power Company USA, LLC, an Illinois limited liability company ("TPC" or "The Power Company"), a deregulated power broker in Illinois for thirty million 30,000,000 shares of Premier's common stock valued at $4,500,000. The Power Company had over 14,000 residential and commercial customers. **The initial accounting for the business combination is not complete because the evaluations necessary to assess the fair values of certain net assets acquired and the amount of goodwill to be recognized are still in process. The provisional amounts are subject to revision until the evaluations are completed to the extent that additional information is obtained about the facts and circumstances that existed as of**

the acquisition date. Any changes to the fair value assessments will affect the acquisition-date fair value of goodwill.

The goodwill was recorded which is legitimate since the acquisition was provisional until February 28, 2014.

509. The acquisition of TPC, and Premier's decision to recognize the full purchase price from that acquisition as goodwill, was the primary reason that Premier's reported goodwill increased from $138,000 as of December 31, 2012 to $4,555,750 as of December 31, 2013.[845] Goodwill thus became the largest piece of Premier's total reported assets of $6,879,145.[846]

LIE #509 Exhibit 402 Page F-11 The goodwill was recorded which is legitimate since the acquisition was provisional until February 28, 2014. **The initial accounting for the business combination is not complete because the evaluations necessary to assess the fair values of certain net assets acquired and the amount of goodwill to be recognized are still in process. The provisional amounts are subject to revision until the evaluations are completed to the extent that additional information is obtained about the facts and circumstances that existed as of the acquisition date. Any changes to the fair value assessments will affect the acquisition-date fair value of goodwill.**

2. Premier's Representations about Goodwill Impairment

510. In its 2013 Form 10-K, Premier stated that it "periodically reviews the carrying value of intangible assets not subject to amortization, including goodwill, to determine whether impairment may exist."[847] Additionally, Premier represented that "[g]oodwill and certain intangible assets are assessed annually, or when certain triggering events occur, for impairment using fair value measurement techniques."[848] Premier further reported that it determined whether goodwill was impaired using a two-step quantitative process and went on to briefly describe the two steps in its financial statements.[849]

511. Premier did not report any impairment of goodwill in its 2013 financial statements. As a result of its representations about its goodwill accounting, readers of Premier's

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[843] Ex. 402 (Premier 2013 10-K) F-11.

[844] *Id.*

[845] Ex. 894 (Amended Premier 2013 Form 10-K) F-11.

[846] Ex. 402 (Premier 2013 10-K) F-2.

[847] Ex. 402 (Premier 2013 10-K) F-8.

[848] *Id*.

[849] *Id*.

2013 financial statements could reasonably have believed that the Company had assessed its goodwill for impairment at least annually and concluded that its goodwill of $4,555,750 was not impaired as of December 31, 2013.

LIE #510 Below is the note from **Exhibit 402 page F-8** it does not state that Premier completed an impairment analysis.

Goodwill and Other Intangible Assets

The Company periodically reviews the carrying value of intangible assets not subject to amortization, including goodwill, to determine whether impairment may exist. Goodwill and certain intangible assets are assessed annually, or when certain triggering events occur, for impairment using fair value measurement techniques. These events could include a significant change in the business climate, legal factors, a decline in operating performance, competition, sale or disposition of a significant portion of the business, or other factors. Specifically, goodwill impairment is determined using a two-step process. The first step of the goodwill impairment test is used to identify potential impairment by comparing the fair value of a reporting unit with its carrying

amount, including goodwill. Premier uses level 3 inputs and a discounted cash flow methodology to estimate the fair value of a reporting unit. A discounted cash flow analysis requires one to make various judgmental assumptions including assumptions about future cash flows, growth rates, and discount rates. The assumptions about future cash flows and growth rates are based on the Company's budget and long-termplans. Discount rate assumptions are based on an assessment of the risk inherent in the respective reporting units. If the fair value of a reporting unit exceeds its carrying amount, goodwill of the reporting unit is considered not impaired and the second step of the impairment test is unnecessary. If the carrying amount of a reporting unit exceeds its fair value, the second step of the goodwill impairment test is performed to measure the amount of impairment loss, if any. The second step of the goodwill impairment test compares the implied fair value of the reporting unit's goodwill with the carrying amount of that goodwill. If the carrying amount of the reporting unit's goodwill exceeds the implied fair value of that goodwill, an impairment loss is recognized in an amount equal to that excess. The implied fair value of goodwill is determined in

the same manner as the amount of goodwill recognized in a business combination. That is, the fair value of the reporting unit is allocated to all of the assets and liabilities of that unit (including any unrecognized intangible assets) as if the reporting unit had been acquired in a business combination and the fair value of the reporting unit was the purchase price paid to acquire the reporting unit.

Also a reasonable reader of the financial statements would have read **Exhibit 402 Page F-11** which says that goodwill was still provisional and subject to change and under these circumstances an impairment analysis is not required.

The Power Company USA, LLC Share Exchange

The goodwill was recorded which is legitimate since the acquisition was provisional until February 28, 2014. **The initial accounting for the business combination is not complete because the evaluations necessary to assess the fair values of certain net assets acquired and the amount of goodwill to be recognized are still in process. The provisional amounts are subject**

to revision until the evaluations are completed to the extent that additional information is obtained about the facts and circumstances that existed as of the acquisition date. Any changes to the fair value assessments will affect the acquisition-date fair value of goodwill.

The below is an example disclosure of when a Registrant completed an impairment analysis. If Premier completed an impairment analysis it would be explicit, which it is not and its not required since the purchase price was still provisional until February 28, 2014.

"[At <DATE> 2018, the Company's reporting unit had positive equality and the Company elected to perform a qualitative assessment to determine if I was more likely than not that the fair value of the reporting unit exceeded its carrying value, including goodwill. The qualitative assessment indicated that it was more likely than not that the carrying value of the reporting until exceeded its fair value. Therefore, the Company proceeded to complete the two-step impairment test.

Step 1 includes the determination of the carrying value of the reporting unit, including the existing goodwill and intangible assets, and estimating

the fair value of the reporting unit. If the carrying amount of a reporting unit exceeds its fair value, we are required to perform a second step to the impairment test.

Our annual impairment analysis as of <DATE>, 2018, indicated that the Step 2 analysis was necessary. Step 2 of the goodwill impairment test is performed to measure the impairment loss. Step 2 requires that the implied fair value of the reporting until goodwill be compared to the carrying amount of that goodwill. If the carrying amount of the reporting until goodwill exceeds the implied fair value of that goodwill, an impairment loss shall be recognized in an amount equal to that excess. After performing Step 2 it was determined that the implied value of goodwill was less than the carrying costs, resulting in an impairment charge of $<> for the year ended December 31, 2018. The facts and circumstances that led to an impairment of goodwill included <insert the facts and circumstances>. The fair value of the reporting unit at <DATE> 2018 was determined based on a discounted cash flow model. Significant assumptions in the discounted cash flow model included < >.

Cumulative impairment charges were $<> and $<> as of December 31, 2018 and 2017]"

D. Premier's 2013 Financial Statements

512. "Premier's consolidated financial statements as of and for the year ended December 31, 2013, including the footnotes therein, were materially misstated and, therefore, were not presented in conformity with GAAP, due principally to overstating the value of a note, and overstating the value of goodwill."[850]

1. The $869,000 Note Value

513. Premier assigned a value of $869,000 to the Note in its 2013 financial statements. "This amount, recorded and disclosed, did not comply with GAAP because there was no evidence or other documentation to support that value; there was no evidence to conclude that the Note represented a future economic benefit to the Company.[851] Thus, Premier materially misstated its assets and income from discontinued operations in 2013 by overstating the value of the Note.[852] Consistent with this conclusion, the United States District Court for the Central District of California has held that Premier made material misstatements about the value of the Note in its 2013 Form 10-K.[853]

LIE #513 Exhibit 1116 supports that the purchase price was settled February 28, 2013 for 30,000,000 shares (**See Exhibit 413** "The parties agreed to a Six Million ($6,000,000) purchase price payable with

30,000,000 shares of PRHL common stock based upon the average price during the prior 20 trading days.") The compromise agreement was determined on March 4, 2014 over a year after The Power Company received its shares. Winkler wouldn't have known that The Power Company received its shares on February 28, 2013. Therefore, the entire 7,500,000 shares were allocated to the Note Receivable on March 4, 2014. Scott's email on April 7, 2014 makes no mention that the numbers are going to materially change. Then on April 9, 2014 Scott email's Premier with a report that is materially different than the draft tables originally provided. A&C never received this "draft" report. Starting on March 7, 2014 three days after the Note Receivable was settled Scott communicated with A&C's staff (**Exhibit 455**); April 3, 2014 (**Exhibit 465**); April 7 (**Exhibit 466);** April 7 (**Exhibit 469**) nowhere in this communication does Scott say the tables are incorrect, or subject to materially change. Wahl and Koch were not on any of these communications. Then sends a "draft" unsigned report on April 9 and doesn't tell the auditors is suspect at best.

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

Doty Scott obtained a value of $272,488 (**Exhibit 473 page 6)** but then decided to put a zero value on it without any due diligence, Scott was unaware that the Note was settled for 7,500,000 shares on March 4, 2014 (**Exhibit 454**); he never spoke to Randall Letcavage about the transaction; never obtained the board minutes; never discussed the transaction with the board of directors, never asked why Marvin Winkler gave back 7,500,000 shares to PRHL. Scott never took the proper time to understand the Note Receivable transaction and was clearly negligent in his conclusions subsequent to the settlement of the Note on March 4, 2014(**TR 5702 Lines 16-19**). **TR 5688 Lines 15-25** and **TR 5682 Lines 1-5**; **TR 6038 Lines 11-15** and **TR 6040 Lines 11-13** and **TR 6043 Lines 16-18** and **Lines 24-25** and **TR 6044 line 1-2**.

The Judge (**Exhibit 886**) clearly does no understand basic finance theory surriounding valuation notes that are heaviliy discounted. In this trial we

had atleast three valuation experts testify to the fact the 83% discount on the note would reflect:

1) Default risk for lack of payment (**TR 2037 Lines 14-18 & TR 1480 Lines 17-25**)
2) Inherent risk (**TR 2048 Lines 8-21**)
3) Significant impairment to the Note Receivable (**TR 3438 Lines 14-21**).

US GAAP supports it at as management's best estimate, which of course was never disclosed to the judge in this matter; the judge completely ignores finance theory and that the Note was settled for 7,500,000 common shares that were returned to Treasury for an estimated $1,050,000 to $1,200,000 which is substantially above the $869,000 value recorded in the financial statements (**Exhibit 886**)

Plus does not include the fact that Mr. Greenbladt just wanted to move on.

TR 5746 Lines 2-16

Q And so are you aware that the federal district covert has already decided that using the $869,000 figure in Premier's public filings made

them misleading? MR. WAHL: Objection to relevance. THE WITNESS: No, I don't think it's misleading at all. MR. WAHL: Objection to relevance. THE WITNESS: No, I don't think it's misleading at all. JUDGE PATIL: Overruled. THE WITNESS: In fact, I remember – when I was asked earlier from Mr. Wahl about the last time I spoke with **Joe, he said he would sign anything that the SEC asked him sign or do anything that they asked him, because he was too old to fight it and too sick because he has** [redacted] So, no, I'm not aware of that.

514. The face value of the Note was materially different from its fair value, as Premier itself implicitly acknowledged when it valued the Note at $869,000 in its financial statements. As

[850] Ex. 88.1 (Devor Report) ¶ 9(2).
[851] *Id.* ¶ 417.
[852] *Id.* ¶ 417. *See* Paragraph 529, *infra*, regarding materiality.
[853] Ex. 886 (order granting summary judgment in *SEC v. Premier Holding Corp*.) 11.

a result, ASC 310 "**required"** Premier to record the Note at **fair value upon acquisition and thereafter to measure it for impairment, *i.e.* the likelihood of collection**.[854]

LIE #514a The Division and Devor continue on their pattern fo changing US GAAP and GAAS. **ASC 310** doesn't say **"required"** it says **"may".** This is incorrect the Note Receivable should be recorded at its Present Value because the consideration exhanged are liquid shares in the form of 5,000,000 shares (**Exhibit 1100**) and upon settlement was 7,500,000 shares (**TR 5702 Lines 16-19**).

ASC 310 30-4 As indicated in paragraph 835-30-25-2, if determinable, the established exchange price (which, presumable, is the same as the price for a cash sale) of property goods, or services acquired or sold in consideration for a note may be used to establish the **present value of the note**. That paragraph explains that, when notes are traded in an open market, the market rate of interest and quoted prices of the notes provide the evidence of the present value. The paragraph notes that these methods are preferable means of establishing the present value of the note.

LIE #514 b ASC 310 does not say record the Note at **fair value upon acquisition and thereafter to measure it for impairment, *i.e.* the likelihood of collection**. If ASC 310 said the previous the Division would have provided the specific paragraph where it says that it is "required" to be tested for impairment but like most US GAAP standards it normally says "should" but in this case the paragraph doesn't even exist in **ASC 310**.

Lie #514 c Devors report **Exhibit 88.1 paragraph 419** is only opinion and is not supported by any US GAAP and US GAAS requirement. Further to this it's a mischaracterization of the facts as the settlement shares that was known in February 2013 and the projections. The projections would be support for ability to pay.

515. By the time that Premier issued its 2013 financial statements, Doty Scott had determined that the fair value of the Note upon acquisition was $0. Accordingly, Premier was **required** by GAAP to record the Note at its fair value, which Doty Scott had determined was $0.[855] Instead, the Company improperly reported a value for the Note in its 2013 financial statements that was not based on any current financial measures"[856] and which the Company's valuation expert had said was not to be used in its public filings.[857] The Company also falsely suggested that a valuation was ongoing.[858]

LIE #515 a Footnote 855 is nothing more than opinion. It doesn't say "**required**" it says "**<u>may</u>**". Doty Scott didn't even know the note was settled on March 4, 2014 for 7,500,000 shares. Scott didn't determine anything in is lies of a report. He never signed the zero report. He never issued the zero report.

LIE #515 b Footnote 856 This is Devor's opinions not tied to any fact, or US GAAP or GAAS analysis.

#515 c Footnote 856 There is nothing to quote, Doty Scott never issued a report. And did not complete due diligence on the transaction, never spoke to the board, the CEO and he never knew the transaction settled on March 4, 2014 for 7,500,000 shares.

#515 d. Footnote 858 the transaction settled on March 4, 2014 for 7,500,000 shares so how would it be "ongoing"?.

Exhibit 1116 supports that the purchase price was settled February 28, 2013 for 30,000,000 shares (**See Exhibit 413** "The parties agreed to a Six Million ($6,000,000) purchase price payable with 30,000,000 shares of PRHL common stock based upon the average price during the prior 20

trading days.") The compromise agreement was determined on March 4, 2014 over a year after The Power Company received its shares. Winkler wouldn't have known that The Power Company received its shares on February 28, 2013. Therefore, the entire 7,500,000 shares were allocated to the Note Receivable on March 4, 2014. Scott's email on April 7, 2014 makes no mention that the numbers are going to materially change. Then on April 9, 2014 Scott email's Premier with a report that is materially different than the draft tables originally provided. A&C never received this "draft" report. Starting on March 7, 2014 three days after the Note Receivable was settled Scott communicated with A&C's staff (**Exhibit 455**); April 3, 2014 (**Exhibit 465**); April 7 (**Exhibit 466**); April 7 (**Exhibit 469**) nowhere in this communication does Scott say the tables are incorrect, or subject to materially change. Wahl and Koch were not on any of these communications. Then sends a "draft" unsigned report on April 9 and doesn't tell the auditors is suspect at best.

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

Doty Scott obtained a value of $272,488 (**Exhibit 473 page 6)** but then decided to put a zero value on it without any due diligence, Scott was unaware that the Note was settled for 7,500,000 shares on March 4, 2014; he never spoke to Randall Letcavage about the transaction; never obtained the board minutes; never discussed the transaction with the board of directors, never asked why Marvin Winkler gave back 7,500,000 shares to PRHL. Scott never took the proper time to understand the Note Receivable transaction and was clearly negligent in his conclusions subsequent to the settlement of the Note on March 4, 2014 (**TR 5702 Lines 16-19**). **TR 5688 Lines 15-25** and **TR 5682 Lines 1-5**; **TR 6038 Lines 11-15** and **TR 6040 Lines 11-13** and **TR 6043 Lines 16-18** and **Lines 24-25** and **TR 6044 line 1-2**.

516. By reporting the Note at a value of $869,000, Premier materially misstated its reportable assets. The reported value of the Note (*i.e.*, $869,000) was the second largest asset, after goodwill, on Premier's December 31, 2013 balance sheet.[859] "Premier also improperly recognized a gain

of $985,138 from discontinued operations in 2013 largely based on the inflated value of the Note."[860] Therefore, Premier's 2013 financial statements contained material misstatements and were not prepared in accordance with GAAP.[861]

LIE #516 Even if the financial statements weren't prepared in accordance with US GAAP A&C has no primary liability as they did not prepare the financial statements. Management is responsible for the financial statements. However, in this case the financial statements confirmed with US GAAP.

Exhibit 1116 supports that the purchase price was settled February 28, 2013 for 30,000,000 shares (**See Exhibit 413** "The parties agreed to a Six Million ($6,000,000) purchase price payable with 30,000,000 shares of PRHL common stock based upon the average price during the prior 20 trading days.") The compromise agreement was determined on March 4, 2014 over a year after The Power Company received its shares. Winkler wouldn't have known that The Power Company received its shares on February 28, 2013. Therefore, the entire 7,500,000 shares were allocated to the Note Receivable on March 4, 2014 (**TR 5702 Lines 16-19**). Scott's email on April 7, 2014 makes no mention that the numbers are going to

materially change. Then on April 9, 2014 Scott email's Premier with a report that is materially different than the draft tables originally provided. A&C never received this "draft" report. Starting on March 7, 2014 three days after the Note Receivable was settled Scott communicated with A&C's staff (**Exhibit 455**); April 3, 2014 (**Exhibit 465**); April 7 (**Exhibit 466**); April 7 (**Exhibit 469**) nowhere in this communication does Scott say the tables are incorrect, or subject to materially change. Wahl and Koch were not on any of these communications. Then sends a "draft" unsigned report on April 9 and doesn't tell the auditors is suspect at best.

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Doty Scott obtained a value of $272,488 **(Exhibit 473 page 6)** but then decided to put a zero value on it without any due diligence, Scott was unaware that the Note was settled for 7,500,000 shares on March 4, 2014 (**TR 5694 Lines 10-14**); he never spoke to Randall Letcavage about the transaction; never obtained the board minutes; never discussed the

transaction with the board of directors, never asked why Marvin Winkler gave back 7,500,000 shares to PRHL. Scott never took the proper time to understand the Note Receivable transaction and was clearly negligent in his conclusions subsequent to the settlement of the Note on March 4, 2014. **TR 5688 Lines 15-25** and **TR 5682 Lines 1-5**; **TR 6038 Lines 11-15** and **TR 6040 Lines 11-13** and **TR 6043 Lines 16-18** and **Lines 24-25** and **TR 6044 line 1-2**.

[854] Paragraphs 25, 26 above*;* Ex. 88.1 (Devor Report) ¶ 419.
[855] Ex. 88.1 (Devor Report) ¶ 422.
[856] Ex. 88.1 (Devor Report) ¶ 422.
[857] Ex. 447 (Mar. 29, 2013 email from Scott).
[858] Ex. 402 F-9 ("The gain is based upon the estimated value of the $5,000,000 note received in the transaction. The provisional amounts are subject to revision are completed. . . .The preliminary appraised value of the note is $869,000." F-14, Note 8 ("preliminary valuation on the Note is $869,000").
[859] Ex. 402 (Premier 2013 Form 10-K) F-2 balance sheet (reporting goodwill of $4,555,750 out of total asset value of $6,879,145).
[860]Ex. 88.1 (Devor Report) ¶ 423.
[861] Ex. 88.1 (Devor Report) ¶ 423.

2. The $4.5 Million TPC Goodwill

a. Valuation of the Acquisition

517. Premier assigned a value of $4.5 million to the goodwill acquired in the acquisition of TPC ("TPC goodwill"). "This amount, recorded and disclosed in the Company's 2013 financial statements, did not comply with GAAP. Premier should have assigned a value to the thousands of ostensibly valuable customer contracts it obtained as part of its acquisition of TPC."[862]

LIE #517 Again this is mere opinion by Devor. Devor references no specific paragraph in US GAAP b/c there was not a US GAAP violation. If there was, which paragraph was violated and put the native paragraph on the paper and show how it applies to the case. Devor can't do it! Plus, read the contract in **Exhibit 1116** there were no assets and liabilities transferred. If the contract identified the assets transferred then there would be sufficient audit support. The Phytosphere transaction clearly documented the assets and liabilities assumed by Cannavest, same with the Accelera contract clearly identified which assets and liabilities were transferred. The Purchase Price allocation is the responsibility of management not the auditors.

518. Premier's acquisition of its 80% interest in TPC should have been recorded using the acquisition method in accordance with ASC 805, *Business Combinations*.[863]

LIE #518 which paragraph of **ASC 805** did Premier not comply with? Which paragraph, where is the evidence and how does it apply to the actual authoritative standard? Or is it the made up paragraphs that the Division put in the Proposed Facts, OIP, Pre Trial Briefs and at Trial. Here is the extent of the Divisions fraud in misrepresenting **ASC 805** just in this document in their little GAAP and GAAS section, under **LIE #17** they changed **ASC 805-20-25-7**; **LIE #18** the Division intentionally changed **ASC 805-10-05-04**; **ASC 805-30-30-7; ASC 805-20-25-10; ASC 805-20-30-1; Under LIE #19** ASC 805-30-30-1 and ASC 805-30-20; **LIE #20 ASC 805 20-30-1** and **ASC 805** doesn't mention "contracts"; LIE #23 **ASC 805-10-20** – misrepresented "market participants" and orderly transaction". 12 time the Division fraudulently lied about the **ASC 805** standards in their little GAAP / GAAS section of this document! Then they take those misrepresentations through each Registrant and lie over and over and over…….

519. Goodwill represents the value of an enterprise *after* taking into account the value of identifiable assets, such as contracts.[864]

LIE #519 here is a reply for the Division from **LIE #18** and **Lie #19**.

LIE #19a. The definition of goodwill determined by the Division is not consistent with **ASC 805-30-30-1**, plus **ASC 805-30-30-1** doesn't mention "contracts". Here is **ASC 805-30-30-1** in its native format below.

ASC 805-30-30-1: The acquirer shall recognize goodwill as of the acquisition date, measured as the excess of (a) over (b):

a: The aggregate of the following:

1. The consideration transferred measured in accordance with this Section, which generally requires acquisition – date fair value (see paragraph 805-30-30-7).
2. The fair value of any non controlling interest in the acquiree.
3. In a business combination achieved in stages, the acquisition – date fair value of the acquiree's previously held equity interes in the acquiree.

b: The net of the acquisition – date amounts of the identifiable assets acquired and the liabilities assumed measured in accordance with this Topic.

ASC 805 defines goodwill as an "asset representing the future economic benefits arising from other assets acquired in a business combination … that are not individually identified and separately recognized."[38]

LIE #19b. Here is the **ASC 805-30-20 Glossary** definition in its native format.

Goodwill: An asset representing the future economic benefits arising from other assets acquired in a business combination **or** an acquisition by a **not-for-profit entity** that are not individually identified and separated separately recognized.

Accelera, Cannavest and Premier were **not** not-for-profit entities therefore the Division is again mischaracterizing the definitions used by US GAAP they blended **ASC 805-30-20 Glossary** for their own benefit.

520. In its FY 2013 financial statements, Premier represented that "an independent valuation of TPC's identifiable assets and liabilities had not yet been completed."[865] Such a valuation was never completed.[866]

LIE #520 There is no requirement under US GAAP and GAAS to obtain a third party valuation report. The Division probably plans to craft their own fraudulent paragraph. **Exhibit 1116** clearly states that no assets were transferred.

521. As discussed at Paragraph 506 above, although the Company had retained Doty Scott to perform the valuation, the firm did not receive the information it needed to do the valuation. Doty Scott therefor never performed the work and never provided Premier with a draft of a valuation report/purchase price allocation, or even preliminary calculations.

Lie #521 Doty Scott is an SEC informant. No sane person would consider using this firm.

522. Premier allocated the entire purchase price of the TPC acquisition to goodwill. As shown at Paragraphs 505-507 above, however, the Company repeatedly touted the number and the value of TPC's contracts. In addition, in a September 19, 2013 email Joseph Greenblatt, one

[862] Ex. 88.1 (Devor Report) ¶ 424.
[863] Ex. 88.1 (Devor Report) ¶ 426.
[864] Paragraphs 18, 19 above.
[865] Ex. 402 (Premier 2013 10-K) F-11.
[866] Paragraph 508.

of the Company's accounting consultants, told Larry Young that Premier had valued the TPC stake based on its customers:

> When we acquired The Power Company USA, LLC. (TPC) they had approximately 12000 customers.
>
> Our valuation of the TPC was solely based upon the value of those customers.[867]

Lie #522 Exhibit 1116 clearly states that no assets were transferred. Anton & Chia is and was not Premier's management. This is management's responsibility, however, management must comply with the legal contract.

523. According to Rosenberg, Premier's accounting consultant, Anton & Chai knew that Premier had valued TPC based on its customer contracts[868] and Rosenberg would have provided Anton & Chia with worksheets he had received from TPC showing that TPC was adding 1500 to 2000 contracts each month.[869] Similarly, Letcavage would have provided Anton & Chai with information about the number and value of the TPC contracts if the auditor had asked for it.[870]

Lie #523 Exhibit 1116 clearly states that no assets were transferred. Anton & Chia is and was not Premier's management. This is management's responsibility, however, management must comply with the legal contract.

524. Thus Premier's allocation of the full TPC purchase price, $4.5 million, to goodwill violated GAAP.[871]

Lie #524 Exhibit 88.1 paragraphs 424 and **439** provide no authoritative guidance or the paragraph to say which paragraph or section of **ASC 350** was violated? Where is it? This is pure opinion from CPA Devor that can't work in federal court and has never audited a public company in 30 years utilizing PCAOB standards (**TR 151 Lines 2-25 & TR 152 Lines 1-12**). Thinks he can obtain his experience from "other means" other than actually auditing public companies. If he can then why did he allow the Division to change the authoritative guidance which is US GAAP and GAAS over and over again in their documents. In his report there is nothing that is substantiated or supported by US GAAP or GAAS. It's all opinion from a CPA that has never audited a public company in accordance with PCAOB standards. (**TR 151 Lines 2-25 & TR 152 Lines 1-12**)

b. Failure to Assess the TPC Goodwill for Impairment

525. Intentionally omitted.

526. In discussing its goodwill in its 2013 financial statements, Premier reported that it performed the two-step quantitative assessment when periodically reviewing goodwill for

[867] Ex. 478 (email Sept. 19, 2013 from Greenblatt).
[868] Tr. (Vol. VII Rosenberg) 2191:13-18 ("Q So fundamentally was it the case that the value for TPC was based on its customer contracts? A Yes. Q And to your understanding, did Anton & Chia know that fact? A Yes.")
[869]Tr. (Vol. VII Rosenberg) 2192:21-2193:5. ("Now, focusing on that last sentence, where did that information come from that The Power Company was adding 1500 to 2,000 new contracts each month? A From the The Power Company provided to us and their worksheets that they had. Q In turn, was this information about the contracts at The Power Company had conveyed by Premier to the auditors, Anton & Chai? A Yes."); 2194:7-19.
[870] Tr. (Vol. XXIII Letcavage) 5788:3-7 ("Q Now, if Anton & Chia had asked you for any information regarding the number or value of TPC's customer contracts, you'd have provided it to them, right? A Yes.").
[871] Ex. 88.1 (Devor Report) ¶¶ 424, 439.

impairment.[872] In this discussion, Premier did not mention the optional qualitative assessment, suggesting that it did not perform such an assessment in 2013.[873]

Lie #526 No. Premier never represented this in the notes. It represented its accounting policy to determine if there is an impairment or not. It did not actually perform the test b/c the purchase price was still provisional which was fully disclosed **Exibit 402 page F-8**.

527. Anton & Chia did not receive a goodwill impairment analysis from Premier [874]

So, instead, Anton & Chia "look[ed] at goodwill impairment" itself.[875]

528. "Considering the magnitude of its reported goodwill, Premier's 2013 financial statements included a material misstatement, and thereby violated GAAP, when Premier disclosed in such statements that it performed a quantitative assessment to evaluate its goodwill for impairment at least annually" but did not do so.[876]

Lie #528 No. Premier never represented this in the notes. It represented its accounting policy. It did not actually perform the test b/c the purchase price was still provisional which was fully disclosed.

[878] *Id.*
[879] *Id*.

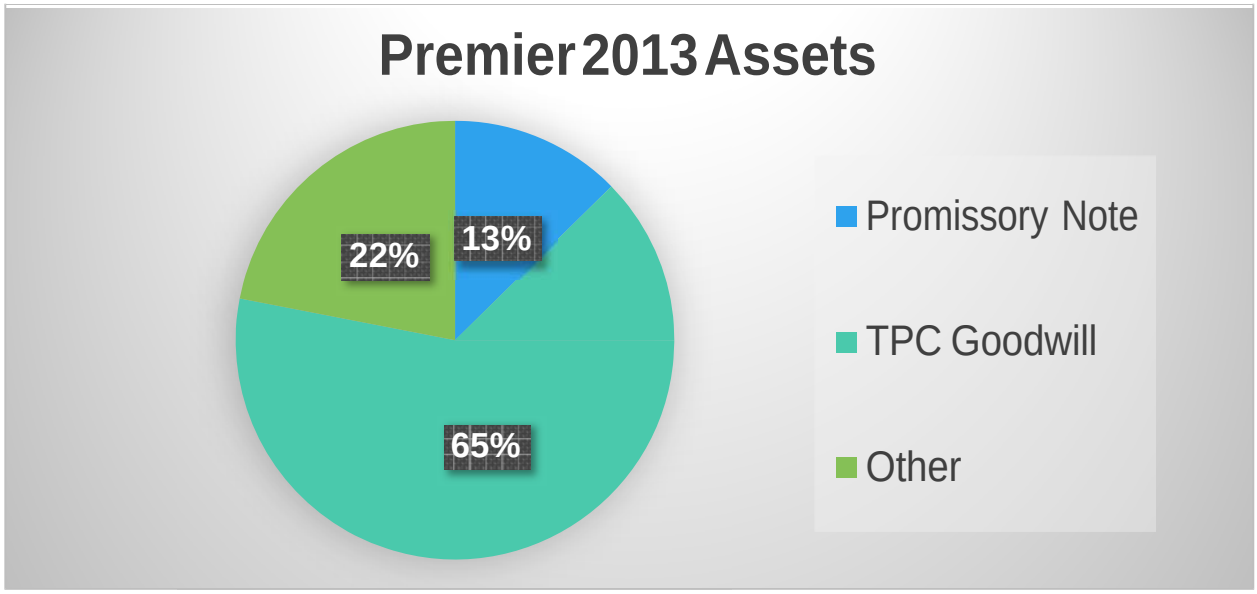
Exhibit 88.1 Paragraph 447 again no reference to a paragraph in **ASC 350** that was violated. No facts, no support that a GAAP or GAAS standard was violated.

E. Materiality of the Note Valuation and TPC Goodwill

529. In its FY 2013 financial statements, Premier reported total assets of $6,879,145 as of December 31, 2013, an increase of over $6,000,000 from December 31, 2012.[877] Together, the Note and the TPC goodwill represented 78% of Premier's reported assets as of December 31, 2013.[878] The Note was also Premier's largest asset other than goodwill.[879]

[872] Ex. 402 (Premier 2013 Form 10-K) F-8.
[873] *Id*. F-8.
[874] Tr. (Vol. VIII Shek) 2268:12-14 ("Q. Did you ever get an impairment analysis from the company? A. No.").
[875] Tr. (Vol. VIII Shek) 2269:1-8 ("Q In any event, do you recall, was it something that the engagement team did on its own, look at goodwill impairment? . . . . THE WITNESS: Yes."). *See also* Ex. 428 (goodwill impairment memo). [876] Ex. 88.1 (Devor Report) ¶ 447.
[877] Ex. 402 (Premier 2013 Form 10-K) F-2.

[878] *Id.*
[879] *Id*.



530. In its FY 2013 financial statements, Premier reported a loss of $5,190, 013. The income attributable to the $869,000 Note valuation reduced the Company's losses by roughly 16.74%.[880]

LIE #530 Investors would back out and not include any one time or non-routine transactions in their investment decision and only the continuing operations would be considered for an investment decision. Premier separately disclosed the Note Receivable transaction and disposition of the Wind business in discontinued operations so investors can separately pull this out. The transactions as disclosed are not misleading see (**Exhibit 402 pages F-2; F-3; F-4; F-9 and F-14 & Exhibit 1119 pages F-2; F-3; F-4; F-5; F-9; F-17 and F-18 Note 12)**.

[878] *Id.*
[879] *Id.*

F. The Premier 2013 Audit

1. The 2013 Audit Report

531. Premier's FY 2013 Form 10-K included a report from Anton & Chia representing that the auditor had audited Premier's FY 2013 financial statements in accordance with applicable professional standards and expressing its opinion on Premier those 2013 financial statements.[881]

532. In its report, Anton & Chia represented that it had "conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board."[882] Those standards, Anton & Chia stated, "require that we plan and perform the audits to obtain

[880] *Id.* at F-3.
[881] *Id.* at F-1.
[882] *Id.*

[878] *Id.*
[879] *Id.*

reasonable assurance about whether the consolidated financial statements are free of material misstatement."[883]

533. In the report, Anton & Chia also opined that Premier's financial statements were **materially accurate**: "In our opinion, the consolidated financial statements referred to above **present fairly, in all material respects**, the consolidated financial position of the Company as of December 31, 2013 and 2012 and the results of their consolidated operations and their cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States."[884]

LIE #533 Anton & Chia's report does not say "**materially accurate**" it says "**present fairly, in all material respects**" which is a lower standard than which the Division alludes but this is their entire case let the judge believe that Anton & Chia is responsible for more and then change the Authorative Guidance in US GAAP and GAAS no one will read it.

534. This effectively unqualified (or "clean") audit opinion offered an assurance to investors that Premier's financial statements "present[ed] fairly, in all material respects, the consolidated financial position" of the Company "in conformity with accounting principles generally accepted in the United States." Anton & Chia thus represented that it had performed sufficient procedures to arrive at its opinion.

[883] *Id.*
[884] *Id.*

#534 A&C did perform sufficent procedures but we followed the real authoritative US GAAP and GAAS standards not the US GAAP and GAAS standards that the Division changed in **LIE #15** to **LIE #110**.

535. In fact, as shown above, Premier did not account for the Note or the TPC acquisition in conformity with GAAP. And as shown below, Anton & Chia and Wahl failed to conduct Anton & Chia's audit of Premier's 2013 financial statements in accordance with PCAOB standards.

LIE #535 Which paragraph(s) of the actual PCAOB standards did we violate and how does it tie to the facts of the case and where is the evidence for the violation. Or are they referring to the PCAOB standards in **LIE #42** to **LIE #110** that the Division intentionally changed with the CPA Devor.

Specifically, as shown below and in the report and testimony of the Division's expert witness, they failed to:

LIE #535 The Testimony from 4 Times Daubert Devor for bias, cant cite a current US GAAP or GAAS standard only 1970 APB standards (**TR 6075 Lines 4-5 & Line 9; TR 6076 Lines 18-29; TR 6077 3-9; TR 6093 Lines 7-13; TR 1135 Lines 2-11**) and it all makes sense, Devor and the

[883] *Id.*
[884] *Id.*

Division decide to change the Authoritative Guidance in US GAAP and GAAS.

> (1) Exercise the **required** due professional care and professional skepticism as **required** by AU 230 (Due Professional Care in the Performance of Work);

Lie #535 (1) The Division and Devor use the word "**required**" where it says "**should**". But more specifically which paragraphs in **AU 230** that A&C and Wahl violated. They can't identify it and they can't tie it into any specific fact as well. Then the Division and Devor fraudulently change **AU 230; AU 230.03; AU 230.05: AU 230.07; AU 230.08**. So they put out a fraudulent press release, then terrorize and retaliate against Respondents for over three years then the Division and Devor commit fraud in their briefs.

> (2) Properly document purported procedures performed by the engagement team in accordance with AS 3 (*Audit Documentation*);

LIE #535 (2) The Division and Devor use the word "**required**" where it says "**should**". But more specifically which paragraphs in **AS 3** that A&C and Wahl violated. They can't identify it and they can't tie it into any

[883] *Id.*
[884] *Id.*

specific fact as well. Then the Division and Devor fraudulently changes and mischaracterizes the following paragraphs **AS 3.1; AS 3 Appendix A. A4; AS 3 Appendix A10**. The Division issues a fraudulent press release, then terrorize and retaliates against Respondents for over three years then the Division and Devor commit fraud in their briefs by changing the language to get a result against Respondents.

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[883] *Id.*
[884] *Id.*

(3) Obtain appropriate sufficient audit evidence in accordance with AS 14 and AS 15 (*Evaluating Audit Results*, and *Audit Evidence*);

LIE #535 (3) The Division and Devor use the word "**required**" where it says "**should**". But more specifically which paragraphs in **AS 14** and **AS 15** that A&C and Wahl violated. The Division throws the entire standard against the Wahl and hopes it sticks to Devor's face. They can't identify the paragraph and they can't tie it into any specific fact as well. Then the Division and Devor fraudulently changes and mischaracterizes the following paragraphs **AS 14.35**; **AS 15.04; AS 15.05; AS 15.11;** and **AS 15.29**. The Division issues a fraudulent press release, then terrorize and retaliates against Respondents for over three years then the Division and Devor commit fraud in their briefs by changing the language to get a result against Respondents.

(4) Adhere to the requirements of an auditor when assessing the work of a specialist in accordance with AU 336 (*Using the Work of a Specialist*);

LIE #535 (4) The Division's informant Doty Scott never issued a "FINAL" "Signed" report therefore **AU 336** does not apply. See **LIE #72 AU 336.12** where the Division and Devor changed the standards.

[883] *Id.*
[884] *Id.*

There is no requirement in US GAAP or GAAS that requires an auditor or a Registrant to obtain a valuation.

> (5) Consider fraud in accordance with AU 316 (*Consideration of Fraud in a Financial Statement*) by failing to properly evaluate and consider the circular and unusual nature of the transactions that Premier entered into surrounding the Note; and

LIE #535 (5) There is no "circular" or "unusual" nature of the Note Receivable transactions. The transaction entered into 2011 which Randall Letcavage continued as part of Premier and the Wind business was part of the 2011 transaction which Donovan and Letcavage hated each other and they decided to part ways. Letcavage forced Winkler to give back shares to benefit shareholders simply b/c the technology that Winkler brought didn't work as well as expected. Winkler and Letcavage are not friends. The discontinuance of the wind division was recorded as a discontinued operation which complies with US GAAP and the note was settled for 7,500,000 shares which also complies with US GAAP. In the small cap market which Premier operated it's common for companies to use

[883] *Id.*
[884] *Id.*

shares as currency to handle transactions.

LIE #535 (5) The Division and Devor use the word "required" where it says "should". But more specifically which paragraphs in **AU 316** that A&C and Wahl violated. The Division throws the entire standard against the Wahl and hopes it sticks to Devor's face. They can't identify the paragraph and they can't tie it into any specific fact as well. Then the Division and Devor fraudulently changes and mischaracterizes the following paragraphs **AU 316.06 (LIE #61); AU 316.85 (LIE #62); AU 316.02 (LIE #63); AU 316.66 (LIE #64) and AU 316.67 (LIE #65)**. The Division issues a fraudulent press release, then terrorize and retaliates against Respondents for over three years then the Division and Devor commit fraud in their briefs by changing the language to get a result against Respondents.

Of course the Division and Devor totally ignore this standard, Paragraph AU 316.05: <u>Fraud is a broad legal concept and auditors do not make legal determinations of</u> <u>whether fraud has occurred.</u> Rather, the auditor's interest specifically relates to acts that result in a material

[883] *Id.*
[884] *Id.*

misstatement of the financial statements. The primary factor that distinguishes fraud from error is whether the underlying action that results in the misstatement of the financial statements is intentional or unintentional. For purposes of the section, *fraud* is an intentional act that results in a material misstatement in financial statements that are the subject of an audit.

(6) Appropriately consider and/or address known red flags.[885]

LIE #535 (6) The Division and Devor claims there are supposed "red flags" but paragraphs **556; 596; 600** are again Devor's opinions that don't tie into specific paragraphs in specific standards that were violated. The Division and Devor cant do it. The Division creates this illusion and says "violates AU 230 or this standard and that standard" but cannot tie it to a specific paragraph and a specific fact that determines this violation. There is and was never any violations.

536. Anton & Chia's audit report contained two qualifications – a going concern qualification[886] and a related-party qualification.[887] Those qualifications were unrelated to the reported value of the Note or the TPC goodwill or the quality of Anton & Chia's audit. As the Division's expert

[883] *Id.*
[884] *Id.*

made clear, a going concern qualification does not relieve the auditor of its responsibility to comply with PCAOB standards.[888]

Lie #536 This misrepresents Wahl testimony and Deutchman was not involved in this matter, additionally, A&C denoted that the Going Concern and Related Party paragraphs in their auditor opinions were large "red flags" for investors. The "Division's expert" (**TR 151 Lines 2-15** and **TR 152 Lines 1-12**)

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[885] Ex. 88 (Devor Report) ¶¶ 556, 596, 600.

[886] Ex. 402 (Premier 2013 Form 10-K) F-1 ("The consolidated financial statements have been prepared assuming that the Company will continue as a going concern. As shown in Note 3 to the consolidated financial statements, the Company has incurred an accumulated deficit of $13,146,885 from inception to December 31, 2013. This raises substantial doubt about the Company's ability to continue as a going concern. Management's plans in regard to this matter are described in Note 3. The consolidated financial statements do not include any adjustments that might result from the outcome of this uncertainty.").

[887] *Id*. ("As discussed in Note 6 to the consolidated financial statements, during the year ended December 31, 2013, the Company made payments to Nexalin Technology. Nexalin Technology is in an unrelated business to the Company, and Letcavage is its president and a shareholder. In addition, the Company has also made payments to iCapital Advisory, which Letcavage serve as President.").

[888] Tr. (Vol. IV Devor) 1210:17-1211:17 ("Q. Devor, in your expert opinion, does it – does a going concern disclosure or warning in an audit opinion minimize or absolve an auditor's responsibility for conducting an appropriate audit? A. Of course not. Q Does it have any bearing on the quality of an audit that an auditor is required to perform? A. No. Q. Why not? A. There's an opinion that was shown on that screen, I believe when Deutchman was up here, Anton & Chia's opinion. It was a statement that says we conducted the audit in accordance with PCAOB standards. So you're not absolved of performing an audit in accordance with Generally Accepted Auditing Standards, PCAOB standards, just because the company is struggling to make money. … By the way, if you were, why would you do the audit? Think about that. Common sense. Why – if it didn't matter what you did or the audit didn't matter, why would you go to the expense of hiring an auditor to do the audit if you Didn't have to because there's a going concern statement?").

[883] *Id.*

[884] *Id.*

2. The Audit Team

537. The audit team for the 2013 Premier audit included Wahl as the engagement partner,[889] Richard Koch as the EQR, Tommy Shek as audit manager, and Monique Lai, Ivan Shing, and Chris Wen as staff.[890]

538. "As the Engagement Partner, Wahl was responsible for ensuring that Anton & Chia conducted its audit in accordance with PCAOB standards."[891]

539. Exhibit 417 is Anton & Chia's Workpaper Sign Off History Report for the 2013 Premier audit. Among other things, the report identifies the workpapers Wahl reviewed and the dates on which he reviewed them.

Lie #539 This is factually incorrect the report only shows sign offs on a working paper not when the working paper was reviewed or comments on the working papers b/c when the file is locked down all review comments are destroyed. Reviewing working papers is an iterative process and clearing comments are required by seniors, managers and partners before the working papers signed off.

540. Wahl signed off on 150 workpapers on the Premier audit in a one-week timespan between April 10 and April 15, 2014, the day that Anton & Chia issued its unqualified audit opinion.[892] Specifically, Wahl signed off on:

- 36 workpapers on April 10;
- 60 workpapers on April 14; and

- 54 workpapers on April 15, 2014.[893]

Lie #540 The audit is an iterative process, which based on Chris Wen's email on March 7, 2013 (**Exhibit 455**) started very early in March and took the firm almost six weeks to complete the audit hardly any area of concern and definitely not any form of reckless behavior (**Exhibit 402 Page F-1** demonstrates A&C's audit opinion was issued on April 15, 2014).

541. Ex. 417 shows that Wahl signed off on an important workpaper about the valuation of the Note (Ex. 423.xlsx (WP REF 4451 - Note Receivable Valuation) on April 15,

[889] Ex. 840 (Parties' Second Agreed Stipulation) ¶ 42 (stipulating that Wahl as the engagement partner, on Anton & Chia's audit of Premier's FY 2013 financial statements).
[890] Ex. 419 (Engagement Planning Memorandum) SEC-AC-E-1857 (listing Wahl, Koch, Shek, Shing, and Lai); *see also* Tr. (Vol. VII Wen) 2143:8-10 ("Okay. So were you staffed on the 2013 audit for Premier? A Yes."); Tr. (Vol. VIII Shek) 2218:14-2219:2 ("Q Do you recall working on the Premier Holding audit for 2013? A Yes. . . . Q Okay. And what was your role at that time? A I'm the manager there, so – Q You're the audit manager? A Yes."); *Id.* at 222:1-3 ("Q Did Chris Wen work on the audit for Premier 2013? A Yes.").
[891] Ex. 88.1 (Devor Report) ¶ 453.
[892] Ex. 402 (Premier 2013 Form 10-K) attestation showing filing date; Ex. 403 (Anton & Chia report signed Apr. 15, 2014).
[893] Ex. 417 (Workpaper Sign Off History Report) Bates number 144; Ex. 88, Ex 4 (Summary of the Documents Signed Off by Wahl for the 2013 Audit of Premier, Based On Anton & Chia's Sign Off History Report).

2014, the day that Anton & Chia issued its audit opinion.[894] (The Workpaper Sign Off History Report for the 2013 Premier audit (Ex. 417) indicates that Wahl Wahl did not review the note receivable valuation memo (Ex. 424 (WP REF 4452 - Note receivable valuation memo), the other workpaper about the value of the Note.)

Lie #541 The audit is an iterative process, which based on Chris Wen's email on March 7, 2013 (**Exhibit 455**) started very early in March and took the firm almost six weeks to complete the audit hardly any area of concern and definitely not any form of reckless behavior (**Exhibit 402 Page F-1** demonstrates A&C's audit opinion was issued on April 15, 2014).

542. Anton & Chia generated records of the time spent by individuals working on the 2013 audit of Premier.[895] Based on the timesheets, Wahl spent a total of 8.5 hours on the audit.[896] He spent only three hours on the audit the week before issuing the unqualified audit opinion on April 15, 2014. Specifically, he spent:

- 1 hour on April 10;
- 0.5 hours on April 11;
- 1 hour on April 13; and
- 0.5 hours on April 15.[897]

Lie #542 Substantially, all of Wahl's review of the working papers (See **Exhibit 418**) occurred on 3/29/2014 for 1.5 hours for the planning

meeting; 4/3/2014 for 2.0 hours for review (of working papers); 4/4/2014 2.0 hours for review (or working papers) so 5 hours of Wahl's time was for planning and review, which of course the Division didn't put in their report.

543. On April 15, 2014, the day that he signed off on 54 workpapers (including one of the two Note Valuation workpapers),[898] Wahl spent only 0.5 hours on the audit.[899] Thus, he signed off on 54 workpapers in 30 minutes.

Lie #543 Substantially, all of Wahl's review of the working papers (See **Exhibit 418**) occurred on 3/29/2014 for 1.5 hours for the planning meeting; 4/3/2014 for 2.0 hours for review (of working papers); 4/4/2014 2.0 hours for review (or working papers) so 5 hours of Wahl's time was for planning and review, which of course the Division didn't put in their report. Wahl didn't spend "only 0.5 hours on the audit"? This is nonsense. We didn't have a $1.82B budget, plus Wahl was working 80 too 100 hours a week and with all the demands on his time he wouldn't write it all down. Plus A&C's fees were fixed fees.

3. Deficiencies Involving the Note

a. Plans for Auditing the Note

544. Anton & Chia and Wahl recognized the significance of the Note in planning the audit. In a planning document titled *Audit Planning Memorandum as of December 31, 2013*,[900] the engagement team determined that they would address two financial assertions at the account

[894] Ex. 417 Bates number 144.
[895] Ex. 418 (Anton & Chia Employee Daily Activity with Reference WIP Date From 7/1/2013 to 7/1/2014).
[896] Ex. 418 2.
[897] *Id.*
[898] Ex. 88 (Devor Report) Ex. 4.
[899] Ex. 418 at 875.
[900] Ex. 419 (WP REF 1001 - Audit Planning Memorandum as of Dec. 31, 2013).

level: (1) the notes receivable balance, *i.e.,* the value of the Note, which was Premier's only note receivable; and (2) the value of goodwill.[901]

545. With respect to Premier's "Notes receivable" asset (*i.e.,* the Note), Anton & Chia planned the following audit procedures:

> Valuation – [Anton & Chia] will test the assumptions for the discounted cash flow for the $5 million note receivable [*i.e.,* the Note] from disposal of Wepower Co in Q1 2013.
>
> Existence – [Anton & Chia] will send direct confirmation to verify the balance as of 12/31/2013 and also reconcile with the disposal agreement between [Premier] and the buyer.[902]

Thus, Anton & Chia & Wahl knew that Anton & Chia had to address the risks associated with Premier's assertions about the value and the existence of the Note.

Lie #545 The Note Existed (existence assertion) as per the contract (**Exhibit 1100**) (**TR 5686 Lines 16-25; TR 5687 5-12; TR 5688 4-8**) and the valuation assertion was handled by the 7,500,000 shares were settled for the note receivable on March 4, 2014 (**Exhibit 454**) (**TR 5694 Lines 10-14**).

b. Deficiencies in Testing Management's Assertion of Value

546. "Anton & Chia and Wahl failed to follow professional standards in the testing of the Note's reported value of $869,000. Based on the workpapers" and testimony, Anton & Chia and Wahl "failed to engage in any meaningful analysis at all."[903]

Lie #546 The Division and Devor claim no "meaningful analysis" but cant provide a specific paragraph under US GAAP and GAAS **(TR 6075 Lines 4-5 & Line 9; TR 6076 Lines 18-29; TR 6077 3-9; TR 6093 Lines 7-13; TR 1135 Lines 2-11)** and a fact that determines whether there wasn't any sufficient evidence. Devor's paragraph **461** is nothing more than fales opinion. Please take a look at Respondents **LIE #15** to **LIE #110** for a very meaningful analysis that proves the Division and Devor are liars.

547. "Anton & Chia's purported 'analysis' was inadequate, and so were its workpapers. Anton & Chia and Wahl failed to exercise due professional care and professional skepticism, and failed to document purported procedures performed by the engagement team surrounding Doty Scott's Excel files. As a result, they failed to obtain sufficient appropriate audit evidence that supported the Note's reported value of $869,000 in Premier's 2013 financial statements."[904]

Lie #547 The Division and Devor claim no "meaningful analysis" but cant provide a specific paragraph under US GAAP and GAAS **(TR 6075 Lines 4-5 & Line 9; TR 6076 Lines 18-29; TR 6077 3-9; TR 6093 Lines 7-13; TR 1135 Lines 2-11)** and a fact that determines whether there wasn't any sufficient evidence. Devor's paragraph **461** is nothing more than fales

opinion. Please take a look at Respondents **LIE #15** to **LIE #110** for a very meaningful analysis that proves the Division and Devor are liars.

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[901] Ex. 419 at SEG-AG-E-1854.

[902] *Id.*

[903] Ex. 88.1 (Devor Report) ¶ 461; Tr. (Vol. XXV Devor) 5864:23-5865:3 ("Q Has any of the testimony that you've heard or read caused you to change any of the opinions that are reflected either in your expert report or the opinions you earlier offered at this hearing? A No.").

[904] Ex. 88.1 (Devor Report) ¶ 467.

548. Anton & Chia and Wahl knew that the engagement team needed to test the significant assumptions underlying the valuation of the Note. In fact, the Audit Planning Memorandum stated: "Valuation – ANC will test the assumptions for the discounted cash flow for the $5 million note receivable from disposal of Wepower Co in Q1 2013."[905]

549. Anton & Chia's workpapers treated Doty Scott's Excel spreadsheets (*i.e.,* the initial valuation tables) as the work of a specialist.[906]

LIE #549 DOTY SCOTT never issued a "FINAL" report that was signed. They were all "Draft" reports. **AU 336** does not apply to this case.

550. The workpapers and the testimony of Wen, Shek, and Wahl himself show however, that neither Wahl nor anyone else on the audit team "obtain[e] an understanding of the methods and assumptions used by the specialist" or "ma[d]e appropriate tests of data provided to the specialist," as required by AU 336.[907]

LIE #550 Wahl was able to discuss the valuation methods and assumptions at trial, in depositions and prepares valuations himself. The Royalties method and discounted cash flow method used by Doty Scott are standard valuation methodologies. The calculations are very easy to understand (**TR 2474 Lines 18-20; TR 5526 14-15; TR 5527 1-15**).

DOTY SCOTT never issued a “FINAL” report that was signed. They were all “Draft” reports. **AU 336** does not apply to this case.

551. Moreover, Anton & Chia and Wahl “failed to evaluate the ‘specialist’s findings,’ because they reviewed Doty Scott’s draft Excel spreadsheets and not its report valuing the Note at $0,”[908] which set forth and explained the firm’s findings.[909]

LIE #551 Anton & Chia and Wahl never received the zero report. Not once. The fake zero report was never provided to A&C or Wahl. A&C and Wahl had no knowledge of this report.

The compromise agreement (**Exhibit 454**) was determined on March 4, 2014 over a year after The Power Company received its shares. Winkler wouldn’t have known that The Power Company received its shares on February 28, 2013. Therefore, the entire 7,500,000 shares were allocated to the Note Receivable on March 4, 2014. Scott’s email on April 7, 2014 makes no mention that the numbers are going to materially change. Then on April 9, 2014 Scott email’s Premier with a report that is materially different than the draft tables originally provided. A&C never received this “draft” report. Starting on March 7, 2014 three days after the Note

Receivable was settled Scott communicated with A&C's staff (**Exhibit 455**); April 3, 2014 (**Exhibit 465**); April 7 (**Exhibit 466**); April 7 (**Exhibit 469**) nowhere in this communication does Scott say the tables are incorrect, or subject to materially change. Wahl and Koch were not on any of these communications. Then sends a "draft" unsigned report on April 9 and doesn't tell the auditors is suspect at best (**TR 5702 Lines 16-19**).

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

Doty Scott obtained a value of $272,488 (**Exhibit 473 page 6)** but then decided to put a zero value on it without any due diligence, Scott was unaware that the Note was settled for 7,500,000 shares on March 4, 2014; he never spoke to Randall Letcavage about the transaction; never obtained the board minutes; never discussed the transaction with the board of directors, never asked why Marvin Winkler gave back 7,500,000 shares to PRHL. Scott never took the proper time to

understand the Note Receivable transaction and was clearly negligent in his conclusions subsequent to the settlement of the Note on March 4, 2014 (**TR 5694 Lines 10-14**). **TR 5688 Lines 15-25** and **TR 5682 Lines 1-5**; **TR 6038 Lines 11-15** and **TR 6040 Lines 11-13** and **TR 6043 Lines 16-18** and **Lines 24-25** and **TR 6044 line 1-2**.

DOTY SCOTT never issued a "FINAL" report that was signed. They were all "Draft" reports. **AU 336** does not apply to this case.

552. Wen, who was charged with doing the audit work on the Note valuation, did not understand the methods or assumptions used by Doty Scott in creating the spreadsheets. As discussed at Paragraphs 462, 463, 467 above, he had no experience with valuations and was unable to understand the spreadsheets even after he spoke with Phil Scott during the 2013 Q1 quarterly review.

#552 This is more side show by the Division and Devor. Wahl understood the calculations (**TR 2474 Lines 18-20; TR 5526 14-15; TR 5527 1-15**).

[905] Ex. 419 (WP REF 1001 - Audit Planning Memorandum as of Dec. 31, 2013) 3.
[906] *Compare* Anton & Chia procedures described on Exs. 423, 424, and 860, *with* Paragraph 71 above (setting forth requirements of AU 316).
[907] *See* Paragraphs 462-473, above.
[908] Ex. 88.1 (Devor Report) ¶ 465; *see also* ¶ 474 ("AU 336 contemplates reliance on a specialist's 'findings.' But here, Anton & Chia and Wahl relied on drafts.").
[909] Ex. 472 (Apr. 9, 2014 draft Doty Scott Note valuation report).

553. According to the workpapers, for the audit Wen "checked the qualification of the appraiser company and confirmed that they are SEC compliance corporate valuation."[910] Other than checking Doty Scott's credentials, Wen performed no additional work on the Note valuation for the audit.[911]

LIE #553 This is more side show by the Division and Devor. Wahl understood the calculations(**TR 2474 Lines 18-20; TR 5526 14-15; TR 5527 1-15**).

554. Shek also did not understand the Doty Scott spreadsheets:

Q Okay. If you did, was – do you recall, was that – were you able to, after looking at the Excel file and getting behind the formulas, able to understand what the appraiser did?
A No.
Q So you, at no point on this audit, did you ever understand what the appraiser did?
A Yes.
Q And you couldn't understand whatever the methodologists that he used –
A No.
Q – or the assumptions that he made?
A No.
Q Or where the facts came from, the information came from for this spreadsheet?
A No.[912]

Lie #554 This is more side show by the Division and Devor. Wahl understood the calculations (**TR 2474 Lines 18-20; TR 5526 14-15; TR 5527 1-15**).

555. Shek knew, and Wahl knew or recklessly disregarded that Doty Scott had not yet

"complete[d] the valuation." Shek wanted to get a report from Doty Scott so that he could understand the spreadsheets. As discussed in Paragraphs 482-490 X-Y above, in March and April of 2014, when Wen and Shek tried to get a copy of a Doty Scott report, Phil Scott repeatedly told they that the firm had not completed its analysis, and had not issued a report.[913]

LIE #555 This is more side show by the Division and Devor. Wahl understood the calculations. See also **LIE #551** as Doty Scott (**TR 5688 Lines 15-25; TR 5689 Lines 1-5**), Shek (**TR 2473 Lines 10-15 & Line 25; TR 2474 Lines 1-5**) and Chen had no knowledge the Note was settled on March 4, 2014 for 7,500,000 shares (**TR 5694 Lines 10-14**) and there was no requirement under US GAAP or GAAS to obtain a third party valuation report (**TR 3260 Lines 11-17 & Lines 21-25**). There is nothing in the true authoritative standards US GAAP or GAAS that requires a third party valuation report. Wahl has demanded this on multiple occasions and the Division and Devor cant produce it b/c it doesn't exist (**TR 2941 Lines 14-17**)

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[910] Ex. 423.

[911] Tr. (Vol. VII Wen) 2157:20-2158:7 ("Q ... in the 2013 audit, did you perform any additional work testing the $869,000 value of the promissory note? A No. Q Okay. So there were no additional calculations that you made? A No. Q Did you check any assumptions? A The procedure has to be performed during a Q1. No, I did not perform – Q So no further procedures? A No.").

[912] Tr. (Volume VIII Shek) 2237:9-24.

[913] Ex. 455 at SEC-DS-E-1 (email Mar. 7, 2013 from Scott to Wen)("We have not drafted a report for this project."); Ex. 466 at 131 (Apr. 7, 2013 email from Scott to Shek ("We had issued a DRAFT ANALYSIS . . . ." All caps in original); ((Vol. VIII Shek) 2238:25-2239:5 ("Q Did you ever get a written report from Doty Scott that explained how they arrived at the valuation for the note? A No. Q Did you try to get such information? A Yes.").

556. Shek discussed with Wahl the issues he was having getting sufficient information to audit the note valuation.[914] Shek told Wahl that "we just have an Excel file from Doty Scott … [n]othing else."[915]

LIE #556 There was never any conversations regarding the final valuation report with Shek only walking Shek and Wen through how the calculations worked. Shek is known to being dishonest to his employers just like he was regarding the SEC's investigation into himself while he was at RSM, which led to his termination from the firm.

See **Lie #856**, where Shek claims "he had no interaction with her (Chung) during the four years of his employment at Anton & Chia." Pictures also attached with Shek and Chung together.

557. Because he was unable to understand the spreadsheets, Shek refused to sign off on the Note valuation workpapers:

Q So you didn't sign off on the part of the audit related to the note valuation?
A Yes.
Q And why is that?
A I just don't understand this.
Q And you felt that you needed to understand it in order to sign off?
A Yes.[916]

LIE #557 Even if Shek had the valuation report he would never understand the calculations this is just more side show from the Division.

558. Shek also knew and Wahl knew or recklessly disregarded that Doty Scott required more information in order to complete its analysis, including financial statements and financial projections for New Eco. In an April 7, 2014, Scott reiterated to Shek that the firm had prepared only a "DRAFT ANALYSIS." [917] In his email, Scott also listed the information Doty Scott needed to complete the valuation, including New Eco financial statements and a budget or financial projections and information about the status of the payment on the Note that had been due before the end of 2013.[918]

LIE #558 Wahl did not know that Doty Scott required more information. In fact Wahl was never on any of the communications with Doty Scott. Wahl was under the impression that the numbers were all finalized and Scott only required payment to finalize the report. There was nothing communicated to Wahl, Shek, Wen and Koch that the numbers were incorrect.

Anton & Chia and Wahl never received the zero report. Not once.

The compromise agreement was determined on March 4, 2014 over a year after The Power Company received its shares. Winkler wouldn't have known that The Power Company received its shares on February 28,

2013. Therefore, the entire 7,500,000 shares were allocated to the Note Receivable on March 4, 2014. Scott's email on April 7, 2014 makes no mention that the numbers are going to materially change. Then on April 9, 2014 Scott email's Premier with a report that is materially different than the draft tables originally provided. A&C never received this "draft" report. Starting on March 7, 2014 three days after the Note Receivable was settled Scott communicated with A&C's staff (**Exhibit 455**); April 3, 2014 (**Exhibit 465**); April 7 (**Exhibit 466**); April 7 (**Exhibit 469**) nowhere in this communication does Scott say the tables are incorrect, or subject to materially change. Wahl and Koch were not on any of these communications. Then sends a "draft" unsigned report on April 9 and doesn't tell the auditors is suspect at best.

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

Doty Scott obtained a value of $272,488 (**Exhibit 473 page 6**) but then decided to put a zero value on it without any due diligence, Scott was unaware that the Note was settled for 7,500,000 shares on March 4, 2014; he never spoke to Randall Letcavage about the transaction; never obtained the board minutes; never discussed the transaction with the board of directors, never asked why Marvin Winkler gave back 7,500,000 shares to PRHL. Scott never took the proper time to understand the Note Receivable transaction and was clearly negligent in his conclusions subsequent to the settlement of the Note on March 4, 2014 (**TR 5694 Lines 10-14**). **TR 5688 Lines 15-25** and **TR 5682 Lines 1-5**; **TR 6038 Lines 11-15** and **TR 6040 Lines 11-13** and **TR 6043 Lines 16-18** and **Lines 24-25** and **TR 6044 line 1-2**.

559. Anton & Chia and Wahl "should have followed up with Doty Scott about the status of its valuation report."[919] Doty Scott ultimately issued its report on April 9, 2014 (Ex.

[914] Tr. (Vol. VIII Shek) 2255:19-23 ("Q. Did you ever talk to Greg Wahl about the issues you were having getting information in order to conduct the audit of the note valuation? A. Yes."); *see also* Ex. 461 (Apr. 1, 2014 email chain with Shek) ("Let me discuss with Greg.").

[915] Tr. (Vol. VIII Shek) 2255:24-2256:3 ("Q Okay. And tell me, what was discussed? What did you tell him? A I just told him, like, we just have an Excel file from Doty Scott for the promissory notes. Nothing else.").

[916] Tr. (Vol. VIII) 2257:9-16.; Ex. 417 at Anton & Chia- Premier 143-44 (showing that Wen and Wahl signed off on WP 4451 but Shek did not and that Wen signed off on WP 4452 but Shek did not).
[917] Ex. 466 at Bates No. 131 (Apr. 7, 2014 email from Scott to Shek).
[918] Ex. 466.

473), **before** Anton & Chia issued its audit opinion on April 15, 2014 (Ex. 403]). If they had followed up with Doty Scott, Anton & Chia and Wahl would have known that Doty Scott valued the Note at **$0**.

Lie #559 Total Lie and fabrication. Doty Scott never issued a report. Doty Scott never issued a report, never signed a report and the zero report was still "draft". The "draft" "unsigned" zero report was never provided to Wahl or Anton & Chia. There is not one shred of evidence that proves that Wahl or A&C received **Exhibit 473** because they never had.

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

The entire point of Wahl speaking to Letcavage regarding the the 7,500,000 shares before filing the Form 10-K woud be to ensure that there was sufficient audit support to value the note receivable.

560. "Anton & Chia and Wahl violated professional standards by relying on Excel spreadsheets that were unfinished. AU 336 contemplates reliance on a specialist's 'findings.' But here, [Anton & Chia] and Wahl relied on drafts."[920]

#560 There is no evidence provided that indicates that the spreadsheets were not incomplete and not management's best estimate of the Note Receivable. The expected consideration started at 5,000,000 shares per (**Exhibit 1100**) (**TR 5686 Lines 16-25; TR 5687 Lines 5-12; TR 5688 Lines 4-8**)) and ended up being 7,500,000 shares and the valuation was always higher than the $869,000 recorded in Premier's financial statements (**TR 5676 Lines 16-19 & TR 5684 Lines 9-15**).

Exhibit 88.1 474: Again Devor does not provide the paragraph in **AU 336** that was violated. He just says **AU 336** maybe Devor was referring to the **LIE #67 AU 336.17** and **AU 336** and **LIE #72 AU 336.12**

561. Anton & Chia's and Wahl's "failure . . . to follow up with Doty Scott and inquire about the status of the valuation was a glaring violation of auditing standards."[921]

LIE #561 See Response **LIE #560** – What specific auditing standards were violated? None were violated. Devor cant provide any evidence b/c its all his distorted opinions. Its such a "glaring violation" then which standards are you referring to Devor? (**TR 151 Lines 2-25; TR 152 Lines 1-12**)

562. This is all the more true if, as he claims, Wahl analyzed Doty Scott's work and disagreed with the firm's supposed "double discounting" of the Note.[922] Had Wahl talked to Scott or Haddad he would have learned, among other things, that the fair values of the Note and the enterprise were calculated independently;[923] there was no double counting.[924]

Lie #562 The calculations are double discounted b/c the assets that were transferred in settlement of the Note would reflect the enterprise value b/c that is all that was transferred into this entity at the time on January 7, 2013 (See **Exhibit 1101**) and no other assets would be utilized to value the Note at that time. This is a complete inaccuracy by Doty Scott and his firm's calculations and the fact he would say this under oath is a complete misrepresentations of the facts on January 7, 2013 (**Exhibit 1101**) when the Note Receivable was exchanged for the assets. The enterprise value should reflect the valuation of the Note Receivable on January 7, 2013 b/c that is all the assets that were transferred to entity. Any other assets transferred after January 7, 2013 would not have any implications to determining the Note Receivable. The Enterprise value has to equal the value the note because it only had one asset, Doty Scott said this himself. **TR 1399 Lines 9-14**

A So for this method, "then utilized both a discounted cash flow and a relief of royalty method since they buyer's only asset is the intellectual property. This is the same methodology that we used when we originally valued the intellectual property."

563. But, with the exception of Wen's conversation with Scott during the Q1 review, no one from Anton & Chia asked how the $698,000 promissory note valuation was calculated.[925]

LIE #563 The calculations are based on basic finance theory its not rocket science.

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[920] Ex. 88.1 (Devor Report) ¶ 474.
[921] Ex. 88.1 (Devor Report) ¶ 472.
[922] Tr. (Vol. XXII Wahl) 5359:7-18 ("Q Did – that's what Doty Scott believed that the fair value of the promissory note was, right? 698,377? A I don't know if he did or not. Q Okay. But you disagreed with that figure, right? A Based on my professional judgment and my experience and my finance background in looking at various valuations, I believe that double discounting the cash flows was inappropriate from a methodology standpoint and from a theoretical standpoint."); *id.* at364:25-5365:8 ("Q Okay. And did you have any discussions with Doty Scott's firm or Phil Scott or anyone at Doty Scott's firm about this double discount issue? A No. I didn't, because I didn't really want to get into a – you know, what I call a pissing match with the valuation firm that was on a booking of an asset at its historical cost for the reporting period – reporting requirements.").
[923] Tr. (Vol. XXV Scott) 6015:8-19 ("Q So the fair value of the enterprise, the methodology used for that has nothing to do with the methodology that you used to determine the fair value of the promissory note? A No. These two first sets of calculations were done to put a cap on the value of the promissory note. Q Okay. And just, for the record, the same is true of the fair value of the IP, right? That has nothing to do with the fair value of the promissory note, the methodology? A No. Right. They're not dependent").
[924] Tr. (Vol. XXV Scott) 6009:22-25 ("Q Did you apply that discount rate twice in determining the $698,000 value? A No. It's applied one time to these contractual cash flows.").
[925] Tr. (Vol. XXV Scott) 6009:10-13 ("Q Did anyone from Anton & Chia ever ask you how the $698,000 promissory note value was calculated? A Not that I recall.").

564. Instead of acknowledging the lack of a final report from Doty Scott, Anton & Chia and Wahl relied on the draft Excel spreadsheets that Doty Scott prepared as a template in 2013. They treated Doty Scott's draft spreadsheets as if they were a final report that definitively opined on the value of the Note.[926]

LIE #564 There was no communication from management or Doty Scott that the information was incorrect.

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

565. Wahl appears to have addressed the absence of a Doty Scott report by telling Wen to "roll forward" the workpaper from the Q1 quarterly review, saying that because there had been no changes, Anton & Chia could use that workpaper to support the year-end Note valuation.[927]

LIE #565 There is no evidence provided that indicates that the spreadsheets were not incomplete and not management's best estimate of the Note Receivable. The expected consideration started at 5,000,000 shares per (**Exhibit 1100**) (**TR 5686 Lines 16-25**; **TR 5687 Lines 5-12**; **TR5688 Lines 4-8**) and ended up being 7,500,000 shares and the

valuation was always higher than the $869,000 recorded in Premier's financial statements (**TR 5676 Lines 16-19; TR 5684 Lines 1-7**).

There was no communication from management or Doty Scott that the information was incorrect.

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

c. WP REF 4451 (Ex. 423)

566. "Anton & Chia's documentation of its purported review was cursory and conclusory."[928] The test for audit documentation "is for someone who has never had anything to do with a job and is not familiar with the job, to be able to go back to the work papers and recreate the work that was done and presumably reach the same conclusions." [929]

Lie #566 Exhibit 88.1 501 is pure opinion and provides not shred of facts or reference to a paragraph in US GAAP and GAAS that would support this statement. Devor has never audited a public company in

accordance with PCAOB standards in his life (**TR 151 Lines 2-25; TR 152 Lines 1-12**).

567. Based on the workpapers, it is not possible to ascertain what, if anything, Anton & Chia] did to assess the value of the Note."[930] Moreover, the workpapers fail to address numerous issues that, at a minimum, called into question their value as audit evidence.

Lie #567 Exhibit 88.1 501 is pure opinion and provides not shred of facts or reference to a paragraph in US GAAP and GAAS that would support this statement. Devor has never audited a public company in accordance with PCAOB standards in his life (**TR 151 Lines 2-25; TR 152 Lines 1-12**).

568. Wen prepared two workpapers concerning the Note valuation for the audit. First, he created the rolled-forward workpaper, WP REF 4451 (Ex. 423). Second, at the request of

[926] Ex. 423; Ex. 88.1 (Devor Report) ¶ 473.
[927] Tr. (Vol. VII Wen) 2153:22-2154:7 ("Q But did you talk to Wahl about what to put in the work paper for the 2013 audit? . . . . Q And what did he tell you to do with respect to the work paper on the note valuation for the 2013 audit? A I don't remember 100 percent the conversation, but I do remember he request me to roll forward the work paper from Q1. And since there were no changes, then we can use that to support a yearend number.").
[928] Ex. 88.1 (Devor Report) ¶ 501.
[929] Tr. (Vol. XXV Devor) 5870:18-22; 5872:3-16 (quoting AS 3); see also Paragraph 84 above.

Wahl or Shek, he prepared a second workpaper for the Note valuation: a one page memorandum, WP REF 4452 - *Note receivable valuation memo* (Ex. 424).[931]

569. WP REF 4451 (Ex. 423) is almost identical to the Note valuation workpaper for the Q1 review. It is a copy of the same Doty Scott "initial valuation" Excel workbook that had served as the Note valuation workpaper for the Q1 review (see Paragraphs above) with the addition of an additional procedure in the legend that Wen inserted at the top of the first page:

Purpose: To evaluate the value of the Note receivable balance as of March 31, 2013 appropreately recorded.

Procedures: AnC has directly contact the thrid party Appraiser to obtain the valuation report.

AnC team has review the reasonableness of the assumptions, estimates of the fair value.
AnC has checked the qualification of the appraiser company and confirmed that they are SEC compliance corporate valuation. In addition, AnC has
Note: walkthrough with Phil Scott for all the key assumptions of the valuation schedule.

Wen added "AnC has checked the qualifications of the appraiser company and confirmed that they are SEC compliance corporate valuation." Wen neglected, however, to change the "as of" date of the workpaper from March 31, 2013 to December 31, 2013.[932]

570. WP REF 4451 (Ex. 423) contained very little original work product. Wen copied the Excel spreadsheets that Doty Scott had provided in 2013 (Ex. 452), and added a few sentences of [his] own (and a few tickmarks). Those few sentences added by Wen supposedly documented the purpose, nature, and results of the testing that supposed Anton & Chia performed.

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[931] Tr. (Vol. VII Wen) 2158:8-23 ("Q Now, did you have occasion to perform an additional work paper during the 2013 audit about the promissory note valuation? There was a one-page memorandum called "work paper 4452"? A Yeah, I think that's – that's one of them I did. Q Okay. So you remember that? A Yeah, yeah. Q All right. So in – did – who asked you to provide – to prepare the additional work paper 4452? A I forgot. Either Tommy or Greg Wahl, or both of them said we need to prepare a memo. Q Okay. So either one of them asked you to do the memo? A Yeah.").

[932] *Compare* Ex. 860 *with* Ex. 423; Tr. (Vol. VII Wen) 2156:20-2157:1 ("Q Right. Do you think that it's possible that you forgot to change the date when you made the audit work paper? A There's a possibility. But I can't say. I'm pretty sure I messed up the date, but – Q No, no. But it's possible – A Yeah."); Ex. 840 (Parties' Second Agreed Stipulations of Fact) ¶ 14 ("[T]he working papers produced and identified are believed to be true and correct copies of working papers prepared in support of the audits and reviews at issue.").

571. WP REF 4451 (Ex. 423) states that "[Anton & Chia] has directly contact[ed] the [third] party Appraiser to obtain the valuation report." But Anton & Chia did not even obtain a valuation report, much less rely on it. Instead, Anton & Chia obtained draft spreadsheets: Doty Scott's "initial valuation" tables. The workpaper also does not say who from Anton & Chai "directly contacted the Appraiser" or carried out the other procedures supposedly performed to obtain the audit evidence needed to approve Premier's valuation of the Note.

Lie #571 This is pure opinion and provides not one shred of facts or reference to a paragraph in US GAAP and GAAS that would support this statement.

572. WP REF 4451 (Ex. 423) also states that Anton & Chia reviewed the "reasonableness of the assumptions." Yet the workpaper does not reveal what assumptions Anton & Chia evaluated, or how it determined if they were reasonable, or why it reached its conclusion.[933]

Lie #572 This is pure opinion and auditing standards makes no reference to testing all assumptions which is supported by the fact that Devor (**TR 151 Lines 2-25; TR 152 Lines 1-12**) and the Division cant reference a specific paragraph in the auditing standards that supports their opinion. This is not fact. Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**). The Division and Devor

didn't like the Authoratitive Guidance in US GAAP and GAAS so they decided to change it, see **Lie#15** to **Lie#110**.

Exhibit 88.1 501 is pure opinion and provides not one shred of facts or reference to a paragraph in US GAAP and GAAS that would support this statement. Devor has never audited a public company in accordance with PCAOB standards in his life.

573. "Tickmarks are symbols or notations used on workpapers to denote auditing procedures performed or to provide explanations."[934] As shown at Paragraphs 468 above, the tickmarks Wen inserted in WP REF 4451 (Ex. 423) indicated simply that he had made sure the number was the correct result of the formulas contained in the workbook. The workpaper, however, provides no explanation of what the tickmarks represent, or why they are there.

Lie #573 This is pure opinion and auditing standards makes no reference to testing all assumptions which is supported by the fact that Devor(**TR 151 Lines 2-25; TR 152 Lines 1-12**) and the Division cant reference a specific paragraph in the auditing standards that supports their opinion. This is not fact. Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**). The Division and Devor

didn't like the Authoratitive Guidance in US GAAP and GAAS so they decided to change it, see **Lie#15** to **Lie#110**.

Exhibit 88.1 501 is pure opinion and provides not one shred of facts or reference to a paragraph in US GAAP and GAAS that would support this statement. Devor has never audited a public company in accordance with PCAOB standards in his life(**TR 151 Lines 2-25 & TR 152 Lines 1-12**).

574. WP REF 4451 (Ex. 423) also omits significant information.[935]

Lie #574 This is pure opinion and auditing standards makes no reference to testing all assumptions which is supported by the fact that Devor(**TR 151 Lines 2-25; TR 152 Lines 1-12**) and the Division cant reference a specific paragraph in the auditing standards that supports their opinion. This is not fact. Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**). The Division and Devor didn't like the Authoratitive Guidance in US GAAP and GAAS so they decided to change it, see **Lie#15** to **Lie#110**.

Exhibit 88.1 468, 473, 489-490 is pure opinion and provides not one shred of facts or reference to a paragraph in US GAAP and GAAS that would support this statement. Devor has never audited a public company in accordance with PCAOB standards in his life.

575. For example, WP REF 4451 (Ex. 423) does not acknowledge that the financial projections were not financial projections of New Eco, the payor under the Note. Instead, the projections were for WePower Ecolutions, the subsidiary of Premier, once it purchased the assets from WePower LLC.[936]

LIE #575 This is a complete lie. It's the same business and technologies from Winkler that was put into Premier that Winkler wanted Donovan to run. The leads, technology, trademarks were further developed under Donovan at Premier and then transferred out (**Exhibit 1101**). The projections would be same as they were based on the underlying technology that was in Winkler's previous business (**TR 5670 Lines 24-25; TR 5671 Lines 1-7; TR 1399 Lines 9-14**).

[933] Ex. 88.1 (Devor Report) ¶ 504.
[934] *Id.* ¶ 505.
[935] *Id.* ¶¶ 468, 473, 489-490.

[936] Ex. 423 Financial Projections tab.

576. The workpaper also does not acknowledge that the financial projections underlying Doty Scott's spreadsheets were out of date.[937]

LIE #576 Take a look Al Haddad's email. **Exhibit 445**: "**could I get one number – proj ec ted revenue in 2018"** . Then Doty Scott completed the projections for the one year they didn't have the projections and completed the financial model, which was completed correctly and in accordance with appropriate valuation standards.

577. As shown at Paragraph 4 above, Haddad had used financial projections for WePower Ecolutions that it had received in early 2012 to build the models reflected in the initial valuation tables, and thus WP REF 4451 (Ex. 423).

578. Accordingly, the projections were prepared at least eleven months before Premier acquired the Note in January 2013. And by the time that Anton & Chia conducted the 2013 audit in April, 2014, the financial projections were more than two years old.

LIE #578 There is no fact supporting this statement: an exhibit, testimony, etc. This is pure unsubstantiated opinion.

579. "Old financial projections for WePower Ecolutions were not a reliable basis for assessing New Eco's future ability to pay the Note."[938]

LIE #579. There is no fact supporting this statement: an exhibit, testimony, etc. This is pure unsubstantiated opinion. **Exhibit 88.1 484**

same thing. No support for this statement. The projections determine ability to pay and that is how the valuation is made.

580. WP REF 4451 (Ex. 423) does not reflect the fact that Anton & Chia knew that it had received only Excel spreadsheets, and not a valuation report. The workpaper also "does not reflect that Doty Scott's work was tentative, and unfinished because Doty Scott lacked necessary information when it provided the draft spreadsheets to Premier and to Anton & Chia.

LIE #580. The second sentence. There is no fact supporting this statement: an exhibit, testimony, etc. This is pure unsubstantiated opinion. Its not even tied to Devor's fraudulent **Exhibit 88.1**.

581. Wahl knew or recklessly disregarded that the Doty Scott spreadsheets were unfinished. As discussed below, the Doty Scott spreadsheets contained numerous indicia that they were not a final work product for the valuation of the Note.

LIE #581. The second sentence. There is no fact supporting this statement: an exhibit, testimony, etc. This is pure unsubstantiated opinion. Its not even tied to Devor's fraudulent **Exhibit 88.1**. In using the same word as "indicia" like the Division throws around the word "purported" is thrown around like crack. The comment is "circumstantial" at best.

582. It should have been obvious to Anton & Chia and Wahl that Doty Scott's Excel spreadsheets used out-of-date projections for the wrong company.[939] Even a cursory read of the "Financial Projections" tab reveals that it involves the wrong transaction between the wrong companies in the wrong year. The top of that page reads, in bold type: "**Asset Sale Valuation**

LIE #582. There is no fact supporting this statement: an exhibit, testimony, etc. This is pure unsubstantiated opinion. Its not even tied to Devor's fraudulent **Exhibit 88.1**. **Exhibit 1001** is an asset purchase or an "Asset Sale Valuation". **Exhibit 88.1 485** is just Devor's opinion. Not tied to any support or testimony.

Exhibit 1109 if its not the same transaction between different companies if it was then you would have the same valuation in the previous valuation reports which there is not **Exhibits 437**, **439**, and **440** there is no $861,000 or $869,000 reported in this previous document.

[937] Ex. 88.1 (Devor Report) ¶ 479.
[938] Ex. 88.1 (Devor Report) ¶ 484.
[939] Ex. 88.1 (Devor Report) ¶ 485.

(WePower, LLC to WEPOWER Ecolutions, Inc.) as of 12/31/12." But the valuation was supposed to be about the Note, which New Eco (a/k/a WePower Eco Corp.) – **not** WePower, LLC – transferred to WePower Ecolutions in 2013.

583. Similarly, the other tabs in WP REF 4451 (Ex. 423) should have made it obvious to Anton & Chia and Wahl that Doty Scott used information about a different transaction. Many of the tabs contain the following header, in bold print: "**Asset Sale Valuation (WePower, LLC to WEPOWER Ecolutions) as of 12/31/12**." That header repeatedly confirmed that the spreadsheets addressed the sale of assets from WePower, LLC to WePower Ecolutions, **not** the later transfer of the Note by New Eco.

LIE #583 Simple typos. Cant say the same for all the Authoritative Guidance that the Division and Devor intentionally changed.

584. Other tabs in WP REF 4451 should have been a red flag that Doty Scott's spreadsheets did not address the value of the Note at all. For example:

- The *Project Overview* tab does not mention the Note. Instead, it discusses the Premier's purchase of assets from WePower LLC and Green Central in December, 2011.
- The *Valuation Assumptions* tab does not address the Note.
- The *PRHL Financials* tab appears to reflect the financial performance of WePower LLC in 2011, not New Eco.[940]

LIE #584 Doty Scott testified that that the $861,000 and $869,000 were upper limit valuations of New Eco and the $698,000 was the valuation of the note itself. So this a pure lie.

585. Indeed, none of the tabs in WP REF 4451 addressed the Note, except the first page of the first tab. None of the tabs in WP REF 4451 address New Eco, either.[941]

LIE #585 Doty Scott testified that that the $861,000 and $869,000 were upper limit valuations of New Eco and the $698,000 was the valuation of the note itself. So this a pure lie.

586. "In short, Anton & Chia and Wahl purported to rely on Excel spreadsheets that, on their face, did not address the value of the Note at all. All of the supporting tabs confirmed

[940] Ex. 423; *see also* Ex. 88.1 (Devor Report) ¶ 488.
[941] Ex. 423; *see also* Ex. 88.1 (Devor Report) ¶ 489.

that Doty Scott relied on financial information from another transaction."[942] "Anton & Chia and Wahl signed off on the value of the Note without ever assessing New Eco's ability to pay it."[943]

Lie #586 Doty Scott testified that that the $861,000 and $869,000 were upper limit valuations of New Eco and the $698,000 was the valuation of the note itself. So this a pure lie. See also **Lie #562**.

587. Even if the Doty Scott initial valuation tables had been based on current projections for New Eco, Anton & Chia's review of them would have been deficient. Again, "AU 336 **required** Anton & Chia to 'obtain an understanding of the methods and assumptions used by the specialist.'"[944]

Lie #587 Exhibit 88.1 492: Again Devor does not provide the paragraph in **AU 336** that was violated. He just says **AU 336** maybe Devor was referring to the **LIE #67 AU 336.17** and **AU 336** and **LIE #72 AU 336.12**

Using the Findings of the Specialist AU 336.12 The appropriateness and reasonableness of methods and assumptions used and their application are the responsibility of the specialist. The auditor should (*a*) obtain an understanding of the methods and assumptions used by the specialist, (*b*) make appropriate tests of data provided to the specialist, taking into account the auditor's assessment of control risk, and (*c*) evaluate

whether the specialist's findings support the related assertions in the financial statements. Ordinarily, the auditor would use the work of the specialist unless the auditor's procedures lead him or her to believe the findings are unreasonable in the circumstances. If the auditor believes the findings are unreasonable, he or she should apply additional procedures, which may include obtaining the opinion of another specialist.

588. As the Division's expert opined and as made clear by the testimony of Wen, Shek, and Wahl, Anton & Chia and Wahl did not understand the assumptions underlying the initial valuation tables and could not have understood them under the circumstances.[945]

LIE #588 Devor is speaking of his own capabilities not Wahl's and this not based on any fact but his ignorant, biased and conflicted opinions. This is coming from this CPA that has never audited a public company in accordance with PCAOB standards; 4 times testimony dismmissed; known Daubert celebrity; could not cite on standard underoath except APB standards **(TR 6075 Lines 4-5 & Line 9; TR 6076 Lines 18-29; TR 6077 3-9; TR 6093 Lines 7-13; TR 1135 Lines 2-11)**. Then with the Division

changed the authoritative standards for US GAAP and GAAS see **LIE #15** to **LIE #110**.

The assumptions and calculations are standard and basic finance type assumptions, methodology and calculations.

589. As discussed at Paragraphs 462, 463, 467 above, Wen did not understand the assumptions underlying WP REF 4451 (Ex. 423).[946] Shek also clearly did not understand the assumptions and therefore refused to sign off on the workpaper.[947]

590. And from Wahl's testimony about his purported analysis of the Doty Scott spreadsheets discussed below, it is apparent that he still does not understand the underlying assumptions.

LIE #590 Where is the testimony that Wahl doesn't understand the underlying assumptions. This is simply opinion with no testimony to support this statement. If Wahl doesn't understand valuations then how was he able to develop his own cross examination of not one, two, but three valuation professionals provided by the Division and a fourth in direct examination of his own witness that is a valuation expert (**TR 1472 Lines 1-8; TR 2040 Lines 1-3 & 22-25; TR 2014 Line 1; TR 2045 Lines 11-25; TR 2046 1-8; TR 2046 16-25; TR 2047 Lines 1-5**; **TR 2474 Lines 18-20; TR 5526 14-15; TR 5527 1-15**).

591. Workpaper REF 4451 (Ex. 423) contained over forty tabs/spreadsheets and included complicated formulas, critical assumptions, and multi-year financial projections. Nowhere does the workpaper discuss whether any of those formulas, assumptions, or projections were reasonable.

[942] Ex. 423; *see also* Ex. 88.1 (Devor Report) ¶ 491.
[943] Ex. 88.1 (Devor Report) ¶ 490.
[944] Ex. 88.1 (Devor Report) ¶ 492.
[945] Ex. 88.1 (Devor Report) ¶ 492.
[946] *See* Paragraphs 462, 463, 467 above.
[947] *See* Paragraphs 554, 557 above.

592. Wahl has no memory of reviewing any tabs of Workpaper REF 4451 (Ex. 423) other than the summary page.[948]

LIE #592 The work was completed almost 6 years ago but Wahl's best practices would be to review the spread sheets but the calculations are basic finance.

593. The workpaper also does not contain Doty Scott's calculation of the Note's discounted cash flows, the basis for the only relevant, albeit, unsupported, fair value figure in the workpaper. Unlike one of the other Excel workbooks Haddad sent to Wen,[949] the workbook that became Workpaper REF 4451 (Ex. 423) does not contain a tab for the Note. Indeed, it does not even refer to the Note except on the summary page

LIE #593 This is simply further dishonesty from the Division's SEC informant Doty Scott. This also further confirms Wahl's understanding of the calculations and the support for the $869,000.

The calculation for the note is double discounted b/c the assets that were transferred in settlement of the Note would reflect the enterprise value b/c that is all that was transferred into this entity at the time on January 7, 2013 (See **Exhibit 1101**) and no other assets would be utilized to value the Note at that time. This is a complete inaccuracy by Doty Scott and his firm's calculations and the fact he would say this under

oath is a complete misrepresentations of the facts of the analysis. The enterprise value should reflect the valuation of the Note Receivable on January 7, 2013 b/c that is all the assets that were transferred to entity. Any other assets transferred after January 7, 2013 would not have any implications on the Notes Receivable valuation (See also **Lie #562**).

594. Workpaper REF 4451 (Ex. 423) also states that Anton & Chia reviewed the "reasonableness of the assumptions, estimates of fair value." Yet the workpaper does not reveal what assumptions Anton & Chia evaluated, or how it determined if they were reasonable, or why it reached its conclusion.

LIE #594 The second sentence there is no supported testimony and this is purely opinion not fact.

595. Similarly, the workpaper states that Anton & Chia had a "walkthrough [sic] with Phil Scott for all the key assumptions of the valuation schedule." The workpaper does not identify which "assumptions" Anton & Chia viewed as "key," or what took place during the "walkthrough."

LIE #595 There is no supported testimony and this is purely opinion not fact.

596. Moreover, no such walkthrough ever occurred.

LIE #596 There is no supported testimony and this is purely opinion not fact. Wahl understood the calculations and assumptions and its basic

finance theory, methodology(**TR 1472 Lines 1-8; TR 2040 Lines 1-3 & 22-25; TR 2014 Line 1; TR 2045 Lines 11-25; TR 2046 1-8; TR 2046 16-25; TR 2047 Lines 1-5**; **TR 2474 Lines 18-20; TR 5526 14-15; TR 5527 1-15**).

597. Wen's conversation with Scott took place during Anton & Chia's review of Premier's Q1 2013 quarterly financial statements. But the walkthrough summarized in WP REF 4451 did not occur during the quarterly review. That procedure was documented before anyone

[948] Tr. (Vol. XXII Wahl) 5345:5-9 ("Q All right. Let's – okay, so back to that work paper, 423. So did you look at any of the tabs at the bottom of the work paper in analyzing it? A I may have, but I can't remember.").
[949] Ex. 452 (May 22, 2013 email from Haddad transmitting files, including Ex. 452.2); Ex. 454 (Recommind printout showing attachments to Ex. 452); Ex. 452.2.xlsx (workbook containing promissory note tab); Tr. (Vol. VII Haddad) 2021:1-8 ("Q And then fees files listed below are – it says, "WePower sales zip," and it gives three names, and they're all Excel files. One is the auditor one. One is the draft-report one, and then the last one is those projections from Ecolutions? A Uh-huh. Q Are these the files that you sent? A Yes.").

on the engagement team had spoken with Scott.[950] And even after his conversation with Scott, Wen still did not understand Doty Scott's assumptions, key or otherwise.[951]

LIE #597 There is no supported testimony and this is purely opinion not fact. Wahl understood the calculations and assumptions and its basic finance theory, methodology(**TR 1472 Lines 1-8; TR 2040 Lines 1-3 & 22-25; TR 2014 Line 1; TR 2045 Lines 11-25; TR 2046 1-8; TR 2046 16-25; TR 2047 Lines 1-5**; **TR 2474 Lines 18-20; TR 5526 14-15; TR 5527 1-15**).

598. Accordingly, WP REF 4451 (Ex. 423) contains "no audit evidence, in accordance with PCAOB standards, that enabled Wahl to understand the assumptions and data inputs in the Excel file to calculate a purported value for the Note. "[952] The workpaper "did not contain enough audit evidence to conclude that the Note had a fair value of $869,000."[953]

Lie #598 Claiming that there is a PCAOB standards is not enough to prove that there was a violation. The Division needs to be able to cite the specfic paragraph in the standard and relate it to a fact or testimony but neither Devor (**TR 151 Lines 2-15; TR 152 Lines 1-12**) nor the Division can do this. Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**). There is no supported testimony and this is purely opinion not fact other than Devor's

fraudulent report. Wahl understood the calculations and assumptions and its basic finance theory, methodology.

599. Despite its insufficiency, Wahl signed off as having reviewed WP REF 4452 (Ex. 424).[954] As discussed below, the one other workpaper for the Note was also inadequate.

LIE #599 There is no evidence provided that indicates that the spreadsheets were not incomplete and not management's best estimate of the Note Receivable. The expected consideration started at 5,000,000 shares per (**Exhibit 1100**) (**TR 5686 Lines 16-25; TR 5687 Lines 5-12: TR 5688 Lines 4-8**) and ended up being 7,500,000 shares (**TR 5694 Lines 10-14**) (March 4, Compromise Agreement and Mutual Release **Exhibit 454**) and the valuation was always higher than the $869,000 recorded in Premier's financial statements (**TR 5676 Lines 16-19; TR 5684 Lines 9-15**).

There was no communication from management or Doty Scott that the information was incorrect.

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

d. WP REF 4452 (Ex. 424)

600. At the request of Wahl or Shek,[955] Wen prepared an additional workpaper on the Note valuation: WorkPaper 4452, the "Note receivable valuation memo" (Ex. 424).[956] Wen drafted the memo to according to instructions from Wahl and/or Shek.[957]

601. The memo contained a paragraph described the circumstances surrounding the Note valuation, under the heading "Nature."[958] That paragraph closed by stating:

> On January 7, 2013, Premier Holding, acting through its wholly owned subsidiary, completed the sale of assets under an asset purchase agreement with WEPOWER Eco Corp, a newly formed

[950] Tr. (Vol. VII Wen) 2137:5-13 ("Q – this is the report, right? The next sentence says, 'A&C team has reviewed the reasonableness of the assumption estimates of the fair value.' Do you see that? A Yes. Q Had you done that at the time you wrote this in the top? A No.").
[951] Tr. (Vol. VII Wen) 2140:17-22 ("Q Okay. So after the call with Mr. Scott, did you have any better understanding of how this spreadsheet worked? A I tried to, you know, get understanding based on what he told me and do some research, but, no, I did not get it.").
[952] Ex. 88.1 (Devor Report) ¶ 509.
[953] Ex. 88.1 (Devor Report) ¶ 509.
[954] Ex. 417 Bates 144.
[955] Tr. (Vol. VII Wen) 2158:16-20, ("Q All right. So in – did – who asked you to provide – to prepare the additional work paper 4452? A I forgot. Either Tommy or Greg Wahl, or both of them said we need to prepare a memo.").
[956] Tr. (Vol. VII Wen) 2158:8-13 ("Now, did you have occasion to perform an additional work paper during the 2013 audit about the promissory note valuation? There was a one-page memorandum called "work paper 4452"? A Yeah, I think that's – that's one of them I did.").
[957] Tr. (Vol. VII Wen) 2158:24-2159:5 ("Did you – did you meet with Wahl to discuss the memo before you drafted it? A I did discuss with them what they're exactly looking for in the memo. Q Okay. And was that with Greg Wahl, Tommy Shek or both of them? A I don't remember. Maybe both of them.").
[958] Ex. 424 (WP REF 4452 note valuation memo).

> entity, controlled by PRHL's former CEO, PRHL sold certain assets related to solar energy, wind power projects, energy efficiency projects in real estate, and fuel efficiency for diesel and gasoline engines for a note payable for $5,000,000. In addition, the process has engaged with a third party appraiser company to evaluate the sale as $869,000 instead of 5,000,000. As of December 31, 2013, the payment has not been received yet.[959]

602. According to Wen, the third party appraiser referred to in the penultimate quoted sentence was Doty Scott[960] and the un-received payment referred to in the last sentence was the payment due on the Note.[961]

603. Although WP REF 4452 (Ex. 424) stated that New Eco had failed to make the first payment required under the Note, neither this workpaper nor any other documentation in the workpapers addresses the facts that New Eco had failed to make a required payment and was in default and that Premier was making no effort to collect.[962]

LIE #603 The Event of Defaut was curred on March 4, 2014 (Compromise Agreement and Mutual Release **Exhibit 454**) with the settlement of 7,500,000 shares which was over 40 days before the Form 10-K was filed with the SEC (**TR 5694 Lines 10-14**).

604. WP REF 4452 also sets forth the procedures Anton & Chia supposedly followed to audit the Note value:

1. In order to test the receivable, AnC has directly contact the third party appraiser to obtain the valuation assumption report.

2. AnC also obtained the valuation calculation schedule from the third party appraiser

3. Review, and recalculated the schedule to ensure the reasonableness of the ending value of the assets and

subsequent financial statements to ensure no material changes to the underlying valuation and assumptions.

[959] Ex. 424 (WP REF 4452 note valuation memo).
[960] Tr. (Vol. VII Wen) 2163:12-14 ("Q Okay. Did – and then – is that third-party appraiser Doty Scott? A Right."
[961] Tr. (Vol. VII Wen) 2163:15-24 (Q Okay. And then it says, "As of December 31, 2013, the payment has not been received yet." What did you mean by that? A Notes receivable. Q You mean there had been no payment on the note? A Right. Q Okay. So the borrower had not paid – A Right. Q – what was due?").
[962] Ex. 423 (WP REF 4451), Ex. 424 (WP REF 4452 note valuation memo).

Finally, the memo states Anton & Chia's conclusion: "Based on our testing, the ending balance of the note receivable is reasonably recorded."[963]

605. One of the procedures listed in the Note valuation memo was:

> Review, and recalculated the schedule to ensure the reasonableness of the ending value of the assets and subsequent financial statements to ensure no material changes to the underlying valuation and assumptions.[964]

606. As far as Wen was concerned, those procedures were purely aspirational; he lacked the knowledge to understand the approach reflected in Doty Scott's schedules and thus could not determine whether $869,000 was a reasonable value for the Note:

> Q Now, I guess I'm trying to understand how did recalculating the numbers help you assess the reasonableness of the valuation of the assumptions?
> A Give me one minute.
> (Pause in testimony.)
> A Well, like I said earlier, I didn't – I did not have the knowledge or ability to perform any testing over that drawing –
> Q Okay.
> A – workbook, so those are the procedures that should be performed, but I just don't have the knowledge –
> Q Okay. So you didn't know whether it was –
> A – to understand – . . . I just didn't understand the approach they were using.
> Q Okay. So you didn't know one way or the other – one way or the other whether the $869,000 value was a reasonable value?
> A Right.[965]

LIE #606 Wahl understood the calculations and assumptions and its basic finance theory, methodology(**TR 1472 Lines 1-8; TR 2040 Lines 1-3 & 22-25; TR 2014 Line 1; TR 2045 Lines 11-25; TR 2046 1-8; TR 2046 16-25; TR 2047 Lines 1-5**; **TR 2474 Lines 18-20; TR 5526 14-15; TR 5527 1-15**).

607. Wen told Wahl during the first quarter review that he did not understand the Doty Scott spreadsheets.[966]

LIE #607 Wahl understood the calculations and assumptions and its basic finance theory, methodology(**TR 1472 Lines 1-8; TR 2040 Lines 1-3 & 22-25; TR 2014 Line 1; TR 2045 Lines 11-25; TR 2046 1-8; TR 2046 16-25; TR 2047 Lines 1-5**; **TR 2474 Lines 18-20; TR 5526 14-15; TR 5527 1-15**).

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[963] *Id.*
[964] *Id.*
[965] Tr. (Vol. VII Wen) 2165:14-2166:10.
[966] Tr. (Vol. VII Wen) 2166:11-14 ("Q Okay. Now, And Wahl knew that you didn't understand how the spreadsheet worked; is that right? A He knew at Q1.").

608. Like WP REF 4451, the Note valuation memo (WP REF 4452) was cryptic and conclusory, and failed to document any details associated with the procedures Anton & Chai supposedly performed to test Premier's assertion of the Note's value. The memo states that Anton & Chia reviewed and recalculated the schedule to ensure its "reasonableness," and refers generally to "underlying valuation and assumptions." The memo also claims that Anton & Chia performed "testing," without describing any detail of such testing. The memo "did not identify what the 'assumptions' were, let alone how [Anton & Chia] allegedly 'test[ed]' them for reasonableness. The memo concludes that the note receivable was 'reasonably recorded,' but completely fails to explain how [Anton & Chia] arrived at that conclusion."[967] The memo does not reveal who at Anton & Chai supposedly carried out the listed procedures.

LIE #608 Wahl understood the calculations and assumptions and its basic finance theory, methodology(**TR 1472 Lines 1-8; TR 2040 Lines 1-3 & 22-25; TR 2014 Line 1; TR 2045 Lines 11-25; TR 2046 1-8; TR 2046 16-25; TR 2047 Lines 1-5**; **TR 2474 Lines 18-20; TR 5526 14-15; TR 5527 1-15**). Wahl signed off on the memo. So who between Devor and the Division decided to change the autoritative guidance in US GAAP and GAAS (See **LIE #15** to **LIE #110**).

609. Like WP REF 4451, the Note valuation memo inaccurately describes the Doty Scott initial valuation tables. The memo refers to a "valuation assumption report" and a "valuation calculation schedule" with an "ending value." But again, Anton & Chia did not receive a report – not even a draft – with an "ending value." Doty Scott merely provided Excel spreadsheets that demonstrated the methodology that it would use, once it received the requisite financial information.[968]

Lie #609 There is no evidence provided that indicates that the spreadsheets were not incomplete and not management's best estimate of the Note Receivable. The expected consideration started at 5,000,000 shares per (**Exhibit 1100**) (**TR 5686 Lines 16-25; TR 5687 Lines 5-12; TR 5688 Lines 4-8**) and ended up being 7,500,000 shares (March 4, Compromise Agreement and Mutual Release **Exhibit 454**) (**TR 5694 Lines 10-14**)and the valuation was always higher than the $869,000 recorded in Premier's financial statements (**TR 5676 Lines 16-19; TR 5684 Lines 9-15**).

There was no communication from management or Doty Scott that the information was incorrect.

TR 3454 Lines 18-21

Q And if you gave those numbers to the auditors, would you go change the numbers and not tell the auditors? A (Misuraca) Absolutely not.

610. Neither of the workpapers discussed the terms of the Note,[969] which were highly favorable to New Eco.[970]

Lie #610 This is entirely irrelevant, it's the value of the note. The expected consideration started at 5,000,000 shares per (**Exhibit 1100**) (**TR 5686 Lines 16-**

25; TR 5687 Lines 5-12; TR 5688 Lines 4-8) and ended up being 7,500,000 shares (March 4, Compromise Agreement and Mutual Release **Exhibit 454**) (**TR 5694 Lines 10-14**)and the valuation was always higher than the $869,000 recorded in Premier's financial statements (**TR 5676 Lines 16-19; TR 5684 Lines 9-15**).

611. Neither of the audit workpapers for the Note valuation referred to a sale or

settlement of the Note in 2014. Neither Wahl nor Shek ever told Wen to document an analysis of If he'd been asked to do so, Wen would have documented the analysis in the audit file.[972]

Lie #611 Either Wen forgot or he was coached not to refresh his memory obviously the later because that his the Division roles, lie, cheat, bully and when that doesn't work bully and lie some more. The financial statements to show the settlement of the note and Wahl spoke to Letcavage before the Form 10-K was filed regarding this matter.

EVEN CHRIS WEN RECOGNIZES THE NOTE WAS SETTLED FOR 7,500,000 COMMON SHARES: Exhibit 48 Page 39 Lines 24-25 and Exhibit 48 Page 40 Lines 1-2:

During an audit, we discussed that the notes has been settled subsequent to

the year end with 7.5 million shares returned to the company in exchange for the notes.

Exhibit 48 Page 71 Lines 17-23:

were there any financial statements procedures? THE WITNESS: ***We have obtained the mutual release agreement*** that shows the company has – WEPOWER, the third party, has returned 7.5 million shares to Premier Holding as ***an exchange for the notes receivable.***

Exhibit 48 Page 102 Lines 1-4:

~~MR. PALEY:~~ ***Do you know if the exchange of the 7.5 million shares for the note was disclosed in the December 31st, 2013 financial statement?*** THE WITNESS: ***Yeah, it's right there.***

Exhibit 48 Page 102 Lines 12-15:

Mr. PARLEY: What audit work did you do on the footnote disclosure we've been discussing? THE WITNESS: ***We*** obtain the mutual release agreement***.***

EVEN WEN UNDERSTOOD THE NOTE WITH THE 7.5 MILLION SHARES WERE RETURNED TO TREASURY: Exhibit 48 Page 99 Lines 9-14:

WEPOWER. So total they returned 7.5 million shares in order to settle this agreement, this promissory note. And how did you account for this transaction? The stock has been returned to treasury. the value of 7,500,000 shares of Premier stock.

[967] Ex. 88.1 (Devor Report) ¶ 515 (quoting Ex. 424).

[968] *See* Paragraphs 436-445 above; *see also* Ex. 88.1 (Devor Report) ¶ 512.

[969] *See* Paragraph 569, 600-604.

[970] Ex. 441 (the Note); Ex. 88.1 (Devor Report) ¶ 520; Tr. (Vol. V Scott) 1448:23-1449:2 ("Q Okay. Going back to that second bullet, you mentioned that the terms were very generous. A Generous to New Eco. Q Okay. The borrower? A Correct.").

612. Although he may well have told Wen to prepare it, according to the Workpaper Sign Off History report, Wahl did not review WP REF 4452 (Ex. 424).[973]

Lie #612 Wahl reviewed a hard copy of the memo before Wen put it in the file. Wahl is not required to sign off on every single working paper.

613. "Wahl should have reviewed the note receivable value memo, given that (1) the Note reflected a significant portion – $869,000 of $6,879,145 – of Premier's purported assets as of December 31, 2013; (2) only two workpapers addressed this issue; and (3) there was no documentation in Anton & Chia workpapers supporting the data and assumptions used in the Excel file.[974] Wahl should have reviewed this memorandum to assess Anton & Chia's conclusion about the value of the Note.[975] By failing to do so, Wahl "failed to exercise professional due care."[976]

Lie #613 Wahl reviewed a hard copy of the memo before Wen put it in the file. Wahl is not required to sign off on every single working paper.

Devor again and his fake interpretation of the auditor due care standard. Is it the standard he and the Division created **LIE #48** where they changed **AU 230**; **AU 230.03**; **AU 230.05**; **AU 230.07**; **AU 230.08** and **LIE #52 AU 230.03**. Wen before he got bullied by the Division admitted Wahl appropriately supervised him.

e. Wahl's Failure to Consider New Eco's Ability

to Pay

614. The value of the Note depended on New Eco's ability to pay it. But Anton & Chia did not address the fact that New Eco was a start-up company with little or no ability to pay.[977]

LIE #614 The Value of the Note was determined by the SEC's informant Doty Scott based on projections that valued the note at least $869,000 (See **Lie #562**). New Eco was the same business that was a subsidiary of Premier Holding in 2011 and 2012 which was transferred to New Eco on January 7, 2013. In 2012 New Eco had a loss of $756,912 loss but they were able to turn it around in 2013 and had **$985,138 of income** (See **Exhibit 402 F-3 Income / Loss Discontinued Operation**). The $985,138 of income in 2013 would fully support the valuation of Note Receivable at $869,000 and ability to pay. Not to mention that the Note Receivable was settled for 7,500,000 shares on March 4, 2014 (**Exhibit 454**) that was substantially above the $869,000 value (**TR 5676 Lines 16-19; TR 5684 Lines 9-15**).

615. "[Anton & Chia]'s analysis of the Note was cursory and incomplete."[978] "There

were substantial reasons to doubt that New Eco would pay any portion of the Note, but Anton & Chia failed to address any such concerns."[979] Among the significant aspects of the Note that Anton & Chia failed to address are the following:

[971] Tr. (Vol. VII Wen) 2159:6-13("Q Okay. And in that conversation, did Wahl or Shek ever tell you to include an analysis of the value of 7,500,000 shares of Premier stock? A No. Q Okay. And if he had asked you to include that in the memo, would you have done it? A I would have documented it in the file.").

[972] *Id.*

[973] Ex. 417 (Workpaper Sign Off History report) 144.

[974] Ex. 88.1 (Devor Report) ¶ 511.

[975] *Id.* ¶ 511

[976] *Id.* ¶ 511.

[977] *Id.* ¶ 516.

[978] *Id.* ¶ 517.

[979] *Id.* ¶ 517.

- New Eco was a new company;
- New Eco had no historical revenue stream, and no apparent ability to repay the Note; and
- New Eco had no discernible assets or revenue, and could not or would not provide any financial projections.[980]

LIE #615 The Value of the Note was determined by the SEC's informant Doty Scott based on projections that valued the note at least $869,000 (see **Lie #562**). New Eco was the same business that was a subsidiary of Premier Holding in 2011 and 2012 which was transferred to New Eco on January 7, 2013. In 2012 New Eco had a loss of $756,912 loss but they were able to turn it around in 2013 and had **$985,138 of income** (See **Exhibit 402 F-3 Income / Loss Discontinued Operation**). The $985,138 of income in 2013 would fully support the valuation of Note Receivable at $869,000 and ability to pay. Not to mention that the Note Receivable was settled for 7,500,000 shares on March 4, 2014 (Exhibit 454) that was substantially above the $869,000 value (**TR 5676 Lines 16-19; TR 5684 Lines 9-15**).

616. "Based on the track record that did exist (for WePower Ecolutions), [Anton & Chia] should have exercised heightened skepticism."[981] The assets that New Eco bought from WePower Ecolutions did not generate a gain for WePower Ecolutions. In fact, WePower Ecolutions reported no revenues as well as a loss from discontinued operations of $756,912 in 2012.[982]

Lie #616 The Value of the Note was determined by the SEC's informant Doty Scott based on projections that valued the note at least $869,000 (See **Lie #562**). New Eco was the same business that was a subsidiary of Premier Holding in 2011 and 2012 which was transferred to New Eco on January 7, 2013. In 2012 New Eco had a loss of $756,912 loss but they were able to turn it around in 2013 and had **$985,138 of income** (See **Exhibit 402 F-3 Income / Loss Discontinued Operation**). The $985,138 of income in 2013 would fully support the valuation of Note Receivable at $869,000 and ability to pay. Not to mention that the Note Receivable was settled for 7,500,000 shares on March 4, 2014 (Exhibit 454) that was substantially above the $869,000 value (**TR 5676 Lines 16-19; TR 5684 Lines 9-15**).

617. There is no evidence that Anton & Chia or Wahl analyzed how the assets could

generate profits for New Eco when the same assets generated losses for WePower Ecolutions in 2012.[983]

LIE #617 The Value of the Note was determined by the SEC's informant Doty Scott based on projections that valued the note at least $869,000 (See **Lie #562**). New Eco was the same business that was a subsidiary of Premier Holding in 2011 and 2012 which was transferred to New Eco on January 7, 2013. In 2012 New Eco had a loss of $756,912 loss but they were able to turn it around in 2013 and had **$985,138 of income** (See **Exhibit 402 F-3 Income / Loss Discontinued Operation**). The $985,138 of income in 2013 would fully support the valuation of Note Receivable at $869,000 and ability to pay. Not to mention that the Note Receivable was settled for 7,500,000 shares on March 4, 2014 (Exhibit 454) that was substantially above the $869,000 value (**TR 5676 Lines 16-19; TR 5684 Lines 9-15**).

618. "New Eco's failure to make the first payment – for a relatively small percentage of the Note ($50,000 was only 1% of a $5 million Note, excluding interest) – should have been a red flag about New Eco's ability to pay the Note."[984] But Anton & Chia did not address the fact that New Eco

was in default as of the time of the audit" and failed to inquire or assess whether Premier was attempting to collect on its payment from New Eco.

LIE #618 The Value of the Note was determined by the SEC's informant Doty Scott based on projections that valued the note at least $869,000 (See **Lie #562**). New Eco was the same business that was a subsidiary of Premier Holding in 2011 and 2012 which was transferred to New Eco on January 7, 2013. In 2012 New Eco had a loss of $756,912 loss but they were able to turn it around in 2013 and had **$985,138 of income** (See **Exhibit 402 F-3 Income / Loss Discontinued Operation**). The $985,138 of income in 2013 would fully support the valuation of Note Receivable at $869,000 and ability to pay. Not to mention that the Note Receivable was settled for 7,500,000 shares on March 4, 2014 (**Exhibit 454**) that was substantially above the $869,000 value(**TR 5676 Lines 16-19; TR 5684 Lines 9-15**).

[980] Ex. 88.1 (Devor Report) ¶ 517.
[981] *Id.* ¶ 518.
[982] Ex. 401 (Premier 2012 Form 10-K) 28.
[983] Ex. 88.1 (Devor Report) ¶ 519.
[984] *Id.* ¶ 522.

f. Wahl's Failure to Consider Fraud

619. "Anton & Chia and Wahl, in his role as Engagement Partner, also violated AU 316 (Consideration of Fraud in a Financial Statement) by failing to properly evaluate and consider the circular and unusual nature of the transactions that Premier entered into surrounding the Note."[985]

Lie #619 Of course the Division and Devor totally ignore this standard**, Paragraph AU 316.05: <u>Fraud is a broad legal concept and auditors do not make legal determinations of</u> <u>whether fraud has occurred.</u>** Rather, the auditor's interest specifically relates to acts that result in a material misstatement of the financial statements. The primary factor that distinguishes fraud from error is whether the underlying action that results in the misstatement of the financial statements is intentional or unintentional. For purposes of the section, *fraud* is an intentional act that results in a material misstatement in financial statements that are the subject of an audit.

There is no fraud in this transaction 7,500,000 shares were returned to treasury which would benefit all shareholders (**TR 5694 Lines 10-14**).

620. Premier engaged in three transactions that, taken together, formed a round-trip.

[987] Ex. 88.1 (Devor Report) ¶ 545.

First, Premier obtained assets from WePower LLC in exchange for shares of Premier. Second, Premier exchanged the assets for a Note. And third, Premier exchanged the Note with WePower LLC for the return of Premier.

Lie #620 The Return or Premier? Makes no sense. Winkler and Letcavage transfer assets into Premier. Premier hires Donovan to run We Power, Letcavage and Donovan hate each other they transfer the assets to Donovan. Letcavage doesn't sell any shares. Letcavage forces Winkler to give back shares to benefit shareholders simply b/c the technology transferred to Premier from Winkler didn't work as planned. Winkler takes the note. The entire transaction is disclosed. Letcavage becomes CEO and merges in The Power Company which has revenues and cash flow. This is not a circular transaction.

621. Viewed as a whole, Premier obtained assets, and then sold the assets. Premier obtained the Note, and then sold the Note. Premier paid shares of its stock, and then received shares of its stock. No cash was exchanged for any leg of the round-trip. All the transactions occurred between Premier and related parties.[986]

LIE #621 This is not a "round-trip" transaction by legal definition to imply this a transaction in this nature where the parties all dislike or hate each other is nonesense. This totally mischaracterizes Wahl's testimony and is

[987] Ex. 88.1 (Devor Report) ¶ 545.

disgusting. The disposition of the wind business was already appropriatelly disclosed as discontinued operations. Wahl recommend that Premier reported the disposition of the note through equity simply because it followed the shares into treasury and made sure the gain and loss didn't distort the income statement further.

622. "These three transactions were significant and unusual as defined by AU 316.66. [Anton & Chia], and specifically Wahl as the Engagement Partner, should have exhibited appropriate professional skepticism when evaluating the business rationale for these transactions. [Anton & Chia] and Wahl failed to exhibit the required professional skepticism in accordance with AU 230 and AU 316 during its audit of Premier's 2013 financial statements and thereby did not assess these transactions as an indication of fraud."[987]

Lie #622 The Divisions interpretation of **AU 316.66** is not based on the actual standard for **AU 316.66** (**See Lie #64**). The Division didn't like the authoritative guidelines so they changed them in reference to **AU 316** they changed paragraphs **AU 316.06** (**LIE #61**); **AU 316.85** (**LIE #62**); **AU 316.02** (**LIE #63**); **AU 316.66** (**LIE #64**); **AU 316.67** (**LIE #65**) and in regard to **AU 230** the Division changed **AU 230.03; AU 230.05; AU 230.07** and **AU 230.08** (**LIE #48**) and **AU 230.03** (**LIE #53**).

[987] Ex. 88.1 (Devor Report) ¶ 545.

[985] *Id.* ¶ 536.

[986] *See* Paragraphs 536, 539, 544 above. *See also* Tr. (Vol. XXII Wahl) 5374:8-5375:6 ("I think how we viewed that transaction at the time was that it was a related party transaction, and that in order to get the 869 off the books, we'd have to return those shares into treasury, and then reissue them. … But what I – and the fact that it was a related party transaction. I think we agree on that. I felt like booking the transaction through equity made more sense and was more prudent.").

[987] Ex. 88.1 (Devor Report) ¶ 545.

623. Wahl recognized that both the Note and TPC transactions were unusual.[988]

Lie #623 This mistates Wahl's testimony below he said they were non-routine transactions. Not "unusual". Read the transaction. Accountants review financial statements to analyze routine and non-routine transactions.

624. Although Premier had valued the assets obtained from WePower LLC at zero when it obtained them, and although those assets had contributed to a $756,912 loss for the year that Donovan, who was running New Eco, had operated them, and despite the absence of any analytic support, Premier valued the Note issued by New Eco at $869,000.

LIE #624 The Value of the Note was determined by the SEC's informant Doty Scott based on projections that valued the note at least $869,000 (See **Lie #562**). New Eco was the same business that was a subsidiary of Premier Holding in 2011 and 2012 which was transferred to New Eco on January 7, 2013. In 2012 New Eco had a loss of $756,912 loss but they were able to turn it around in 2013 and had **$985,138 of income** (See **Exhibit 402 F-3 Income / Loss Discontinued Operation**). The $985,138 of income in 2013 would fully support the valuation of Note Receivable at $869,000 and ability to pay. Not to mention that the Note Receivable was

[987] Ex. 88.1 (Devor Report) ¶ 545.

settled for 7,500,000 shares on March 4, 2014 (Exhibit 454) that was substantially above the $869,000 value(**TR 5676 Lines 16-19; TR 5684 Lines 9-15**).

625. Intentionally omitted.

626. Instead of viewing the round trips of assets and stock with skepticism, Wahl claims that he took comfort in it,[989] or rather in his incorrect understanding of the exchange of the Note for the return of Premier stock. Assuming that he did in fact rely in part on that exchange, he failed to obtain a copy of the operative agreement (the Compromise Agreement) and failed to read, or misinterpreted Premier's description of the exchange in the audited financial statements, which reads:

> Additionally, WePower LLC returned 5,000,000 common shares of the Company previously issued related to the sale of TPC, and **in exchange for the promissory note in the face amount of $5,000,00** (and valued at 869,000 on the Company's financial statements as of December 31, 2013), **the Company had returned an additional 2,500,000 common shares**."[990]

LIE #626 The Note Receivable was settled for 7,500,000 shares on March 4, 2014 (**Exhibit 454**) that was substantially above the $869,000 value (**TR 5676 Lines 16-19; TR 5684 Lines 9-15**). No Wahl called Letcavage before we let Premier issue its financial statements and verbally confirmed it was for 7,500,000 shares.

[987] Ex. 88.1 (Devor Report) ¶ 545.

The compromise agreement (**Exhibit 454**) was determined on March 4, 2014 over a year after The Power Company received its shares. Winkler wouldn't have known that The Power Company received its shares on February 28, 2013. Therefore, the entire 7,500,000 shares were allocated to the Note Receivable on March 4, 2014 (**TR 5694 Lines 10-14**).

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[988] Tr.(Vol. XXIII Wahl 5710:9-20 ("Q And would you pull out the nonroutine transactions in those analyses? A Yes.Q So the going forward value here for you would be The Power Company, not the WePower transaction; is that a fair statement as an investor? A Yes. I would also pull out the note, an unsecured note that was also listed on all of our 18 filings. Q Right. Correct. Because it's a nonroutine transaction.")

[989] *See, e.g.*, Tr.(Vol. XXIII Wahl) 5348:20-5349:2 ("And, again, there was an 83 percent discount on the $5 million note, and then we had information that would -- where we were led to believe that there was going to be a settlement of -- between -- somewhere between -- I've seen documentation of 5 million shares, 2.5 million shares, and I've even had discussions on 7.5 million shares.").

[990] Ex. 402 (2013 Form 10-K) F-14, Notes 8 and 9.

[987] Ex. 88.1 (Devor Report) ¶ 545.

g. Deficient Confirmation Process

627. Anton & Chia and Wahl "failed to confirm the existence of the Note in accordance with PCAOB standards, and failed to document the lack of confirmation as required by the PCAOB audit documentation standard (AS 3)."[991]

LIE #627 The confirmation of a note receivable is not "required" by PCAOB audit documentation standard **AS 3**, if it was the Division would have cited the specific paragraph. The Dvision lied and mischaracterized **AU 330** as the only requirement is to obtain confirmations for trade accounts receivable (i.e. customer receivables) not a one off such as the note receivable. See **LIE #66** where the Division misrepresented **AU 330.14** and **LIE #67** where they changed and misrepresented **AU 330.31** and **AU 330.33**.

628. The engagement team planned to obtain third-party confirmation of the Note's existence and balance. According to the audit planning memorandum, the audit team was going to "send direct confirmation to verify the balance as of 12/31/2013 and also reconcile with the disposal agreement between the company and the buyer.")[992]

~~629. The team's mode~~st attempts to obtain a confirmation from New Eco were unsuccessful, however.[993]

630. The audit workpapers (Ex. 2) contain no confirmation of the Note's existence or

[996] Ex. 88.1 (Devor Report) ¶ 552.

the balance and, according to Shek, Anton & Chia never received a confirmation.[994]

LIE #630 See **Exhibit 1100** and **Exhibit 1101** for the agreements that confirm the "existence" of the Note Receivable.

631. "According to PCAOB standards (*i.e.*, AU 330), if an auditor does not receive a response to a positive confirmation request, the auditor must perform alternative procedures in order to reduce audit risk to an acceptable level. There is no evidence that Anton & Chia performed alternative procedures."[995]

LIE #631 See **Exhibit 1100** and **Exhibit 1101** for the agreements that confirm the "existence" of the Note Receivable, plus the Note Receivable was settled for 7,500,000 shares on March 4, 2014 (**Exhibit 454**) covering the "valuation" assertion (**TR 5694 Lines 10-14**).

632. Anton & Chia's unsuccessful attempts to obtain a third-party confirmation of the Note's existence "should have been a red flag to Anton & Chia and Wahl that warranted a heightened level of professional skepticism and due professional care surrounding the existence and valuation of the Note."[996]

LIE #632 The fake or changed professional skepticism and due professional care that the Division and Devor made in their briefs, OIP and this document?

[991] Ex. 88.1 (Devor Report) ¶ 554.
[996] Ex. 88.1 (Devor Report) ¶ 552.

[992] Ex. 419 at SEG-AG-E-1854.
[993] Ex, 88.1 ¶¶ 546-551.
[994] Tr. (Vol. VIII Shek) 2249:8-10 ("Q Do you recall ever getting confirmation about what was due on the note? A No.").
[995] Ex. 88.1 (Devor Report) ¶ 552 n.89.

[996] Ex. 88.1 (Devor Report) ¶ 552.

633. The workpapers fail to mention that Anton & Chia did not receive a confirmation reply supporting the existence of the Note or the balance due on the Note. Thus, "Anton & Chia and Mr. Wahl . . . failed to document the lack of confirmation as required the PCAOB audit documentation standard (AS 3)."[997]

LIE #633 There is no paragraph in **AS 3** that says this or the Division would have cited the actual paragraph. See alternative procedures performed, see **Exhibit 1100** and **Exhibit 1101** for the agreements that confirm the "existence" of the Note Receivable, plus the Note Receivable was settled for 7,500,000 shares on March 4, 2014 (**Exhibit 454**).

634. Wahl, who reviewed the *Engagement Summary Memo*[998] in his capacity as Engagement Partner, should have questioned why the workpapers did not include any confirmation or other appropriate steps relating to the existence of the Note as Anton & Chia had planned.

Lie #634 See **Exhibit 1100** and **Exhibit 1101** for the agreements that confirm the "existence" of the Note Receivable, plus the Note Receivable was settled for 7,500,000 shares on March 4, 2014 (**Exhibit 454**).

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[996] Ex. 88.1 (Devor Report) ¶ 552.

4. Deficiencies Involving the TPC Goodwill

635. "Anton & Chia and Wahl demonstrated a lack of due professional care and violated PCAOB standards with respect to goodwill from the acquisition of The Power Company."[999]

Lie #635 There is no testimony, exhibits or facts or any US GAAP or GAAS pronouncement that supports this statement this is Devor's opinion and nothing more. **ASC 350** is an accounting policy which is management's responsibility not the auditors.

a. Allocation of the Entire Purchase Price to Goodwill

636. "Anton & Chia was required to obtain sufficient audit evidence to conclude that Premier's accounting [for its stake in TPC] complied with GAAP."[1000] But "Anton & Chia and Mr. Wahl failed to obtain audit evidence supporting the allocation of 100% of the [TPC] purchase price to goodwill. Anton & Chia did not receive any such evidence during its 2013 interim review procedures, or during its year-end audit procedures."[1001]

LIE #636 Which paragraph in US GAAS is the Division citing that it says "required" it doesn't exst or they wouldn't have made a statemement that is pure opinion with no reference to specific paragraphs in US GAAP or GAAS. The purchase price for the Power Company was still provisional until February 28, 2014. This statement by the Division and Devor clearly

[996] Ex. 88.1 (Devor Report) ¶ 552.

demonstrates their lack of understanding of US GAAP and GAAS and basic financial reporting for small public companies (**TR 6075 Lines 4-5 & Line 9; TR 6076 Lines 18-19; TR 6077 Lines 3-9; TR 6093 Lines 7-13; TR 1135 Lines 2-11**; **TR 151 Lines 2-25; TR 152 Lines 1-12**). Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**).

This is from Premier's Form 10-K **Exhibit 402 Page F-11 4th paragraph**, "The initial accounting for the business combination is not complete because the evaluations necessary to assess the fair values of certain net assets acquired and the amount of goodwill to be recognized are still in process. The provisional amounts are subject to revision until the evaluations are completed to the extent that additional information is obtained about the facts and circumstances that existed as of the acquisition date. Any changes to the fair value assessments will affect the acquisition-date fair value of goodwill."

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637. Anton & Chia and Wahl knew that $4,500,000 of Premier's reported goodwill of $4,555,750 was attributable to the TPC acquisition and knew that the $4,500,000 represented the

[996] Ex. 88.1 (Devor Report) ¶ 552.

[997] Ex. 88.1 (Devor Report) ¶ 554.

[998] Ex. 2 (3005 *Engagement Summary Memo* FY 2013); Ex. 417 (Workpaper Sign Off History report) A&C-Premier000140.)

[999] Ex. 88.1 (Devor Report) ¶ 557.

[1000] *Id.* ¶ 560.

[1001] *Id.* ¶ 561.

[996] Ex. 88.1 (Devor Report) ¶ 552.

the full purchase price.[1002] Yet they failed to obtain audit evidence supporting the allocation of 100% of the TPC purchase price to goodwill.

Lie #637 Which paragraph in US GAAS is the Division citing that it says "required" it doesn't exst or they wouldn't have made a statemement that is pure opinion with no reference to specific paragraphs in US GAAP or GAAS. The purchase price for the Power Company was still provisional until February 28, 2014. This statement by the Division and Devor clearly demonstrates their lack of understanding of US GAAP and GAAS and basic financial reporting for small public companies (**TR 6075 Lines 4-5 & Line 9; TR 6076 Lines 18-19; TR 6077 Lines 3-9; TR 6093 Lines 7-13; TR 1135 Lines 2-11**; **TR 151 Lines 2-25; TR 152 Lines 1-12**). Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**).

This is from Premier's Form 10-K **Exhibit 402 Page F-11 4th paragraph**, "The initial accounting for the business combination is not complete because the evaluations necessary to assess the fair values of certain net assets acquired and the amount of goodwill to be recognized are still in process. The

provisional amounts are subject to revision until the evaluations are completed to the extent that additional information is obtained about the facts and circumstances that existed as of the acquisition date. Any changes to the fair value assessments will affect the acquisition-date fair value of goodwill."

638. In its planning memo for the 2013 audit, Anton & Chia stated that Premier "has to complete a purchase price allocation [for the TPC acquisition] within a year per SEC requirement." The memo also said that Anton & Chia would "look… [at] the reasonableness of the purchase price allocation."

LIE #638 The purchase price for the Power Company was still provisional until February 28, 2014, which is the first quarter of 2014 not the year end audit for December 31, 2013. This statement by the Division and Devor clearly demonstrates their lack of understanding of US GAAP and GAAS and basic financial reporting for small public companies (**TR 6075 Lines 4-5 & Line 9; TR 6076 Lines 18-19; TR 6077 Lines 3-9; TR 6093 Lines 7-13; TR 1135 Lines 2-11**; **TR 151 Lines 2-25; TR 152 Lines 1-12**). Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**).

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639. Anton & Chia failed to execute the procedures it planned to perform and which were required with respect to the purchase price allocation.

Lie #639 Which paragraph in US GAAS is the Division citing that it says "required" it doesn't exst or they wouldn't have made a statemement that is pure opinion with no reference to specific paragraphs in US GAAP or GAAS. The purchase price for the Power Company was still provisional until February 28, 2014, which is the first quarter of 2014 not the year end audit for December 31, 2013. This statement by the Division and Devor clearly demonstrates their lack of understanding of US GAAP and

GAAS and basic financial reporting for small public companies (**TR 6075 Lines 4-5 & Line 9; TR 6076 Lines 18-19; TR 6077 Lines 3-9; TR 6093 Lines 7-13; TR 1135 Lines 2-11**; **TR 151 Lines 2-25; TR 152 Lines 1-12**). Devor said "they're (the Division) not competent in that area (US GAAP & GAAS)" (**TR 1805 Lines 15-10**).

This is from Premier's Form 10-K **Exhibit 402 Page F-11 4th paragraph**, "The initial accounting for the business combination is not complete because the evaluations necessary to assess the fair values of certain net assets acquired and the amount of goodwill to be recognized are still in process. The provisional amounts are subject to revision until the evaluations are completed to the extent that additional information is obtained about the facts and circumstances that existed as of the acquisition date. Any changes to the fair value assessments will affect the acquisition-date fair value of goodwill."

640. The audit team knew that Doty Scott had been engaged by Premier to complete a purchase price allocation for The Power Company, and that, as of April 3, 2014, Doty Scott was "awaiting data from the client to complete the engagement."[1003]

LIE #640 As if Premier would use Doty Scott the SEC's informant would use Doty Scott for any of the work going forward after the unprofessional, malicious intent to commit fraud against Premier, Anton & Chia and Premier's shareholders by providing valuation tables, never once saying they couldn't be used or that they were just for understanding "methodology" which was never communicated to at least A&C or Wahl. This "methodology" discussion only came up during trial.

See also **LIE #551** as Doty Scott, Shek and Chen had no knowledge the Note was settled on March 4, 2014 for 7,500,000 shares and there was no requirement under US GAAP or GAAS to obtain a third party valuation report. There is nothing in the true authoritative standards US GAAP or GAAS that requires a third party valuation report (**TR 2941 Lines 14-17; TR 3260 Lines 11-17 & Lines 21-25**).

641. The audit team never received a purchase price allocation by Doty Scott.[1004] "Therefore, Anton & Chia and Wahl failed to exercise due professional care, and failed to exhibit professional skepticism, when they did not inquire about the status of the purchase price allocation."[1005]

Lie #641 The Division is throwing in the words "failed" to do this and do that but they cant even cite the proper paragraph with the evidence that Wahl and A&C failed to do what was required. The Divison doesn't even understand the facts. Read the contract signed between The Power Company and Premier which is **Exhibit 1116**. The contract was effective February 28, 2013, Premier had up until February 28, 2014 to finalize the provisional purchase which is a first quarter 2014 event (i.e. Form 10-Q to be filed by May 20th, 2014) and not the year end December 31, 2013. If management had finalized the purchase price then A&C would have audited the purchase price allocation but Premier management still had two months to finalize this which is a first quarter 2014 event not for the December 31, 2013.

Not to mention that the Division didn't like the Authoritative Guidelines in US GAAP and GAAS and decided to change **AU 210** and **AU 230 (**See **LIE #47; LIE #48; LIE #52; LIE #53; LIE #54)**

642. At least for Shek it was a concern that over a year had passed since the TPC acquisition and a purchase price allocation had still not been completed at the time of the audit."[1006]

Lie #642 The Division further embarrasses Shek by bullying him into making this comment. Shek doesn't even understand the facts. Read the contract signed between The Power Company and Premier which is **Exhibit 1116**. The contract was effective February 28, 2013, Premier had up until February 28, 2014 to finalize the provisional purchase which is a first quarter 2014 event (i.e. Form 10-Q to be filed by May 20th, 2014) and not the year end December 31, 2013. If management had finalized the purchase price then A&C would have audited the purchase price allocation but they still had two months to finalize this which is a first quarter 2014 event not for the December 31, 2013.

[1002] Tr. (Vol. VIII Shek) 2267:8-9 ("THE WITNESS: The whole engagement team. They put the 4, 5 million in goodwill."); Ex. 402 (Premier 2013 Form 10-K) F-2 (reporting total goodwill of $4,555,750).

[1003] Ex. 480 (Apr. 3, 2014 email from Scott).

[1004] Tr. (Vol. VIII Shek) 2264:8-20 ("Q Okay. And, to your knowledge, did Doty Scott ever complete a purchase price allocation for The Power Company? A No. Q Did you ever get a purchase price allocation from Doty Scott? A No. Q Did you ever talk to anybody at ANC who said, 'We got one. Don't worry. You don't need to see it'? … THE WITNESS: No.").

[1005] Ex. 88.1 (Devor Report) ¶ 566.

[1006] Tr. (Vol. VIII Shek) 2267:11-14 ("Q Okay. Was it a concern that over a year had passed and a purchase price allocation had not been completed for the acquisition of TPC? A Yes.").

643. The audit team was also aware that the value of TPC to Premier was based on the number of customer contracts it had and that it was adding 1,500 to 2,000 contracts a month.[1007]

Lie #643 The assets added **after** February 28, 2013 are not part of the purchase price so the Division statement is completely not factual and mischaracterizes the transaction, see paragraph **ASC 805-20-25-3:** "*In addition,* ***to qualify for recognition as part of applying the acquisition method,*** the identifiable assets acquired and liabilities assumed must be part of what the acquirer and the acquire ***(or its former owners) exchanged in the business combination transaction rather than the result of separate transactions.***

644. In addition, as discussed in Paragraph 505 above, Premier had touted the number of TPC customer contracts – not supplier contracts – in multiple public filings, including its Forms Q for the first three quarters of 2013, at least one of which Anton & Chia reviewed.[1008]

Lie #644 The assets added **after** February 28, 2013 are not part of the purchase price so this Division statement see paragraph **ASC 805-20-25-3:** "*In addition,* ***to qualify for recognition as part of applying the acquisition method,*** the identifiable assets acquired and liabilities assumed must be part of what the acquirer and the acquire ***(or its***

former owners) exchanged in the business combination transaction rather than the result of separate transactions.

645. By the time of the audit, Premier had made numerous public statements about the value of TPC's customers and contracts, and yet Premier allocated no value to such assets in its 2013 financial statements. The disconnect between Premier's representations about the benefits of the TPC acquisition in public statements and its financial statements should have been a red flag to Anton & Chia and Wahl.[1009]

LIE #645 The Divison doesn't even understand the facts. Read the contract signed between The Power Company and Premier which is **Exhibit 1116**. The contract was effective February 28, 2013, Premier had up until February 28, 2014 to finalize the provisional purchase which is a first quarter 2014 event (i.e. Form 10-Q to be filed by May 20th, 2014) and not the year end December 31, 2013. If management had finalized the purchase price then A&C would have audited the purchase price allocation but they still had two months to finalize this which is a first quarter 2014 event not for the December 31, 2013.

The assets added **after** February 28, 2013 are not part of the purchase price so this Division statement see paragraph **ASC 805-20-25-3:** "*In addition,* ***to qualify for recognition as part of applying the acquisition method,*** the identifiable assets acquired and liabilities assumed must be part of what the acquirer and the acquire ***(or its former owners) exchanged in the business combination transaction rather than the result of separate transactions.***

646. Premier's 2013 financial statements stated that "[t]he initial accounting for the business combination [with TPC] is not complete because the evaluations necessary to assess the fair values of certain net assets acquired and the amount of goodwill to be recognized are still in process." [1010] By providing an unqualified opinion, Anton & Chia indicated that it accepted these assertions made by management, even though the transaction with TPC had closed more than a year before Premier issued its 2013 financial statements. (The acquisition closed on February 28, 2013; Premier issued its 2013 financial statements on April 15, 2014.)

LIE #646 The Divison doesn't even understand the facts and they are making up US GAAP and GAAS so it fits there story which is full of lies and misrepresentations intentionally committing FRAUD against Wahl and Respondents. Read the contract signed between The Power

Company and Premier which is **Exhibit 1116**. The contract was effective February 28, 2013, Premier had up until February 28, 2014 to finalize the provisional purchase which is a first quarter 2014 event (i.e. Form 10-Q to be filed by May 20th, 2014) and not the year end December 31, 2013. If management had finalized the purchase price then A&C would have audited the purchase price allocation but they still had two months to finalize this which is a first quarter 2014 event not for the December 31, 2013.

647. "Anton & Chia and Wahl, in his role as Engagement Partner, failed to exercise due professional care and professional skepticism as required by AU 230 (*Due Professional*

[1007] Ex. 477 (Aug. 9, 2013 email from Greenblatt to Wen) ("The payment on those contracts comes 30 to 60 days behind the billings. We are adding approximately 2500 new contracts a month currently. I will forward you the calculation of the receivables.").
[1008] *See* Paragraphs 452-473 and 505, above.
[1009] Ex. 88.1 (Devor Report) ¶ 566.
[1010] Ex. 402 (Premier 2013 Form 10-K) F-11.

Care in the Performance of Work) and violated AS 15 with respect to Premier's decision to recognize the entire purported acquisition price to goodwill."[1011]

LIE #647 The Division doesn't put the specific (actual) paragraph in their documents because there is no violation of US GAAS or US GAAP by Wahl and Respondents. The Division can't cite the Authoritative Guidance in US GAAP and GAAS because it doesn't fit the Divisions' story but instead of putting the native paragraph in their Proposed Briefs, Proposed Facts, the OIP, Pre-trial Briefs and at Trial they changed it. See **LIE #48** (**AU 230; AU 230.03; AU 230.05; AU 230.07; AU 230.08**); **LIE #53** (**AU 230.03**); **LIE #54** (**AU 210.05**); See **LIE #105** (**AS 15.04**); **LIE #106** (**AS 15.05**); **LIE #108** (**AS 15.11**) and **LIE #110** (**AS 15.29**)

b. Goodwill Impairment

648. The audit planning memo also indicated that the audit team would "look at any impairment issues in the goodwill and intangibles."[1012]

Lie #648 This is from Premier's Form 10-K **Exhibit 402 Page F-11 4th paragraph**, "**The initial accounting for the business combination is not complete because the evaluations necessary to assess the fair values of certain net assets acquired and the amount of goodwill to be recognized are still in process. The**

provisional amounts are subject to revision until the evaluations are completed to the extent that additional information is obtained about the facts and circumstances that existed as of the acquisition date. Any changes to the fair value assessments will affect the acquisition-date fair value of goodwill."

649. Anton & Chia never received a goodwill impairment analysis from Premier.[1013]

So, instead, the auditor itself looked at goodwill impairment.[1014]

Lie #649 According to **Accounting for Goodwill ASC 350-20-35-1** "Goodwill shall not be amortized. Instead, goodwill shall be tested for impairment at a level of reporting referred to as a reporting unit. (Paragraphs 350-20-35-33 through 35-46 provide guidance on determining reporting units.) 350-20-35-2 Impairment is the condition that exists when the carrying amount of goodwill exceeds its implied fair value. The fair value of goodwill can be measured only as a residual and cannot be measured directly. **350-20-35-3 An entity may first assess qualitative factors, as described in paragraphs 350-20-35-3A through 35-3G, to determine whether it is necessary to perform the two-step goodwill impairment test discussed in paragraphs 350-20-35-4 through**

35-19. If determined to be necessary, the two-step impairment test shall be used to identify potential goodwill impairment and measure the amount of a goodwill impairment loss to be recognized (if any).

A) 1st STEP IS THE QUALITATIVE ASSESSMENT:

Qualitative Assessment 350-20-35-3A: "*An entity may assess qualitative factors to determine whether it is more likely than not (that is, a likelihood of more than 50 percent) that the fair value of a reporting unit is less than its carrying amount, including goodwill. If it's not more likely than not then you don't need to do the two step impairment analysis.*"

The Qualitative Assessment was introduced for year ends after December 15, 2011 and totally ignored by Devor.

Subsequent Measurement Qualitative Assessment 350-20-35-3C: "*In evaluating whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount, an entity shall assess relevant events and circumstances. Examples of such events and circumstances include the following:*

b. Industry and market considerations such as a deterioration in the environment in which an entity operates, an increased competitive environment, a decline in market-dependent multiples or metrics (consider in both absolute terms and relative to peers), a change in the market for an entity's products or services, or a regulatory or political development

d. Overall financial performance such as negative or declining cash flows or a decline in actual or planned revenue or earnings compared with actual and projected results of relevant prior periods."

350-20-35-3D *"If, after assessing the totality of events or circumstances such as those described in the preceding paragraph, an entity determines that it is not more likely than not that the fair value of a reporting unit is less than its carrying amount, then the first and second steps of the goodwill impairment test are unnecessary."*

Devor's and the SEC's argument for an impairment analysis and that A&C and Honest Hardworking Americans analysis is incorrect is

mischaracterized and their own analysis doesn't even comply with appropriate US GAAP and GAAS since it does not include the qualitative assessment.

B) PREMIER HAD SUBSTANTIAL REVENUE GROWTH:

Premier's revenue growth from 2013 to 2014 was $1.8MM to $4.828MM which is 168.2% increase (or a in dollars $3.028MM increase in revenues) and (Gross Profit was $1.458MM in 2014 and $1.766MM in 2013) (See **Exhibit 1119 F-2)**. This was supported by management's plans and projections being provided to A&C as part of an annual impairment test as required by **ASC 350**. The significant growth in Premier's revenues and gross profit support Premier's ability to raise significant money from third party investors, thereby indicating that the goodwill was not impaired. The growth expectations for PRHL were expected and assessed in our audit (**See Exhibits 1111 and Exhibit 1112**) ***fully complies with ASC 350-20-35-3Ca and d***. In fact the analysis quotes the standards for the qualitative assessment. Further confirming the dishonesty of the attorneys, Devor and the accountants involved in this matter.

c) WAHL COMPLETED AN INDEPENDENT ANALYSIS TO COMPLY WITH ASC 350-20-35-3C a and d.:

Dan Hayes and Devor are so dishonest. They claimed that management was required to complete a goodwill impairment analysis. Premier management was not required to complete an analysis in accordance with ASC 350 since The POWER COMPANY purchase price was still provisional until February 28, 2014 which would be the first quarter of 2014 not the December 31, 2013 year-end audit.

Devor and Hayes intentionally took a working paper that A&C was not even required to prepare. A&C prepared this working paper as an objective, unbiased analytic to assess whether there was any impairment to mitigate its risk based on subsequent events as part of the December 31, 2013 audit. Even when Honest

Hardworking Americans are clearly acting in accordance with appropriate professional standards during their audits. The Division and Devor are so desperate that they simply mischaracterize the work and manipulate the accounting standards because they have no respect for this court.

Wahl discussed the independent analysis in his investigative testimony that it was performed independently of the company and tied to third party information the bank statements (**See P.F.F# 368)**.

Devor's report is incorrect he claims that management completed a goodwill analysis in the notes (**Exhibit 1118: Page F-8 Goodwill and Other Intangibles**) PRHL does not mention the goodwill impairment analysis b/c they were not required to complete the analysis in accordance with ASC 350. During trial, Gaurdi and the SEC attorneys put up the heading of the Goodwill note and do not fully disclose the entire note simply b/c it would reveal that they are not being honest.

650. Shek prepared a workpaper – WP REF 4500.04 (Ex. 428), a memo headed "Goodwill Impairment Analysis (Ex. 428) – documenting three steps he supposedly took in a qualitative analysis of Premier's goodwill.[1015]

651. The first step documented in the memo was to take two months' worth of cash inflows to TPC, calculate an average of those two months, and then project that income out for five years, assuming that average income number.[1016]

652. This methodology was Wahl's idea.[1017] In particular, it was Wahl's idea to look only at cash inflows, rather than net cash flows.[1018]

Lie #652 Premier's revenue growth from 2013 to 2014 was $1.8MM to $4.828MM which is 168.2% increase (or a in dollars $3.028MM increase in revenues) and (Gross Profit was $1.458MM in 2014 and $1.766MM in 2013) (See **Exhibit 1119 Page F-3**). This was supported by management's plans and projections being provided to A&C as part of an annual impairment test as required by **ASC 350**.

[1011] Ex. 88.1 (Devor Report) ¶ 570.
[1012] Ex. 419 (Planning Memo for Premier 2013 audit).
[1013] Tr. (Vol. VIII Shek) 2268:12-14 ("Q. Did you ever get an impairment analysis from the company? A. No."). [1014] Tr. (Vol. VIII Shek) 2269:1-8("Q In any event, do you recall, was it something that the engagement team did on its own, look at goodwill impairment? … THE WITNESS: Yes."); *see also* Ex. 428 (goodwill impairment memo). [1015] Tr. (Vol. VIII Shek) 2269:16-2269:23 ("Q Mr. Shek, do you remember – or do you recognize this document [Ex. 428]? A Yes. Q Okay. This is the goodwill impairment analysis memo prepared by ANC? A Yes. Q And prepared by T.S., that's you, right? A Correct.")
[1016] Ex. 428 (goodwill impairment memo) 2.

[1017] Tr. (Vol. VIII Shek) 2274:5-20 ("Q. And who's idea was it? Whose idea was it to say, 'Look, we're going to look at cash inflows and use that to make a projection?' … A. Wahl. Q. Okay. And why only cash – so why only cash inflows? Why not cash – why not net cash? Why not take into consideration the cash outflows as well? A. I just did what was asked to be done. Q. So Wahl just told you to do – look at cash inflows, and you did that? A. Yes."); *see also id.* at276:6-9 ("Q. And whose idea was it to only look at two months? … A. Wahl.").

[1018] *Id.*

653. Looking only at incoming cash, as opposed to net cash flows, does not provide an accurate picture of the financial health of a company.[1019]

Lie #653 Premier's revenue growth from 2013 to 2014 was $1.8MM to $4.828MM which is 168.2% increase (or a in dollars $3.028MM increase in revenues) and (Gross Profit was $1.458MM in 2014 and $1.766MM in 2013) (**See Exhibit 1119 page F-3**). This was supported by management's plans and projections being provided to A&C as part of an annual impairment test as required by ASC 350. The increase in revenues and gross profit more than offsets the cost of running TPC's business.

654. In fact, TPC's **net** cash flow in January to February, 2014 was negative, not positive. TPC experienced a net cash flow of $13,205 in January, 2014, but experienced a net cash flow of negative $17,322 in February, 2014. Taken together, TPC had a net cash flow of negative $4,117 in that two-month period, which equates to a negative $2,058 per month.[1020]

Lie #654 Premier's revenue growth from 2013 to 2014 was $1.8MM to $4.828MM which is 168.2% increase (or a in dollars $3.028MM increase in revenues) and (Gross Profit was $1.458MM in 2014 and $1.766MM in 2013) (**See Exhibit 1119 page F-3**). This was supported by management's

plans and projections being provided to A&C as part of an annual impairment test as required by **ASC 350**. The increase in revenues and gross profit more than offsets the cost of running TPC's business.

655. Anton & Chia's goodwill impairment analysis was deficient in other respects as well. First, Anton & Chia did not follow its own plan. The workpaper contemplated that Anton & Chia would project cash inflows over the next "60 months."[1021] But the workpaper shows that Anton & Chia calculated the cash inflow projections for only 36 months, not 60 months, [1022] and never explained why Anton & Chai projected the cash inflows over a period of three years, not five years as planned.

LIE #655 Wahl and A&C are not required to explain our working papers to you. The analysis said it's a "**QUALITATIVE ASSESSMENT"** its not a full blown impairment analysis, nor is it required to do a QUANTITATIVE ASSESSMENT. The analysis is based on A&C's and Wahl's professional judgment. Not Devor's, not the Division's. Devor and Division keep lieing and mischaracterizing the work completed so much so they decided to change US GAAP and GAAS.

Premier's revenue growth from 2013 to 2014 was $1.8MM to $4.828MM which is 168.2% increase (or a in dollars $3.028MM increase in revenues) and (Gross Profit was $1.458MM in 2014 and $1.766MM in

2013). This was supported by management's plans and projections being provided to A&C as part of an annual impairment test as required by ASC 350. The increase in revenues and gross profit more than offsets the cost of running TPC's business.

656. Second, Anton & Chia's calculations of the cash inflows were incorrect. Anton & Chia based its analysis on the cash inflows of only two months: January and February, 2014. The workpaper reflects cash inflows of $174,000 in January, 2014, and $133,000 in February, 2014.[1023] TPC's bank statements show however that it had cash inflows of $472,903 in January, 2014, and $372,251 in February, 2014.[1024]

Lie #656 See Responses **LIE #649** and **LIE #654**. This shows you how incompetent Devor and the Division truly are.

657. The second step described in the goodwill impairment memo involved "inquiry with the management," where Premier purportedly told Anton & Chia that they expected TPC to

[1019] Ex. 88.1 (Devor Report) ¶¶ 579-582; *see also* Tr. (Vol. VIII Shek) 2274:21-2275: ("Q. Wouldn't it make more sense if you're going to do projections to look at the net cash flows? … A. Well, in my subsequent experience, a lot of, like, impairment look at net cash flow, yeah. Q. You would look at net cash flow? A. Correct. Q. To get a more accurate number, correct? A. Correct.").
[1020] Ex. 88.1 (Devor Report) ¶ 581 & Figure 8 (Cash Inflows and Outflows for January and February, 2014).
[1021] Ex. 428 (goodwill impairment memo) 2.
[1022] Ex. 428 (goodwill impairment memo) 2.
[1023] Ex. 428 (goodwill impairment memo) 2.
[1024] Ex. 88.1 (Devor Report) ¶ 578 and Figure 8 (Cash Inflows and Outflows for January and February, 2014).

keep growing "and did not see any factors that would significantly impaired [sic] the goodwill."[1025]

LIE #657 The Division doesn't recognize any of the actual facts. Once the provisional period was finalized the Company and A&C analyzed the goodwill as part of the 2014 audit and of course they don't mention this analysis completed in the 2014 audit (See **2014 Premier Form 10-K Exhibit 1119 Page F-8**). The actual disclosure is below:

"The Company (Premier) determined that there was an indicators of impairment in goodwill for TPC during the year ended December 31, 2014 and impaired the goodwill by $500,000 in TPC because of continuous negative cash flow and losses. The Company used the present value technique for the impairment testing. In addition, the Company determined that there was an indicators of impairment in goodwill for LP&L during the year ended December 31, 2014 and fully impaired the goodwill in LP&L because the lack of funding from the parent Company to support LP&L projections, continuous negative cash flow and losses, and the default in the acquisition note payable installment payment b Premier Holding Corporation in the first quarter

of 2015. The Company used the present value technique for the impairment testing.

This analysis was completed even with the actual results of the below.

Premier's revenue growth from 2013 to 2014 was $1.8MM to $4.828MM which is 168.2% increase (or a in dollars $3.028MM increase in revenues) and (Gross Profit was $1.458MM in 2014 and $1.766MM in 2013) (**Exhibit 1119 page F-3**). This was supported by management's plans and projections being provided to A&C as part of an annual impairment test as required by **ASC 350**. The increase in revenues and gross profit more than offsets the cost of running TPC's business.

658. "Hearing Premier's view that goodwill was not impaired was not sufficient. An auditor cannot satisfy professional standards by simply accepting management representations, without more."[1026]

LIE #658 Again Devor and the Division reference **Exhibit 88.1 paragraph 585** and they provide just opinion and do not cite any specific paragraph in US GAAP or GAAS.

659. Moreover, Anton & Chia's documentation of the second step was also inadequate

because it "failed to document who Anton & Chia contacted at Premier, what questions were asked, and what evidence (if any) was obtained by the engagement team to corroborate Premier's purported view that its recorded goodwill was not impaired as of December 31, 2013."[1027]

Lie #659 See responses **LIE #649; #654** and **#658**.

660. The third step described in the goodwill impairment workpaper was to analyze how many new customers TPC signed up in the first quarter of 2014 compared to the first quarter of 2013.[1028] This analysis was inadequate for two reasons. First, Anton & Chia simply accepted the contract numbers provided by management without performing any tests to evaluate whether such numbers were reliable.[1029] Second, Anton & Chia did not analyze whether those contracts were making, or losing, money for the Company.[1030] This methodology, too, was Wahl's idea.[1031]

Lie #660 In the 2013 audit Anton & Chia tested revenues, accounts receivable and completed walkthroughs to verify the accuracy of revenues, accounts receivable which Wahl and A&C tested the underlying contracts. The contracts were commissions paid which have nominal direct costs associated with it. See responses **LIE #649; #654** and **#658**.

[1025] Ex. 428 (goodwill impairment memo) 2.
[1026] Ex. 88.1 (Devor Report) ¶ 654.

[1027] Ex. 88.1 (Devor Report) ¶ 585.
[1028] Ex. 428 at 2-3.
[1029] Ex. 88.1 (Devor Report) ¶ 589.
[1030] Ex. 88.1 (Devor Report) ¶ 590; Tr. (Vol. VIII Shek) 2283:19-22 ("Q. And did you look at the – as part of the impairment analysis, did you look at the profitability of these contracts? A. No.").
[1031] Tr. (Vol. VIII Shek) 2282:12-15 ("Q All right. So whose idea was it to do the analysis this way? To basically look at these quarters and compare signups? A Wahl.").

CANNAVEST

A. Background: CannaVEST's 2012 Form 10-K

661. CannaVEST Corp. ("CannaVEST") was incorporated in the State of Texas on December 9, 2010 under the name Foreclosure Solutions. Foreclosure Solutions was incorporated with the intention to commence operations in the business of selling realtor services to prospective buyers interested in foreclosed residential properties. It was unable to secure financing for that business plan and experienced a change in control on November 16, 2012, when a group of buyers acquired a total of 6,979,900 shares of the company's common stock, representing 99.7% of the total issued and outstanding shares of the company's common stock, for an aggregate purchase price of $375,000, *i.e.,* at $0.054 cents per share (the "Mai Dun transaction").[1032]

662. As of December 31, 2012, Foreclosure Solutions had total assets of $431, no revenues since its inception, and annual losses.[1033]

663. In its 2012 Form 10-K, filed on April 16, 2013, Foreclosure Solutions discussed that its common stock traded on the OTC Bulletin Board, where the trading of securities is "often sporadic and investors may have difficulty buying and selling or obtaining market quotations." The company further noted that, as a penny stock, for sales of its securities, "broker-dealers must make a special suitability determination and receive a written agreement from the stockholder prior to making a sale on any such stockholder's behalf."[1034]

664. Foreclosure Solutions' 2012 Form 10-K also disclosed that management had identified a material weakness in the effectiveness of internal control over financial reporting

[1032] Ex.702 (Foreclosure Solutions 2012 Form 10-K) 4, 17; Tr. (Vol. VI Devor) 1543:12-1546:9.
[1033] Tr. (Vol VII Turner) 2061:16-18, 2062:14-23; Ex. 702 (Foreclosure Solutions 2012 Form 10-K) 4, F-3, F-4, F-6.
[1034] Ex.702 (Foreclosure Solutions 2012 Form 10-K) 8.

related to a shortage of resources in the accounting department required to assure appropriate segregation of duties with employees having appropriate accounting qualifications related to the company's unique industry accounting and disclosure rules.[1035]

665. As of December 31, 2012, the management of Foreclosure Solutions consisted of one person, Michael Mona, who held the position of president, treasurer, secretary, director, principal executive officer and principal financial officer.[1036]

666. The report of the Turner, Stone and Company, LLP, the independent registered public accounting firm that had audited Foreclosure Solutions' balance sheets as of December 31, 2011 and 2012, that was attached to the company's 2012 Form 10-K, contained the following disclosure: "the Company has not generated any revenues from operations, which raises substantial doubt about its ability to continue as a going concern."[1037]

B. CannaVEST's Acquisition of PhytoSphere Systems, LLC

667. PhytoSphere Systems, LLC ("PhytoSphere") was a limited liability company owned by Medical Marijuana, Inc. (ticker symbol: MJNA.PK).[1038]

668. MJNA had purchased an 80% stake in PhytoSphere from CannaBank in April 2012 for $2.5 million.[1039]

669. On December 15, 2012, Foreclosure Solutions entered into an agreement with PhytoSphere to acquire certain assets in exchange for an aggregate payment of $35,000,000. The agreement was intended to close on December 31, 2012, but did not in fact close until January 29, 2013, when Foreclosure Solutions issued to PhytoSphere 900,000 shares of restricted

[1035] *Id.* at 11.
[1036] *Id.* at Ex. 31.1 (SOX certification).
[1037] *Id.* at F-2.
[1038] Ex. 700 (Feb. 12, 2012 Foreclosure Solutions Form 8-K) 3.
[1039] Ex. 836 (Apr. 12 2012 MJNA press release); Ex. 837 (Apr. 13, 2012 WSJ article); Tr. (Vol. VI Devor) 1530:6-

1531:24.

common stock in satisfaction of its first payment obligation due under the purchase agreement.[1040] The acquisition of PhytoSphere Systems, LLC was reflected as a subsequent event in CannaVEST's financial statements as of December 31, 2012.[1041]

670. Section 3.01 of the agreement provided that the purchase price would be paid over the course of five installments, in either cash and/or stock, in the buyer's sole discretion. Section 3.02 of the agreement established that the price per share, if the consideration were to be provided in the form of stock, would be no greater than $6.00 and no less than $4.50 (the "collar").[1042]

671. Wahl testified that it was his expectation that CannaVEST would mainly pay the purchase price for PhytoSphere with CannaVEST stock.[1043]

672. Ultimately, CannaVEST provided a total of 5,825,000 shares (either all or mainly restricted shares) and paid $950,000 in cash to MJNA during 2013 for PhytoSphere.[1044]

673. The purchase agreement included an Exhibit A, which listed the assets that were being acquired, including: inventory, tangible personal property, Internet domain names, landline telephone numbers, vendor and supplier contracts, licenses, and cash. Other than the cash on hand, in the amount of $50,774.55, Exhibit A contained no value for the other assets being acquired, nor were the vendor and supplier contracts identified or attached to the agreement.[1045]

Lie #673 Exhibit 751 or **1001 Appendix A** says "All" vendor and supplier contracts.

"All rights of Seller in, to and under its vendor and supplier contracts and **all** of the vendor and supplier relationships related to Seller's

business and related goodwill, if any, related to or used in conjunction with Seller's business, and **all** customer and vendor contact information."

[1040] Ex. 700 (Feb. 12, 2013 Foreclosure Solutions Form 8-K) 3; Ex. 702 (Foreclosure Solutions 2012 Form 10-K) at 8 (noting restricted shares issued pursuant to registration exemption under Section 4(2) of the Securities Act of 1933, and/or Regulation D); Ex. 751 (PhytoSphere agreement at § 4.01).

[1041] Ex.702 (Foreclosure Solutions 2012 Form 10-K) 5.

[1042] *Id.* at 5 (describing transaction); Ex. 700 (Feb. 12, 2012 Foreclosure Solutions Form 8-K) Ex. 10.3 (PhytoSphere agreement); Ex. 751 (signed PhytoSphere agreement).

[1043] Tr. (Vol. XVII Wahl) 4111:17-20).

[1044] Ex. 706 (CannaVEST Q1 2013 Form 10-Q/A) 17; Ex. 708 (CannaVEST Q2 2013 Form 10-Q) 16; Ex. 710 (CannaVEST Q3 2013 Form 10-Q) 18; Ex. 715 (CannaVEST 2013 Form 10-K) F-12.

[1045] Ex. 751 (PhytoSphere agreement) Ex. A; Tr. (Vol. VI Devor) 1524:17-1526:7.

674. Contemporaneous with the closing of the PhytoSphere transaction, Foreclosure Solutions amended its certificate of formation to change its name to CannaVEST Corp., and changed its business to developing, producing, marketing and selling end consumer products to the nutraceutical industry containing hemp plant extract, cannabidoil (CBD).[1046]

C. CannaVEST's Form Q1, Q2 and Q3 Forms 10-Q

675. CannaVEST filed its first quarter 2013 Form 10-Q on May 20, 2013. The acquisition of PhytoSphere had a material impact on CannaVEST's financial statements. The total value of approximately $35 million assigned to the identifiable assets acquired, as well as the applied goodwill, represented almost the entire balance of CannaVEST's total assets as of March 31, 2013 (*i.e.*, at the end of the first quarter of 2013).[1047]

676. On May 30, 2013, CannaVEST filed an amended Form 10-Q for the first quarter of 2013. In an explanatory note, CannaVEST stated that the amended Form 10-Q had been filed for purposes of "correcting the form of presentation of [CannaVEST's] financial statements." More specifically, the amendment served mainly to (a) correct errors in the financial statements, and (b) furnish an additional exhibit, Exhibit 101 (referred to as *Certification Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002*) in accordance with Rule 405 of SEC Regulation S-T.[1048]

677. CannaVEST filed its second quarter of 2013 Form 10-Q on August 13, 2013. On its balance sheet, CannaVEST continued to report approximately $35 million for the purported assets associated with the PhytoSphere acquisition.[1049]

678. In the third quarter of 2013, Vantage Point Advisors, Inc. ("Vantage Point") performed what was referred to as *IRC 409A & ASC718 – Valuation of Common Stock* of

[1046] Ex. 700 (Feb. 12, 2012 Foreclosure Solutions Form 8-K) 2-3.
[1047] Ex. 705 (CannaVEST Q1 2013 Form 10-Q).
[1048] Ex. 706 (CannaVEST Q1 2013 Form 10-Q/A).

[1049] Ex. 708 (CannaVEST Q2 2013 Form 10-Q).

CannaVEST as of August 21, 2013 – dated September 3, 2013 (the "CannaVEST Stock Valuation"). The CannaVEST Stock Valuation determined that, as of August 21, 2013, CannaVEST's common stock was valued at $1.13 per share. Vantage Point also determined that CannaVEST's restricted shares was valued at $0.68 per share, and that the estimated business enterprise value ("BEV") of CannaVEST was between $14,070,000 and $16,840,000.[1050]

Lie #678 This report was dated as of August 21, 2013 and is for valuing a non-marketable, minority interest in CannaVest. No other use is intended or inferred. The $14.070MM and $16.48MM valluations are misleading and do not characterize the total valuation of CannaVest because the report was used to value a non-marketable minority interest.

Exhibit 1018 Page 6 Purpose and Use of Report

"CannaVEST Corporation ("CannaVEST", the "Company", or "Client") requested Vantage Point Advisors, Inc. to perform valuation services (the "Services") for financial reporting and tax reporting requirements as outlined under U.S. GAAP Codification of Accounting Standards Codification Topic 718: Compensation-Stock Compensation and the Internal Revenue Code Section 409A ("IRC 409A") in relation to the

valuation of privately-held equity securities issued as compensation. No other use is intended or inferred.

We estimated the fair value of the Company's common stock from the perspective of a market participant transacting for a minority interest in the Company's common stock. Our analysis provides a non-marketable, minority interest in CannaVEST as of August 21, 2013 (the "Valuation Date")."

679. Seeing the entire BEV of CannaVEST was between $14 and $16 million, and the purported value of the PhytoSphere transaction was $35 million, gave rise to a concern that the PhytoSphere transaction had been overvalued. As a result, CannaVEST's management decided to have Vantage Point prepare a valuation report to determine the fair value of the PhytoSphere transaction as of the January 29, 2013 acquisition date.[1051]

Lie #679 This report was dated as of August 21, 2013 and is for valuing a non-marketable, minority interest in CannaVest. No other use is intended or inferred. The $14.070MM and $16.48MM valluations are misleading and do not characterize the total valuation of CannaVest

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We estimated the fair value of the Company's common stock from the perspective of a market participant transacting for a minority interest in the Company's common stock. Our analysis provides a non-marketable, minority interest in CannaVEST as of August 21, 2013 (the "Valuation Date")."

680. On October 29, 2013, Vantage Point issued a draft report regarding the fair market value of PhytoSphere as of January 29, 2013 (*i.e.*, the date of the acquisition) (the "PhytoSphere valuation"). According to the PhytoSphere valuation, the estimated fair market value of PhytoSphere, as of January 29, 2013, was $8,150,000.[1052] This amount was $26,850,000 (or 77%) less than the purported acquisition price of $35,000,000.[1053]

681. CannaVEST filed its third quarter of 2013 Form 10-Q on November 14, 2013. This filing included the recognition of a goodwill impairment charge in the amount of $26,998,125 to entirely eliminate the carrying amount of goodwill that CannaVEST had been

[1050] Ex. 797 (Sept. 2013 CannaVEST stock valuation report); Ex.830 (Vantage Point engagement letter for CannaVEST stock valuation); Tr. (Vol. IX Poling) 2695:10-2697:8, 2700:3-2701:92701:23-2702:13, 2707:11-17, 2714:4-7.

[1051] Tr. (Vol. IX Canote) 2626:19-2627:5, 2627:14-2628:20; Tr. (Vol. IX Poling) 2713:22-2714:1; Ex. 832 (Vantage Point engagement letter for PhytoSphere valuation).

[1052] Vantage Point provided a final valuation report to CannaVEST on November 19, 2013, concluding PhytoSphere, as of the January 29, 2013 acquisition date, had an estimated fair market value of $8,020,000, which was close in amount to the October 2013 draft report. Tr. (Vol. IX Poling) 2720:11-2721:4; Ex.859 (Nov. 2013 PhytoSphere valuation report).

[1053] Ex. 798 (Oct. 2013 PhytoSphere valuation report); Tr. (Vol. IX Canote) 2634:8-2635:20, 2638:14-17.

reporting as an asset on its balance sheet at that time, all of which emanated from the PhytoSphere acquisition.[1054]

682. All of Anton & Chia's work papers, and contemporaneous email communications with CannaVEST's management, demonstrate that the basis for the recommended goodwill impairment charge was Vantage Point's October 2013 PhytoSphere valuation report.[1055]

683. Wahl never told Richard Canote (CannaVEST's interim CFO consultant advisor) that Anton & Chia was recommending an impairment of goodwill in the third quarter because CannaVEST was not meeting its revenue projections.[1056]

Lie #683 Mr. Canote forgets our discussion between myself, Richard Koch, Michael Mona Jr, John Creary regarding the quality of revenue and accounts receivable where we discussed and memorialized our concerns regarding Revenue recognition and ultimately managements' projections. See **Exhibit 1026.**

684. In his investigative testimony, Wahl admitted that the Vantage Point valuation of PhytoSphere indicated there was an impairment of goodwill.[1057]

685. In his investigative testimony, Wahl stated that the PhytoSphere transaction fell under "level 3" of the ASC 820.[1058]

Lie #685 later on in the testimony Wahl clarifies why he said it was level three b/c of the collar at $4.5 and $6.0 because it provides a cap and a floor to determine the payouts to Phythosphere. Wahl clearly quotes

what Level 1 fair value. See below and also **Exhibit 862 Page 188 Lines 10-25**.

Exhibit 862 page 188 Lines 2-5

Inputs in the valuation 3 methodology and quoted prices unadjusted for identical assets or reliably is in active markets. That's what level one is.

[1054] Ex. 709 (CannaVEST Q3 2013 Form 10-Q).

[1055] *See* Ex. 763 (Q3 goodwill impairment memo); Ex. 852 (Q3 balance sheet analytics with adjusting journal entry for the goodwill impairment) at lines 71-74; Ex. 787 (Q3 planning memo); Ex. 810 (Q3 engagement summary memo); Ex. 758 (Q3 management representation letter) at item 26); Ex. 752 (Nov. 8, 2013 email chain); Ex. 753 (Nov. 12, 2013 chain); Exs. 871, 871.2, 871.3 (Nov. 12, 2013 email from La with draft Q3 management representation letter attached, and spreadsheet with goodwill impairment tab attached); Tr. (Vol. IX Canote) 2638:18-2639:16, 2646-25.

[1056] Tr. (Vol. IX Canote) 2590:20-2593:5, 2682:11-13, 2691:2-16.

[1057] Ex. 839.6 (Prior Testimony Designations) 245 (Oct. 27, 2015 Wahl Inv. Test. at 86:15-87:2) (Q Okay. So let's move, then, to Q3 of 2013. So Q3 of 2013 is when assets were written off? A Yes. Q And what was written off? A I believe the goodwill was written off for about 26 – almost $27 million. Q And why was that written off? A There was further evidence provided by management that they indicated there was an impairment. Q And what was that evidence? A There was a valuation completed that assigned the values to – to CannaVEST. Or pardon me. To the PhytoSPHERE assets. Pardon me."); *id.* at74 (Oct. 27, 2015 Wahl Inv. Test. at 154:14-17) ("The results of obtaining the third party purchase price allocation and valuation indicated that there was an impairment."); *id.* at79 (Oct. 27, 2015 Wahl Inv. Test. at 170:2-15) ("Q And that valuation was used for you – for Anton & Chia to propose an impairment charge related to the PhytoSPHERE acquisition; is that correct? A When we were provided with a report, it indicated that there was an impairment. Q Is that – this valuation report, the first indication to you and your firm that there was a – there was an impairment that needed to be booked? A Yes. BY MS. PURPERO: Q Okay. So this valuation report indicated there was an impairment. MS. LEVIN: And just to confirm, that's the PhytoSPHERE Systems report in Exhibit 15, 1644.").

[1058] *Id.* at 261-62 (Oct. 27, 2015 Wahl Inv. Test. at 119:11-120:5 ("Q Okay. Let's take a step back. So under business combinations – A Yes. Q – the assets are recorded at fair value; is that correct? A Hmm-hmm. Correct. Q And fair value is measured under ASC 820; is that correct? That's the accounting standard – A Yes. Q – that discusses fair value; is that correct? A Sure. Q Okay. So I go back to go my question. How – so you've got these assets, the PhytoSPHERE assets. They're supposed to be measured at fair value? A Hmm-hmm. Q In accordance

686. In his investigative testimony, Wahl acknowledged that the Vantage Point valuation report of PhytoSphere provided the value of PhytoSphere as of January 29, 2013.[1059]

687. Canote never told Wahl that Anton & Chia should not rely on the October 29, 2013 draft PhytoSphere valuation report or the stock valuation report.[1060]

Lie #687 CannaVEST obtained a 4th purchase price allocation and another valuation on March 28, 2014 **Exhibit 802**.

688. Wahl never told Shek that the draft PhytoSphere valuation report was unreliable and should not be relied upon.[1061]

Lie #688 Wahl had no legal or ethical obligation to tell Shek.

689. Wahl never told his engagement team that the basis for the goodwill write off was the company's failure to meet its projections.[1062]

Lie #689 Koch knew, myself, Richard Koch, Michael Mona Jr, John Creary Canote regarding the quality of revenue and accounts receivable where we discussed and memorialized our concerns regarding Revenue recognition and ultimately managements' projections. See **Exhibit 1026.**

690. There was never a discussion with Anton & Chia prior to the filing of the Q3 Form 10-Q about holding off filing in order to restate, or the need for an allocation report concerning the fair value of each of the assets acquired from PhytoSphere.[1063]

Lie #690 There was never a discussion to restate the financial statements because there was never any evidence at the time to restate.

CannaVEST obtained a 4th purchase price allocation and another valuation on March 28, 2014 **Exhibit 802**.

ASC 250 is a US GAAP standard and CannaVEST management is responsible for the restatement not A&C or Wahl or Respondents.

Notwithstanding, there is a significant reason that the Key Officers of every Reporting Public Company, including those audited and reviewed by A&C, and that are also parties, directly or indirectly to this case at hand, signed the Declaration Pursuant to 18 U.S.C. Section 1350 adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 "SOX". Whereas, ALL LIABILITY is assumed by a Reporting Company's Management, when they certify that they have reviewed their annual reports, containing ANY Auditor's work, and that they do 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, and are not misleading with respect to the period covered by such reports, the registrant's Certifying Officer(s) are fully responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting. The SOX Declaration by Management takes on all of the burden of Reporting Liability to the public. Indeed, that's the entire point of the Declarations.

CANNAVEST ONLY WANTED RESTATE IF REQUIRED:

Exhibit 53 Page 108 Lines 18-25 and 109 Lines 1-2:

Q Did anyone bring up restating PhytoSPHERE on the balance sheet? **A** I do believe it was discussed amongst us all. But given ***that audits have a higher standard of review, I think everyone agreed to wait until after the audit and go back and restate if it were required***. And, again, you know, if it were required. So no one said definitively we have to restate, that I can recall. It was only after – only later was there a definitive agreement that restating would be the most prudent way to ensure

accurate information.

Exhibit 53 Page 56 Lines 9-21:

Q And then what – what did you dcide to do then with this – with – now you've got this new information that it'smonly worth 8 million. **A** Well, then the – you know, ***we got the valuation back and we were rolling into having the audit done. So rather than discussing whether to do a restatement at that point in time, we decided to roll it into the year-end audit*** with our new auditors, PKF. And had that discussion because there was a lot of discussion with them whether it was – whether we actually recorded 35 million or the 8 for the valuation. ***The rules were not clear-cut so we had many discussions as to which – which manner of accounting was the most correct***.

WAHL AGREED WITH CANOTE THEY NEEDED A COMPLETE SET OF INFORMATION BEFORE RESTATING:

Exhibit 53 Page 114 Lines 11-14:

A (CANOTE) ***So any attempts to restate that without having a complete***

set of information would be more confusing to investors rather than getting everything pulled together and then restating.

Exhibit 53 Page 115 Lines 7-9:

A So, you know, if they had said we needed a restatement ***I would have probably had another opinion***.

Exhibit 53 Page 121 Lines 2-8:

A let's not do something just to have to redo it again. That will be even more confusing to everyone out there.

Why don't we wait until the audit. And why don't we, you know, make it happen. You know, if we need to restate, then we'll restate. But doing it right now may actually lead to yet another restatement which we probably would end up being worse than doing on restatement."

691. Had Anton & Chia insisted that CannaVEST's needed to restate its financial results for the first and second quarters it would have done so.[1064]

Lie #691 This is nonsense. Cannavest management didn't even want to impair the goodwill in See **LIE #690**.

D. CannaVEST's Financial Statements Did Not Comply with GAAP.

692. CannaVEST treated the PhytoSphere acquisition as a business combination under ASC 805, *Business Combinations*. Under ASC 805, the following steps should be taken to record a business combination on a company's balance sheet: (a) determine the fair value of the

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with two standards; right? Business combination standard ASC 805? A Right. Q And the fair value standard, which is ASC 820? A Okay."); *id.* at 265-66 (Oct. 27, 2015 Wahl Inv. Test. at 123:20-124:3) ("MR. GARTENBERG: – was it your understanding at the time that the valuation that appeared on the balance sheet in Q1 with respect to the PhytoSPHERE transaction fit under level one, level two, or level three? THE WITNESS: Well, based on the fact that it was an arms-length transaction and it was documented between arms-length parties, we felt it would fall underneath the level three.").

[1059] *Id.* at 280 (Oct. 27, 2015 Wahl Inv. Test. at 171:15-18) ("Q The question was: Does this report, does it show the fair market value of PhytoSPHERE as of January 29th, 2013? A Based on the report, it appears it does.").

[1060] Tr. (Vol. IX Canote) 2645:17-2646:2.

[1061] Tr. (Vol. XIII Shek) 2453:22-2454:3.

[1062] *Id.* at 454:5-10.

[1063] Tr. (Vol. IX Canote) 2649:14-22.

[1064] *Id.* at 650:1-6.

consideration (*i.e.*, the purchase price) as of the acquisition date (*see* ASC 805-30-30-7, consideration includes common stock), and (b) determine the fair value of the net tangible assets and identifiable intangible assets acquired as of the acquisition date (*see* ASC 805-30-30-1).

Goodwill recorded is the difference between (a) and (b).[1065]

LIE #692 US GAAP, specifically **ASC 805** does not say this. This is a mischaracterization of US GAAP. See **LIE #18**.

While we are at it let's summarize the Division and Devor's fraudulent changes to US GAAP specific to ASC 805 and ASC 820. See **Lie #17** where they changed **ASC 805-20-25-7**; **LIE #18** where they changed **ASC 805-10-05-04**; **ASC 805-30-30-7**; **ASC 805-20-25-10** and **ASC 805-20-30-1**; **LIE #19a. ASC 805-30-30-1**; **LIE #19b ASC 805-30-20 LIE #20 ASC 805-20-55-2**; **LIE #21a ASC 805-20-30-1**; **LIE #21b** ASC 805 does not mention "contracts"; **LIE #23** Market Participants **ASC 805-10-20**; **LIE #24** ASC 805-10-20 Orderly Transaction; **LIE #27** 805-20-30-1 and **LIE #29** ASC 805-10-35-54-J.

Just with **ASC 805** the Division and Devor changed the Authoritative Guidance fourteen times!

Here is the Division and Devor's impact on **ASC 820 LIE #27 ASC 820-10-20; ASC 820-10-5-1B; ASC 820-10-35-9A; LIE #28 ASC 820-10-35-34I**; and **LIE #33 ASC 820-10-55-22(e).**

Just with **ASC 820** the Division and Devor changed the Authoritative Guidance five times!

Notwithstanding, there is a significant reason that the Key Officers of every Reporting Public Company, including those audited and reviewed by A&C, and that are also parties, directly or indirectly to this case at hand, signed the Declaration Pursuant to 18 U.S.C. Section 1350 adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 "SOX". Whereas, ALL LIABILITY is assumed by a Reporting Company's Management, when they certify that they have reviewed their annual reports, containing ANY Auditor's work, and that they do 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, and are not misleading with respect to the period covered by such reports, the registrant's Certifying

Officer(s) are fully responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting. The SOX Declaration by Management takes on all of the burden of Reporting Liability to the public. Indeed, that's the entire point of the Declarations.

693. GAAP **required** CannaVEST to measure the consideration it was paying for PhytoSphere at "acquisition-date fair value" (*i.e.*, January 29, 2013), which is defined by ASC 820, *Fair Value Measurement* ("ASC 820") as "the price that would be received to sell an asset or paid to transfer a liability in an **orderly transaction** between **market participants** at the measurement date."[1066]

LIE #693 Yes let's "Emphasize this LIE". See **Lie #18** which demonstrates this is not what GAAP says. US GAAP says "shall" not "requires".

Here is **ASC 805-20-30-1** in its native format: **"**The acquirer **shall** measure the identifiable assets acquired, the liabilities assumed, and any noncontrolling interest in the acquiree at their acquisition-date fair value."

694. In its Q1 2013 Form 10-Q, CannaVEST represented that it had adopted ASC Topic 820, which defines fair value and established a framework for measuring fair value.[1067]

Did CannaVEST adopt the Authoritative Guidance in ASC 820 or did Devor and the Division send their version of ASC Topic 820?

695. CannaVEST reflected $35 million in total assets acquired from PhytoSphere without having support for its fair value, such as in the form of a valuation of PhytoSphere or a valuation of the consideration paid for PhytoSphere (*i.e.*, for the value of CannaVEST's common stock).[1068]

CannaVEST management was responsible for the financial statements. There is a significant reason that the Key Officers of every Reporting Public Company, including those audited and reviewed by A&C, and that are also parties, directly or indirectly to this case at hand, signed the Declaration Pursuant to 18 U.S.C. Section 1350 adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 "SOX". Whereas, ALL LIABILITY is assumed by a Reporting Company's Management, when they certify that they have reviewed their annual reports, containing ANY Auditor's work, and that they do 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, and are not misleading with respect to the

period covered by such reports, the registrant's Certifying Officer(s) are fully responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting. The SOX Declaration by Management takes on all of the burden of Reporting Liability to the public. Indeed, that's the entire point of the Declarations.

696. When Richard Canote started working for CannaVEST on a full-time basis in June 2013, he noticed that there was no support for the $35 million value of the PhytoSphere transaction.[1069]

LIE #696 Canote updated the purchase price allocation in Q2 and never mentioned restating. See **LIE #690**.

[1065] *See* ASC 805-30-30-1, ASC 805-20-25-10, and ASC 805-20-30-1; Ex. 88.1 (Devor Report) ¶ 642; Tr. (Vol. VI Devor) 1517:1-1518:11.
[1066] ASC 820-10-20; also ASC 805-20-30-1 (emphasis added); Ex. 88.1 (Devor Report) ¶ 643; Tr. (Vol. VI Devor) 1518:12-1520:6, 1554:9-20 (necessary to determine fair value of CannaVEST stock as of the acquisition date; trades subsequent to the acquisition date are irrelevant); Tr. (Vol XV Devor) 5915:22-5916:12.
[1067] Ex. 705 (CannaVEST Q1 2013 Form 10-Q) 9.
[1068] Ex. 779 (Nov. 4, 2014 CannaVEST letter to Corp. Fin.).
[1069] Tr. (Vol. IX Canote) 2608:18-25.

697. Because CannaVEST did not know the fair value of PhytoSphere or the fair value of the consideration paid for PhytoSphere, CannaVEST's total assets were materially overstated in the first and second quarter of 2013, and were subsequently restated in May 2014, under the guidance of new auditors.[1070]

LIE #697 CannaVEST management was responsible for the financial statements if they didn't know then why would their attorney and CannaVEST represent it was an arms length transaction at fair value to A&C and Wahl. There is a significant reason that the Key Officers of every Reporting Public Company, including those audited and reviewed by A&C, and that are also parties, directly or indirectly to this case at hand, signed the Declaration Pursuant to 18 U.S.C. Section 1350 adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 "SOX". Whereas, ALL LIABILITY is assumed by a Reporting Company's Management, when they certify that they have reviewed their annual reports, containing ANY Auditor's work, and that they do 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, and are not misleading with

respect to the period covered by such reports, the registrant's Certifying Officer(s) are fully responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting. The SOX Declaration by Management takes on all of the burden of Reporting Liability to the public. Indeed, that's the entire point of the Declarations. The new auditors took two and half months and conducted audits of the quarterly financial statements and never communicated to A&C or Wahl that they were restating.

1. CannaVEST's Stock Did Not Trade in an Active Market.

698. During the period October 1, 2012 through February 1, 2013, Foreclosure Solutions' shares traded on a total of six days, with a total volume of 1400 shares (out of 7,000,000 shares outstanding), with prices ranging from $2.00 to $5.02.[1071]

699. In hiring Vantage Point to analyze the value of CannaVEST's stock, CannaVEST did not rely on the OTC price as the fair market value of its stock "because there was no trading volume, per se, and the price was very volatile…the volume was small to nonexistent and inconsistent."[1072]

Lie #699 Vantage Point should re-assess this based on the actual math. Cannavest stock price is more liquid than Premier's. The stock price did

not determine the purchase price. The purchase price was determined by arm's length transaction. The fair market value of any asset is the future cash flows that can be generated to determine the value of the assets.

Average Volume per Day	***Average Share Price per Day***	***Per Day Value Traded***	***Trading Days per Month***	***Monthly Value Traded***	***Annualized Value Traded***
1,027	*$ 21.26*	*$ 21,837*	*22*	*$ 480,407*	*$ 5,764,884*

700. In a series of letters to the SEC's Division of Corporation Finance, CannaVEST acknowledged that its stock did not trade in an active market.[1073]

Lie #700 See **LIE #699.**

701. The purpose of the stock collar in the PhytoSphere agreement was to prevent shareholder dilution by limiting the number of shares that would be issued; it did not and was not intended to represent the fair market value of CannaVEST's stock at the time of the acquisition date.[1074]

[1070] Ex. 88.1 (Devor Report) ¶ 623; Ex. 718 (CannaVEST Q1 2013 Form 10-Q/A) (restating first quarter 2013 financial statements).

[1071] Ex. 729 (Bloomberg screen shot); Ex. 702 (Foreclosure Solutions 2012 Form 10-K) F-4; Tr. (Vol. VI Devor) 1551:7-1553:20; Tr. (Vol. IX Canote) 2602:7-16 (when CannaVEST acquired PhytoSphere in January 2013, the trading volume of CannaVEST's stock was "miniscule" and did not trade in an active market).

[1072] Tr. (Vol. IX Canote) 2618:16-2619:8, 2688:11-19; Ex.830 (Vantage Point engagement letter for the CannaVEST stock valuation).

[1073] Ex. 776 (Apr. 16, 2014 CannaVEST letter to Corp. Fin.); Ex. 779 (Nov. 4, 2014 CannaVEST letter to Corp. Fin.).

[1074] Tr. (Vol. VI Devor) 1527:22-1528:22, 1531:25-1541:13, 1541:15-1542:6, 1548:1-11; Tr. (Vol. IX Canote) 2598:14-2601:24; Ex. 776 (Apr. 16, 2014 CannaVEST letter to Corp. Fin.); Ex. 777 (May 13, 2014 CannaVEST

702. Wahl testified that he recognized that the collar was anti-dilutive for shareholders.[1075]

2. The Acquisition of PhytoSphere Was Not an Orderly Transaction between Market Participants.

703. An "orderly transaction" is a "transaction that assumes exposure to the market for a period before the measurement date to allow for marketing activities that are usual and customary for transactions involving such assets."[1076]

Lie #703 The Division took the SEC comment letters from CannaVEST over a year after the fact A&C fired CannaVEST but the Division and Devor created a fraud by not fully representing **ASC 805-10-20** and what an "orderly transction" is the primary concept is that its not a "forced transaction".

Here is the native definition of **ASC 805-10-20 Glossary**:

Orderly Transaction: A transaction that assumes exposure to the market for a period before measurement date to allow for marketing activities that are usual and customary for transactions involving such assets or liabilities; **it is not a forced transaction.** This is also consistent with **ASC 820-10-35-34I,** which a full and native version is under **LIE #29.**

704. Circumstances that may indicate that a transaction is not orderly include, but are not limited to: (a) there was not adequate exposure to the market for a period before the measurement date to allow for marketing activities that are usual and customary for transactions involving such assets or liabilities under current market conditions; or (b) there was a usual and customary marketing period, but the seller marketed the asset or liability to a single market participant.[1077]

Lie #704 In order to properly evaluate whether the transaction is orderly the analysis requies reviewing **ASC 820-10-36-54J** and **ASC 820-10-35-54I**. ASC **820-10-35-54J** is in its native format below which discusses not having "sufficient" information that the Company should take into the transaction price.

ASC 820-10-35-54J c. **If a reporting entity does not have sufficient information to conclude whether a transaction is orderly, it shall take into account the transaction price**. However, that transaction price may not represent fair value (that is, the transaction price is not necessarily the sole or primary basis for measuring fair value or estimating market risk premium). When a reporting entity does not have sufficient information to conclude whether particular transactions are orderly, the

reporting entity shall place less weight on those transactions when compared with other transactions that are known to be orderly.

A reporting entity need not undertake exhaustive, efforts to determine whether a transaction is orderly, but it shall not ignore information that is reasonably available. When a reporting entity is a party to a transaction, it is presumed to have sufficient information to conclude whether the transaction is orderly.

705. The PhytoSphere transaction was not an orderly transaction between market participants because CannaVEST did not obtain any financial information on PhytoSphere, did not perform any valuation on PhytoSphere, and did not perform any due diligence on the acquisition. MJNA did not market PhytoSphere to any other buyers and CannaVEST did not compete with any other buyers to buy PhytoSphere.[1078]

Lie #705 as CannaVEST did have projections – see Q2 management representation letter page 3 point 21. Mike Mona Jr. admitted in the SEC comment letter that he was a consultant to MJNA to be able to complete due diligence (**Exhibit 1031 Page 2**). The Division and Devor also just ignored this part of ASC 820-10-35-54J "**A reporting entity need not undertake exhaustive, efforts to determine whether a transaction is**

orderly, but it shall not ignore information that is reasonably available. When a reporting entity is a party to a transaction, it is presumed to have sufficient information to conclude whether the transaction is orderly."

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letter to Corp. Fin.); Ex. 778 (June 12, 2014 CannaVEST letter to Corp. Fin.); Ex. 779 (Nov. 4, 2014 CannaVEST letter to Corp. Fin.).

[1075] Tr. (Wahl Vol. XVIII) 4320:12-19.

[1076] ASC 820-10-20; *see also* ASC 805-10-20.

[1077] *See* ASC 820-10-35-54I; Ex. 88.1 (Devor Report) ¶ 644; Tr. (Vol. VI Devor) 1518:12-1520:6, 1520:191521:8.

[1078] Ex. 779 (Nov. 4, 2014 CannaVEST letter to Corp. Fin.); Tr. (Vol. X Stewart) 2897:24-2898:4 (in working on the engagement, CannaVEST management advised PFK that it did not have financial statements of PhytoSphere; Tr. (Vol. IX Canote) 2603:8-59-2605:10 (no worksheets or other documentation supporting value of assets acquired from PhytoSphere); *Id.* at 605:21-2605:1 (Canote asked the chief operating officer of MJNA for PhytoSphere's historical financial statements and was told that separate financial statements for PhytoSphere did not exist); *id.* at606:2-9 (in the first and **second quarter of 2013, projected or forecasted financial information for PhytoSphere or CannaVEST did not exist**).

706. CannaVEST's financial statements violated GAAP in the first and second quarters of 2013 by materially overstating the value of the total assets related to the PhytoSphere acquisition.[1079]

LIE #706 This is purely subjective and is not factual and is not based on any US GAAP violation additionally, Devor is a discredited, disqualified, biased, conflicted CPA that has never audited or reviewed a public company in his life. The auditor in a review has no responsibility for the financial statements and A&C never provided a report or published an accountants report for the Cannavest interim reviews.

CannaVEST management was responsible for the financial statements. There is a significant reason that the Key Officers of every Reporting Public Company, including those audited and reviewed by A&C, and that are also parties, directly or indirectly to this case at hand, signed the Declaration Pursuant to 18 U.S.C. Section 1350 adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 "SOX". Whereas, ALL LIABILITY is assumed by a Reporting Company's Management, when they certify that they have reviewed their annual reports, containing ANY Auditor's work, and that they do 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, and are not misleading with respect to the period covered by such reports, the registrant's Certifying Officer(s) are fully responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting. The SOX Declaration by Management takes on all of the burden of Reporting Liability to the public. Indeed, that's the entire point of the Declarations.

707. ASC 250 states that "any error in the financial statements of a prior period discovered after the financial statements are issued or are available to be issued should be reported as an error correction, by restating the prior-period financial statements."[1080]

Lie #707: This mischaracterizes the US GAAP pronouncements because it doesn't provide a clear response to the full standards that are applicable to goodwill and business combinations. **ASC 805-10-25-13 to 19** clearly state that transactions record provisional amounts for up to 12 months based on management's best estimate.

ASC 805-10-S25-19 Recognition the Native Paragraph States: After the measurement period ends (i.e. 12 months), the acquirer shall revise the accounting for a business combination only to correct the error in accordance with TOPIC 250 (ASC 250).

Under **ASC 250 -10-50-5 Change in Estimate Used in Valuation Technique** (ASC "250") "The disclosure provisions of this subtopic for a change in accounting estimate are not required for revisions resulting from a change in a valuation techniques used to measure fair value or its application when the resulting measurement is fair value in accordance with Topic 820. This would not also include **ASC 805-10-25-15** and **ASC 805-10-30-1** to **ASC 805-10-30- 3** and **ASC 805-10-25-13 to 19.** The Division and Devor have overstated the requirements as it applies to **ASC 805** and **ASC 820.**

708. After CannaVEST received the PhytoSphere valuation in October 2013, which confirmed that PhytoSphere should have been valued at only approximately $8 million as of January 29, 2013, Anton & Chia proposed that CannaVEST record a goodwill impairment charge in the third quarter of 2013 to correct for the overstatement of the PhytoSphere assets. CannaVEST did not restate

its financial statements for the first and second quarters of 2013 to properly reflect the $8 million carrying (and fair) value of the PhytoSphere acquisition – in violation of GAAP, including ASC 250.[1081]

LIE #708 As Wahl and Canote testified on numerous occassions that CannaVEST's management didn't have the information to properly restate Q1 and Q2. As of Q3, there were no errors identified by CannaVEST management in their Q1 and Q2 financial statements. This information wasn't received until March 28, 2014. CannaVEST's management has the responsibility to restate not Wahl or A&C. See **LIE #690; LIE #706; LIE #707**.

709. For the third quarter of 2013, CannaVEST's decision to record a goodwill impairment charge, instead of restating its financial statements for the first and second quarters of 2013, meant that its third quarter 2013 financial statements were not in accordance with GAAP and, also misleading, as they did not disclose that the consideration to be paid for PhytoSphere was not $35 million, PhytoSphere was never valued at $35 million, and CannaVEST's total assets included in the first and second quarter 2013 balance sheets were materially overstated – in violation of GAAP. CannaVEST was required to restate its prior period filings (i.e., the first and second quarters Forms 10-Q) to correct the errors that resided

[1079] Ex. 88.1 (Devor Report) ¶ 626, 652; 718, 719, 779; Tr. (Vol. VI Devor) 1559:11-18; Ex. 719 (CannaVEST Q2 2013 Form 10-Q/A) (restating first quarter 2013 financial statements).
[1080] ASC 250-10-45-23.
[1081] Ex. 88.1 (Devor Report) ¶ 651.

therein (as opposed to recording the goodwill impairment charge in the third quarter), but did not do so until after Anton & Chia had resigned and a new auditing firm had been engaged to render an opinion on the year-end 2013 financial statements.[1082]

LIE #709 It was A&C that forced management to write off the goodwill. CannaVEST management didn't want to write off the goodwill. The consideration of the $35,000,000 never changed, Phytosphere and CannaVEST never revised the purchase price in an amended contract. This completely false. The consideration in the contract would not change only the fair value of the individual assets and liabilities related to the acquisition. All of the consideration for the Phytosphere agreement was paid by December 31, 2013 and Phytosphere never gave any of the cash or shares back.

Restating was the responsibility of CannaVEST management. SEE **LIE #690; LIE #706; LIE #707**.

710. No one from Anton & Chia advised Canote that CannaVEST needed to disclose in its Form 10-Q the facts and circumstances surrounding the impairment, the method CannaVEST used to determine the fair value of goodwill, or that it has obtained an $8 million valuation of PhytoSphere as of the January 29, 2013 acquisition date.[1083] Instead, Anton & Chia revised CannaVEST's third quarter

Form 10-Q by writing-off the $27 million in goodwill, merely stating that an impairment had been taken and then sending these revisions to the Form 10-Q to Canote.[1084]

LIE #710 The Division and Devor a further attempt to overstate this case makes false allegations regarding Anton & Chia's responsibility. Its Cannavest Management's responsibility for the financial statements not the accountants.

SEE **LIE #711** See **LIE # 690**; **LIE #706**; **LIE #707** and **LIE #709**.

E. CannaVEST's Form 10-Q Amendments and Restatements of Prior Period Financial Statements

711. Because CannaVEST's first and second quarter Forms 10-Q were materially misstated and its third quarter Form 10-Q was materially misleading, CannaVEST was required to restate all three quarters.[1085]

See **LIE #711** See **LIE # 690**; **LIE #706**; **LIE #707** and **LIE #709**.

712. In January 2014, CannaVEST engaged PKF LLP as its independent registered accounting firm.[1086]

LIE #712 Two months after Anton & Chia, LLP fired CannaVEST as a client. CannaVEST management including Canote had not filed an 8-K stating

that the Q1, Q2 and Q3 interim reviews were not reliable. Management made all these representations about their responsibility to restate and never did so until April 2014.

[1082] *Id.* ¶¶ 653, 718, 719, 779.
[1083] Tr. (Vol. IX Canote) 2643:12-2644:15.
[1084] Exs. 848 & 848.1 (Nov. 12, 2013 email from Windy Wu with redline revised CannaVEST Q3 Form 10-Q attached).
[1085] Ex. 718 (CannaVEST Q1 2013 Form 10-Q/A) (restating first quarter financial statements); Ex. 719 (CannaVEST Q2 2013 Form 10-Q/A) (restating second quarter financial statements); Ex. 720 (CannaVEST Q3 2013 Form 10-Q/A) (restating third quarter financial statements); Ex. 88.1 (Devor Report) ¶ 630.
[1086] Tr. (Vol. X Stewart) 2869:14-2870:15; Ex. 713 (Jan. 16, 2014 CannaVEST Form 8-K).

713. Prior to accepting the engagement, Stewart, a PKF partner, reviewed CannaVEST's most recent filings with the Commission and was concerned about CannaVEST's impairment of approximately $27 million in goodwill related to the PhytoSphere transaction.[1087]

714. CannaVEST's third quarter Form 10-Q simply stated that it had recorded an impairment of goodwill, without disclosing – as required by ASC 350 – the facts and circumstances as to why there was an impairment and how the fair value was arrived at for the new carrying value of that asset.[1088]

715. In or about March 2014, PKF asked CannaVEST for an allocation of the about $8 million fair value among the individual PhytoSphere assets.[1089] In March 2014, Vantage Point updated its report with a purchase price allocation, under ASC 805, allocating a fair value to the assets acquired from PhytoSphere.[1090]

LIE #715 March 2014 Management had not filed the non-reliance and is just starting to determine the purchase price allocation. Doesn't seem like CannaVEST management cared about their responsibilities under US GAAP.

716. PKF prepared a memo analyzing the PhytoSphere acquisition.[1091] PFK determined that CannaVEST's stock price on the OTC at the time of the PhytoSphere acquisition was not an indicator of the fair value of the transaction, as Foreclosure Solutions had no operational history and "was a public shell company which was thinly traded."[1092]

LIE #716 More side show from the Division, whether it was a shell company or not. Phytosphere and CannaVEST agreed to the $35,000,000 purchase price not based on the stock price but on the expected value of the assets that were transferred and the expected revenues and profits from the assets.

717. CannaVEST, in its 2013 Form 10-K, reported that the PhytoSphere purchase price was determined to be $8,020,000 million based on management's estimate of the fair market value of the business acquired. The company explained, "The fair market value was determined to be the more appropriate basis of valuation as the Company's common stock was not trading,

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[1087] Tr. (Vol. X Stewart) 2872:1-2873:6.
[1088] *Id.* at 874:17-2875:24.
[1089] Ex. 801 (Mar. 3, 2014 email chain).
[1090] Tr. (Vol. X Stewart) 2878:22-2879:7; Tr. (Vol. IX Poling) 2721:6-28, 2722:7-23; Ex.771 (Mar. 2014 PhytoSphere valuation report from PKF workpapers).
[1091] Tr. (Vol. X Stewart) 2880:19-2881:18; Ex.772 (PKF acquisition memo).
[1092] *Id.* at 887:23-2888:9; Ex.772 (PKF acquisition memo).

and the Company had no operations at the time of the acquisition in order to estimate the fair market value of the Company's common stock."[1093]

LIE #717 The Purchase price never changed this is disgusting fraudulent behavior. Phytosphere and CannaVEST never revised the purchase price or forced Phytosphere to pay back any of the shares or the cash it received. The changes to the Phytosphere assets and liabilities were simply a paper change with no value to investors. If CannaVEST truly believed the $35,000,000 purchase price was overstated then it would have demanded to have investors pay back shares and cash. This never happened and this case is overembelished, overstated and made up by Devor and the Division.

718. In a Form 8-K filed on April 3, 2014, CannaVEST advised investors that they should not rely on the Forms 10-Q for the first through third quarters of 2013 because of errors related to the purchase price and the purchase price allocation of the assets related to the PhytoSphere acquisition.[1094]

LIE #718 The 8-K was filed 4.5 months after Anton & Chia fired CannaVEST. The statement in the 8-K filing that the "Purchase Price" was incorrect is not a correct statement. Management never changed the

Purchase Price of $35,000,000 between Phytosphere and CannaVEST or CannaVEST would have demanded shares and / or cash returned. See **LIE #19**.

719. On April 14, 2014, in a Form 8-K/A, CannaVEST announced that it would restate the financial statements contained in its Forms 10-Q filed for the first through third quarters of 2013.[1095]

LIE #719 This is 4 months after Anton & Chia fired CannaVEST as a client.

720. On April 24, 2014, CannaVEST filed amendments/corrections to its previously issued Forms 10-Q for the first, second, and third quarters of 2013 on Forms 10-Q/A. In its Forms 10-Q/A for these quarters, covering periods which had originally been reviewed by Anton & Chia, CannaVEST stated that the purchase price for the PhytoSphere assets and the allocation thereof, as originally reported, "were not in accordance with GAAP."[1096]

LIE #720 This is almost 5 months after Anton & Chia fired CannaVEST as a client. PKF, CannaVEST never contacted A&C for the restatement b/c A&C had no responsibility for the financial statements.

721. In Stewart's opinion, an independent valuation of the PhytoSphere transaction was "required" because CannaVEST could not rely on CannaVEST's OTC stock price for fair value.[1097]

LIE #721 Stewart would have advised CannaVEST to record sample revenue so they could artificially inflate the projections to increase the level three fair value of the assets. Anton & Chia asked for a valuation

report and a purchase price allocation and never received a "FINAL" purchase allocation and valuation.

722. Had PKF been CannaVEST's auditor for the first quarter of 2013, Stewart would have recommended that CannaVEST obtain an independent valuation of PhytoSphere.[1098]

LIE #722 Stewart would have advised CannaVEST to record sample revenue so they could artificially inflate the projections to increase the level three fair value of the assets. Anton & Chia asked for a valuation report and a purchase price allocation and never received a "FINAL" purchase allocation and valuation.

[1093] *Id.* at 891:16-2892:14; Ex.715 (CannaVEST 2013 Form 10-K) F-12.
[1094] Ex. 716 (Apr. 3, 2014 CannaVEST Form 8-K).
[1095] Ex. 717 (Apr. 14, 2014 CannaVEST Form 8-K/A).
[1096] Ex. 718 (CannaVEST Q1 2013 Form 10-Q/A); Ex. 719 (CannaVEST Q2 2013 Form 10-Q/A); Ex. 720 (CannaVEST Q3 2013 Form 10-Q/A).
[1097] Tr. (Vol. X Stewart) 2894:1-2896:16, 2946:21-2947:20.
[1098] *Id.* at 876:18-2877:23, 2898:21-2899:13, 2900:25-2901:10.

723. Stewart also testified that if the auditor is aware that the company has a deficiency or material weakness in its internal control over financial reporting, the auditor should bring a greater level of scrutiny and a greater level of care to the engagement.[1099]

LIE #723 Stewart couldn't find the issues with sample revenue and management's projections and he completed an audit not a review but I am sure Stewart wouldn't drop to the level of Devor and the Divison attorneys to change US GAAP and GAAS b/c it doesn't fit with his story.

724. PKF was involved in preparing and reviewing correspondence with the Division of Corporate Finance where the Division asked CannaVEST about its restatements and its decision to restate its financial results to reflect a fair value of the PhytoSphere transaction, as opposed to recording the $35 million purchase price and taking an immediate impairment of goodwill.[1100]

LIE #724 No. the Division of Corporate Finance objected to CannaVEST's decision to restate and the Division of Corporate Finance stated they should have simply impaired goodwill on day one but book to the contract price (i.e. the purchase price) because the purchase price never changed (**Exhibit 1030 page 1, paragraph 2 and 4**).

725. In those letters, CannaVEST explained that that the share price "collar" between $4.50 and $6.00 per share allowed the company to cap dilution from stock issuances to fund the acquisition, as opposed to establishing a fair value for the common stock or the transaction. As the

Company stated, "With this provision and the ability to pay the entire purchase price in stock, we were willing to accept the $35 million stated purchase price demanded by PhytoSphere, because the acquisition would be funded with stock, which was not trading at the time and had little value. At the measurement date, (i) we had minimal operations; (ii) our common stock was not trading, (iii) the number of shares issuable in the transaction was of little relevance to the Company, and (iv) the $35 million purchase price was of little relevance to management and was not thought to represent the fair value of the business acquired when the transaction occurred."[1101]

LIE #725 No. the Division of Corporate Finance objected to CannaVEST's decision to restate and the Division of Corporate Finance stated they should have simply impaired goodwill on day one but book to the contract price (i.e. the purchase price) because the purchase price never changed (**Exhibit 1030 page 1, paragraph 2 and 4**).

[1099] *Id.* at 947:21-2948:11; Tr. (Vol. VI Devor) 1568:24-1570:16, 1581:15-1583:8.

[1100] Tr. (Vol. X Stewart) 2901:1-2902:17; Ex.776 (Apr. 4, 2014 letter from CannaVEST to Corp. Fin.); Ex.777 (May 14, 2014 letter from CannaVEST to Corp. Fin.); Ex. 778 (June 12, 2014 letter from CannaVEST to Corp. Fin.); Ex.779 (Nov. 4, 2014 letter from CannaVEST to Corp. Fin.).

[1101] *Id*.

726. In its November 4, 2014 email, the Company also carefully set forth its analysis under ASC 820-10-20, which defines fair value as: "The price that would be received to sell an asset or paid to transfer a liability in an **orderly transaction** between **market participants**."[1102]
The Company concluded that the PhytoSphere transaction met neither criteria, as the seller did not market the assets or business of PhytoSphere to anyone prior to selling it to Company, and the Company had no relevant financial information on PhytoSphere and no due diligence procedures performed on the transaction.[1103]

Lie #726 November 4, 2014 is almost a year after Anton & Chia, LLP fired CannaVEST as a client. The length of time it took CannaVEST and the significant involvement of the Division of Corporate Finance indicates that this was a complicated transaction. Devor and the Division couldn't determine specifically in US GAAP and GAAS anything that A&C and Wahl did incorrectly so instead they took the information from the subsequent auditor and the Division of Corporate Finance to help them because the Division and Devor. Mr. Woody was equally confused because the contract price is the purchase price (**TR 3049 Lines 19-24**; **TR 3050 Lines 1-6**) and the purchase price doesn't change (**Exhibit 1030 page 1, paragraph 2 and 4**).

The Division and Devor also just ignored this part of ASC 820-10-35-54J "**A reporting entity need not undertake exhaustive, efforts to determine whether a transaction is orderly, but it shall not ignore information that is reasonably available. When a reporting entity is a party to a transaction, it is presumed to have sufficient information to conclude whether the transaction is orderly."**

In order to properly evaluate whether the transaction is orderly the analysis requies reviewing **ASC 820-10-36-54J** and **ASC 820-10-35-54I**. ASC **820-10-35-54J** is in its native format below which discusses not having "sufficient" information that the Company should take into the transaction price.

ASC 820-10-35-54J c. **If a reporting entity does not have sufficient information to conclude whether a transaction is orderly, it shall take into account the transaction price**. However, that transaction price may not represent fair value (that is, the transaction price is not necessarily the sole or primary basis for measuring fair value or estimating market risk premium). When a reporting entity does not have sufficient

information to conclude whether particular transactions are orderly, the reporting entity shall place less weight on those transactions when compared with other transactions that are known to be orderly.

A reporting entity need not undertake exhaustive, efforts to determine whether a transaction is orderly, but it shall not ignore information that is reasonably available. When a reporting entity is a party to a transaction, it is presumed to have sufficient information to conclude whether the transaction is orderly.

727. In its November 4, 2013 letter, CannaVEST also stated it had evaluated several other factors, namely, that it total assets of $431 as of December 31, 2012, had zero revenues for 2011 and 2012, and that its stock had negligible trading volume. The Company noted that during 2012 there were 250 trading days. "During this timeframe the Company's stock was traded on only 6 days, representing 1,400 shares traded of common stock. The Company had 7,000,000 shares of issued and outstanding common stock at December 31, 2012. The trading volume for 2012 represents 0.02% of the Company's total outstanding common stock."[1104] As such, the Company concluded "the only method to credibly determine the fair market value of this acquisition was to perform a third party valuation of the underlying assets acquired which is supported by the fair value guidance of ASC 820."[1105]

Lie #727 The Company changes its story over a eighteen months after the initial transaction closed on January 29, 2013. Management is responsible for the financial statements not A&C.

728. In preparing and reviewing CannaVEST's letters to the Division of Corporate Finance, Stewart had discussions with CannaVEST's management in which management explained the facts and circumstances surrounding the transaction.[1106]

[1102] *Id.* at 2-3 (emphasis in original).
[1103] *Id.* at 4-5.
[1104] *Id.* at 5.
[1105] *Id*. at 6.
[1106] Tr. (Vol. X Stewart) 2906:20-2907:13, 2908:11-14, 2948:15-2949:17.

729. The Division of Corporate Finance did not require CannaVEST to restate its restated financial results for the first three quarters of 2013.[1107]

Lie #729 CannaVEST management had to "appeal" the Divisions decision to restate because the Division of Corporate Finance objected to management's restatement. See **Exhibit 779 fourth paragraph**.

F. Anton & Chia's Reviews of CannaVEST's 2013 Interim Financial Statements

1. First Quarter 2013

730. Anton & Chia failed to perform its review of CannaVEST's first quarter of 2013 financial statements in accordance with PCAOB standards. As a result of the deficiencies in its review procedures, Wahl and Chung failed to determine and conclude that CannaVEST's financial statements were materially misstated and, therefore, required material modifications in order to be compliant with GAAP. Wahl's deficiencies with respect to the interim review procedures included the failure to:

- properly plan the interim review;
- perform sufficient inquiries of the predecessor auditor;
- exercise an appropriate level of due professional care and professional skepticism;
- appropriately consider and/or address known red flags;
- obtain a sufficient understanding of CannaVEST and its business;
- sufficiently assess evidence obtained; and
- sufficiently document information relevant to the quarterly review.[1108]

Lie #730 Another laundry list of allegations that are not tied to any US GAAP or US GAAS standards (no support for allegations), which it is pure opinion and not fact.

[1107] *Id.* at 892:22-25.
[1108] Ex. 88.1 (Devor Report) ¶ 658.

a. Deficiencies in Planning the Interim Review

731. The appointment of Anton & Chia as auditors occurred on May 3, 2013. At the time Anton & Chia was hired (to replace Turner Stone), it was contemplated that CannaVEST would file its first quarter Form 10-Q on May 15, 2013.[1109]

Lie #731 Management cooperation and quality financial reporting is required to complete SEC filings in a timely manner. The Form 10-Q wasn't approved by Anton & Chia, LLP until May 30, 2013 until A&C received the management rep letter (**Exhibit 1000**).

732. As the engagement partner, Wahl was responsible for the engagement and its performance. Accordingly, Wahl was responsible for properly supervising the work of the engagement team members and for compliance with PCAOB standards.[1110]

733. Under PCAOB standard AU 722, an interim review mainly consists of making inquiries of management and performing analytical procedures.[1111] The first quarter of 2013 was the first time that Anton & Chia had performed any procedures on CannaVEST's financial information.[1112]

734. Anton & Chia's engagement team for the first quarter of 2013 interim review of CannaVEST included Wahl as the engagement partner, Chung as the EQR, and Shek as the audit manager.[1113]

735. Shek was a named respondent in this action, and settled with the Commission, with an order being entered against him on July 12, 2018.[1114]

Lie #735 Shek should never have been named in this matter. This was simply egregrious and malicious prosecution to inentionally create fear and harm within Anton & Chia, LLP. Shek should never have settled. Shek did nothing wrong.

736. Shek submitted a declaration to the Commission, under the penalty of perjury, as a supplemental Wells submission, before he was named as a respondent in this action.[1115]

[1109] Ex. 703 (May 14, 2013 CannaVEST Form 8-K).
[1110] Ex. 88.1 (Devor Report) ¶ 660, Tr. (Vol. VI Devor) 15585:8-1586:21, 1591:4-6 (as the engagement partner, Wahl was obligated to review the work papers); Tr. (Vol. VIII Shek) 2363:6-12; Tr. (Vol. XVII Wahl) 4009:23-25 ("But at the end of the day, if the staff did the work, my job is to review it and make sure it's done right. So I'm the captain of the ship.")
[1111] AU 722.07.
[1112] Ex. 703 (May 14, 2013 CannaVEST Form 8-K) (disclosing change in auditors).
[1113] Ex. 740 (Q1 2013 planning memo); Tr. (Vol. VIII Shek) 2360:6-9.
[1114] Tr. (Vol. VIII Shek) 2358:17-25.
[1115] *Id.* at 371:4-2372:6; Ex.726 (Shek supplemental Wells submission).

737. When Shek worked on CannaVEST's first quarter interim review, he did not have any previous training or experience in reviewing or auditing business combinations under

738. ASC 805, or in analyzing or measuring the fair value of business transaction under ASC 820.[1116]

739. Wahl was familiar with Shek's lack of experience.[1117]

740. Shek was notified only a few days before CannaVEST's deadline to file its first quarter Form 10-Q that he would work on the interim review.[1118]

Lie #740 In April 2013 it was confirmed A&C was planning to become the auditor of CannaVEST. **Exhibit 703** shows the board approved A&C as their auditor on May 3, 2013. On May 9, 2013, Anton & Chia sent a request to CannaVEST for various financial information, with a requested delivery date of May 11, 2013. Planning meeting occurred on March 16, 2013 with Shek, Wahl, La and Chung in attendance **(Exhibit 1103)**. Cannavest didn't issue its Form 10-Q until May 30, 2013 **(Exhibit 1100)** when A&C received the management representation letter.

741. Because CannaVEST was a new client, Wahl pressured the engagement team to complete its review of the Form 10-Q so that it could be filed on time.[1119]

Lie #741 See **LIE #740**.

742. From his experience at Anton & Chia, Shek observed a high turnover of personnel

at the staff level, and thought that there was undue emphasis on the collection of fees, with Wahl walking around the office, saying "Get it done, get it done" and "Bill and collect, bill and collect."[1120]

Lie #742 The Division doesn't even know which "office" this refers to A&C had eight offices and 32 affiliate offices. In the service business completing projects in a timely manner and being paid is a normal part of running a business. Unlike the Division, most small businesses don't have the luxury to have a $1.82 Billion budget to make up fake cases to destroy Honest Hardworking Americans.

743. Shek believed, given the timing of the engagement, that there was "no way that we could have completed the filing on time with a significant business transaction entered in Q1." Shek also told Wahl that he was surprised to learn the company was something more than a shell, and he told Wahl "the company has a significant agreement this quarter, and it's no longer a shell."[1121]

Lie #743 Typical Shek, whining, complaining and mischaracterizing see timeline under **LIE #740**.

744. Wahl told Shek that CannaVEST could amend the Form 10-Q if there was anything wrong with it.[1122]

[1116] *Id.* at 372:9-13, 2378:2-14, 2403:17-19; Ex.726 (Shek supplemental Wells submission).
[1117] *Id.* at 376:11-19, 2378:15-17; Ex.726 (Shek supplemental Wells submission).
[1118] *Id.* at 375:14-2376:10, 2377:3-2378:1; Ex.726 (Shek supplemental Wells submission).
[1119] *Id.* at 375:14-2376:10; Ex.726 (Shek supplemental Wells submission).
[1120] *Id.* at 457:3-22.
[1121] *Id.* at 374:19-2375:13, 2413:4-16; Ex.726 (Shek supplemental Wells submission).
[1122] *Id.* at 374:19-2375:13, 2401:3-21; Ex.726 (Shek supplemental Wells submission).

745. At the time of the first quarter interim review Wahl was on a vacation with his wife.[1123]

Lie #745 Wahl and Chung attend the planning meeting on May 16, 2013 (**See Exhibit 1103**). Wahl and Chung left on May 20 and still have the invoices and payments for paying for internet connection so Wahl and Chung could work on the cruise. CannaVEST was the only client that had not filed its Form 10-Q timely. Wahl and Chung stayed at Wahl's parents the week of May 27 and used the VPN to log in remotely to complete the review. Wahl also communicated with the A&C team, CannaVEST management and John Cleary, CannaVEST's counsel to complete the review during the week up to May 30th, 2013.

746. No one from Anton & Chia visited CannaVEST's offices during the first quarter interim review.[1124]

Lie #746 Not true, Wahl visited Mike Mona, JR and John Clearly atleast twice in March and April 2013 to discuss the Phytosphere transaction and becoming engaged by CannaVEST.

747. Shek did not make, and Wahl did not direct him to make, any inquiries as to Wilson's competency to draft CannaVEST's financial statements in accordance with GAAP.[1125]

748. Wilson is a Nevada certified CPA specializing in tax services to small business clients.[1126] Wilson does not hold himself out as knowing how to account for business combinations under GAAP, does not know to apply ASC 805 or 820, and does not practice any SEC financial reporting and, other than CannaVEST, does no work for public companies.[1127]

LIE #748 Wilson prepared a very nice compilation report for CannaVEST management and the quality was better than most clients in the small cap arena.

749. Shek managed the work of La, who was assigned by Wahl to do "all the heavy lifting" on the CannaVEST first quarter interim review.[1128]

750. La worked for Anton & Chia for nine months, from March 2013 to November 2013.[1129]

751. La was not and never has been a CPA.[1130]

752. La was hired as a staff accountant, an entry level position.[1131]

753. La had no auditing experience prior to joining Anton & Chia.[1132]

[1123] *Id.* at 378:18-2379:8.
[1124] *Id.* at 379:9-25.
[1125] *Id.* at 382:9-20; Ex.727 (May 15, 2013 email chain).
[1126] Tr. (Vol. IX Wilson) 2532:13-2533:19.
[1127] *Id.* at 533:12-22, 2534:25-2535:6, 2559:12-17, 2585:8-21.
[1128] Tr. (Vol. VIII Shek) 2380:2-5, 2381:15-2382:2; Ex.727 (May 15, 2013 email chain).
[1129] Tr. (Vol. X La) 2803:23-2804:2.
[1130] *Id.* at 804:7-11.
[1131] *Id.* at 804:12-20.
[1132] *Id.* at 805:11-13.

754. La was interviewed by Wahl, who knew La did not have any prior auditing experience.[1133]

755. La characterized the work environment at Anton & Chia as "uncomfortable," "long hours," "very fast paced," with a "constant urgency … of just trying to get things done" and with "minimal training" that "wasn't really organized."[1134] The training was more "hands on" in terms of having to "figure it out by yourself" and "learning on the fly."[1135]

756. La testified that Wahl would walk around the office, telling the staff "Get 'er done."[1136]

757. According to La, the group meetings that Wahl had with his staff were unpleasant, as he was just trying to get everyone to do things quickly, and telling the staff they could do a better job.[1137]

758. In terms of supervision, Wahl would walk around the office and just make sure everyone was getting things done.[1138]

759. La was assigned to the CannaVEST interim review on May 13, 2013, just two days before CannaVEST's first quarter Form 10-Q was due to be filed.[1139]

760. Prior to coming to Anton & Chia, La was no prior experience in applying ASC 805 (business combinations) or 820 (fair value measurements).[1140]

761. Anton & Chia initially drafted the company's management representation letter and then forwarded it to the company for it to be signed.[1141]

Lie #761 The management representation letter is a required communication from management under US GAAS. Thompson and Reuters prepared these templates for A&C and for many other CPA

firms nationwide and internationally. Its very common practice that the auditor would provide a template to management. Some clients have the sophistication to prepare their own templates.

[1133] *Id.* at 805:14-21.
[1134] *Id.* at 805:22-2806:19, 2811:12-17.
[1135] *Id.* at 812:5-15.
[1136] *Id.* at 810:3-6.
[1137] *Id.* at 810:7-21.
[1138] *Id.* at 812:23-2813:6.
[1139] Ex.727 (May 15, 2013 email chain).
[1140] Tr. (Vol. X La) 2820:6-19, 2822:13-21.
[1141] Tr. (Vol. VIII Shek) 2390:14-2391:22; Ex.736 (Q1 2013 management representation letter).

762. The Q1 2013 management representation letter stated that the company was "aware of no significant deficiencies, including material weaknesses, in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information."[1142]

Lie #762 A&C does not operate CannVEST and is not responsbile for CannaVEST managements internal controls. AU 722 "……A review consists principally of performing analytical procedures and making inquiries of persons responsible for financial and accounting matters, and does not contemplate (*a*) tests of accounting records through inspection, observation, or confirmation; (*b*) tests of controls to evaluate their effectiveness; (*c*) obtaining corroborating evidence in response to inquiries; or (*d*) performing certain other procedures ordinarily performed in an audit. A review may bring to the accountant's attention significant matters affecting the interim financial information, but it does not provide assurance that the accountant will become aware of all significant matters that would be identified in an audit. Paragraph .22 of this section provides guidance to the accountant if he or she becomes aware of information that leads him or her to believe that the interim

financial information may not be in conformity with generally accepted accounting principles. Likewise, the auditor's responsibility as it relates to management's quarterly certifications on internal control over financial reporting is different from the auditor's responsibility as it relates to management's annual assessment of internal control over financial reporting……"

763. That representation was in direct conflict with CannaVEST's Form 10-Q filed on May 20, 2013 and its Form 10-Q/A filed on May 30, 2013, both of which disclosed that "The Company's management has identified a material weakness in the effectiveness of internal control over financial reporting related to a shortage of resources in the accounting department required to assure appropriate segregation of duties with employees having appropriate accounting qualifications related to the Company's unique industry accounting and disclosure rules."[1143]

Lie #763 A&C does not operate CannVEST and is not responsbile for CannaVEST managements internal controls. AU 722 "……A review consists principally of performing analytical procedures and making inquiries of persons responsible for financial and accounting matters, and does not contemplate (*a*) tests of accounting records through inspection, observation, or confirmation; (*b*) tests of controls to evaluate

their effectiveness; (*c*) obtaining corroborating evidence in response to inquiries; or (*d*) performing certain other procedures ordinarily performed in an audit. A review may bring to the accountant's attention significant matters affecting the interim financial information, but it does not provide assurance that the accountant will become aware of all significant matters that would be identified in an audit. Paragraph .22 of this section provides guidance to the accountant if he or she becomes aware of information that leads him or her to believe that the interim financial information may not be in conformity with generally accepted accounting principles. Likewise, the auditor's responsibility as it relates to management's quarterly certifications on internal control over financial reporting is different from the auditor's responsibility as it relates to management's annual assessment of internal control over financial reporting……"

764. La prepared the *Review Planning Memorandum* for the first quarter interim review of CannaVEST.[1144] Despite the first quarter of 2013 representing the first ever procedures performed by Anton & Chia on CannaVEST, the planning memo did not memorialize a discussion regarding how CannaVEST operated, or reflect any assessment (other than a mere mention) of the

industry in which CannaVEST had, for the first time in this same quarter, begun to operate (*i.e.*, the hemp and CBD oil industry). Furthermore, the planning memo did not mention CannaVEST's material weakness in internal controls related to its lack of qualified accounting personnel, how that risk could increase the likelihood of misstatement, and plans by Anton & Chia to address that risk, such as performing additional review procedures.[1145]

Lie #764 Planning memorandums for interim reviews are not required documents under **AS 3 Audit Documentation**. They are required for an audit but not an interim review. All that is required to complete would be to complete the PPC checklists and that is sufficient for an interim review. Anton & Chia, LLP and Wahl made it firm policy to require that a planning memorandum and the planning meeting is documented. Even in Devor's report **paragraph 667 Exhibit 88.1** he cant cite one PCAOB standard that A&C violated because the standards for a review are very low. There is no standard in PCAOB standards that say any of this. Devor again references US GAAP but that is management's responsibility and there is a heightened responsibility during an interim review for management to comply with US GAAP.

[1142] Ex.736 (Q1 2013 management representation letter) 6.
[1143] *See* Ex. 705 (CannaVEST Q1 2013 Form 10-Q) 15; Ex. 706 (CannaVEST Q1 2013 Form 10-Q/A) 16.
[1144] Tr. (Vol. X La) 2834:5-2835:1; Ex.740 (Q1 planning memo).
[1145] Ex. 740 (Q1 planning memo).

765. The planning memo also did not mention making any inquiries into the fair value of CannaVEST stock, the fair value of PhytoSphere, or applying ASC 805 or ASC 820.[1146]

Lie #765 Planning memorandums for interim reviews are not required documents under AS 3 Audit Documentation. They are required for an audit but not an interim review. All that is required to complete would be to complete the PPC checklists and that is sufficient for an interim review. Anton & Chia, LLP and Wahl made it firm policy to require that a planning memorandum and the planning meeting is documented. Even in Devor's report paragraph **667 Exhibit 88.1** he can't cite one PCAOB standard that A&C violated because the standards for a review are very low. There is no standard in PCAOB standards that say any of this. Devor again references US GAAP but that is management's responsibility and there is a heightened responsibility during an interim review for management to comply with US GAAP.

766. This constituted, among other things, violations of PCAOB standards with respect to the planning of the first quarter 2013 review.[1147]

Lie #766 Planning memorandums for interim reviews are not required documents under **AS 3** Audit Documentation. They are required for an audit but not an interim review. All that is required to complete would be to complete the PPC checklists and that is sufficient for an interim review. Anton & Chia, LLP and Wahl made it firm policy to require that a planning memorandum and the planning meeting is documented. Even in Devor's report **paragraph 667 Exhibit 88.1** he can't cite one PCAOB standard that A&C violated because the standards for a review are very low. There is no standard in PCAOB standards that say any of this. Devor again references US GAAP but that is management's responsibility and there is a heightened responsibility during an interim review for management to comply with US GAAP.

767. Neither Wahl nor anyone else at Anton & Chia told La that ASC 805 and ASC 820 applied to the PhytoSphere transaction.[1148]

LIE #767 Wahl handled the review of the Phytosphere transaction as it relates to **ASC 805** and **ASC 820**, he would not exptect La to handle this

other than mathematical tie out. This is an overstatement La's role in the review.

768. La did not know ASC 805 and ASC 820 applied to the PhytoSphere transaction.[1149]

LIE #768 Wahl handled the review of the Phytosphere transaction as it relates to **ASC 805** and **ASC 820**, he would not exptect La to handle this other than mathematical tie out. This is an overstatement La's role in the review.

769. Shek could not recall participating in a planning meeting prior to the first quarter review, as Wahl was on vacation.[1150]

Wahl and Chung attend the planning meeting on May 16, 2013 (**See Exhibit 1003**). Wahl and Chung left on May 20 and still have the invoices and payments for paying for internet connection so Wahl and Chung could work on the cruise. CannaVEST was the only client that had not filed its Form 10-Q timely. Wahl and Chung stayed at Wahl's parents the week of May 27 and used the VPN to log in remotely to complete the review. Wahl also communicated with the A&C team, CannaVEST

management and John Cleary, CannaVEST's counsel to complete the review.

770. Anton & Chia's first quarter work papers do not reflect any discussion with management about obtaining a valuation of PhytoSphere or CannaVEST's stock for purposes of proper financial reporting. To the contrary, the first quarter of 2013 workpapers reflect only that Anton & Chia would inquire of management to ensure CannaVEST's financial statements (inclusive of the PhytoSphere assets) were "properly presented" and that the "repayment procedure [for PhytoSphere] was valid."[1151]

Lie #770 There is no requirement in US GAAP or GAAS to obtain a "valuation" there isnt and Devor / the Division cant provide this standard. Again the Division and Devor are overstating the requirement of US GAAP and GAAS and A&C's responsbility. A&C did request that management obtain valuation reports which they provided merely a draft in the third quarter. The contract price is the purchase price (**Exhibit 1001 Section 2.01**) (**TR 3049 Lines 19-24; TR 3050 Lines 1-6**) and the assets and liabilities are allocated at fair value (**Exhibit 1001 (Exhibit A and B**) and **Exhibit 1030 page paragraph 2 and 3**.

771. The workpapers also do not reflect any inquiries made, or discussions about, the fair value of CannaVEST stock as of January 29, 2013, or the fair value of PhytoSphere's assets.[1152]

[1146] *Id.*
[1147] Ex. 88.1 (Devor Report) ¶ 667.
[1148] Tr. (Vol. X La) 2836:7-13.
[1149] *Id.* at 836:3-6; 2838:5-17.
[1150] Tr. (Vol. VIII Shek) 2411:10-15.
[1151] Ex. 3 (Anton & Chia workpapers); Ex. 740 (Q1 planning memo).
[1152] *Id.*; Tr. (Vol. VI Devor) 1586:22-1589:24 ("there is no direction at least from the planning memo as to what inquiry and analytical procedure one should do and focus on to ascertain that ASC 805 is perform – is – complied with.").

772. Wahl should have made such inquiries of CannaVEST management regarding the fair value of the consideration to be paid for PhytoSphere, (*i.e.*, the fair value of CannaVEST's stock) to be in compliance with applicable PCAOB standards.[1153]

LIE #772 The fair value of the stock had nothing to do with the purchase price. The $35,000,000 purchase was paid because of the assets, inventory and value brought by the international CBD contracts. The argument that the stock price had anything to do with the purchase price clearly demonstrates that Devor and the Division have no clue on US GAAP, valuations and business combination transactions. **Exhibit 1001** was agreed to between arms length individuals.

773. Shek failed to make, and Wahl did not direct him to make, any inquiries of CannaVEST's CEO regarding the fair value of the consideration (*i.e.*, the fair value of CannaVEST's shares as of January 29, 2013) that CannaVEST would pay to MJNA.[1154]

LIE #773 Wahl handled this with CannaVEST management and John Clearly. Wahl wouldn't rely on Shek to do this.

774. Shek also failed to make, and Wahl did not direct him to make, any inquiries of CannaVEST's CEO regarding how the stock collar of $4.50 to $6.00 in the PhytoSphere agreement was determined.[1155]

LIE #774 Wahl handled this with CannaVEST management and John Clearly. The Stock Collar was agreed to by arms length parties. In fact on the date the CannaVEST filed the 8-K to anounce the Phytospheere transaction CanvaVEST the stock traded in the same range as the collar and much higher therafter.

775. On May 9, 2013, Anton & Chia sent a request to CannaVEST for various financial information, with a requested delivery date of May 11, 2013. Wahl's list of requested financial information did not include any information specific to the PhytoSphere transaction, even though it was the most significant transaction that quarter.[1156]

LIE #775 The Phytosphere transaction was handled by Wahl in other communications.

776. This would have allowed Anton & Chia just four days (including Saturday and Sunday) to conduct its interim review on the financial statements of a company for which it had never previously performed any assurance services.[1157]

Lie #776 In April 2013 it was confirmed A&C was planning to become the auditor of CannaVEST. **Exhibit 703** shows the board approved A&C as their auditor on May 3, 2013. On May 9, 2013, Anton & Chia sent a request to CannaVEST for various financial information, with a requested delivery date of May 11, 2013. Planning meeting occurred on March 16,

2013 with Shek, Wahl, La and Chung in attendance **(Exhibit 1003)**. Cannavest didn't issue its Form 10-Q until May 30, 2013 **(Exhibit 703)** when A&C received the management representation letter.

777. CannaVEST did not provide a draft of its first quarter 2013 financial statements to Anton & Chia until May 14, 2013 at 5:00pm, one day before CannaVEST was supposed to file its Form 10-Q.[1158]

LIE #777 Cannavest didn't issue its Form 10-Q until May 30, 2013 **(Exhibit 703)** when A&C received the management representation letter (**Exhibit 1000**).

[1153] Ex. 88.1 (Devor Report) ¶ 664).
[1154] Tr. (Vol. VIII Shek) 2360:14-:25, 2361:18-25.
[1155] *Id.* at 362:9-2363:9.
[1156] Ex. 750 (May 9, 2013 Anton & Chia request letter to CannaVEST).
[1157] Ex. 703 (May 14, 2013 Form 8-K); Tr. (Vol. VI Devor) 1565:7-1567:10 (four days is insufficient time to conduct an interim review of a new client with a business combination).
[1158] Ex. 761 (May 16, 2013 email chain); Ex. 793 (May 14, 2013 email chain).

778. As a result, CannaVEST filed a Form NT 10-Q on May 15, 2013, announcing its inability to file its Form 10-Q by May 15, 2015. In doing so, CannaVEST assured the SEC that it would file its Form 10-Q no later than May 20, 2013.[1159]

LIE #778 Cannavest didn't issue its Form 10-Q until May 30, 2013 **(Exhibit 703)** when A&C received the management representation letter (**Exhibit 1000**).

779. Wahl knew that the Company was requesting only a five-day extension.[1160]

Lie #779 SEC Rule 12b-25 only allows a 5 day extension for a Form 10-Q. The Division attorneys should know this rule. Devor hasn't audited a public company for 30 years, well….

780. Even that extension provided Anton & Chia with an unreasonably short amount of time to conduct an adequate interim review, particularly in light of this being a first time engagement for Anton & Chia with CannaVEST, and the significant PhytoSphere acquisition that had occurred in the first quarter of 2013.[1161]

Lie #780 This is just pure opinion from Devor the SEC's CPA that has never audited or reviewed a public company in accordance with PCAOB standards in his life. Devor spent Hundreds of Thousands of dollars of taxpayers money to help to the Division commit fraud by changing US GAAP and GAAS.

781. In both Shek's and La's opinions, the additional five days to complete Anton & Chia's interim review, as a result of filing the Form NT10-Q (Ex.704), was not a sufficient amount of time to be able to analyze the PhytoSphere transaction.[1162]

LIE #778 Cannavest didn't issue its Form 10-Q until May 30, 2013 **(Exhibit 1100)** when A&C received the management representation letter.

782. These time constraints not only contributed to the failures of the engagement team to conduct a proper interim review of CannaVEST under AU 722, but also highlight Wahl's lack of due professional care when applying PCAOB standards.[1163]

LIE #782 This is nothing more than opinion. The Division and Devor that AU 722 and cant cite one specific paragraph in AU 722 that was violated. Not to mention that Devor and the Division changed AU 722.12 (**LIE #76**); AU 722.13 (**LIE #77**); AU 722.51 and AU 722.52 (**LIE #81**) and lets not forget the Division and Devor changing the Due Professional Care Standard (AU 230) – **LIE #47** AU 230 b/c it simply does not apply to review engagements; **LIE #48** the changed AU 230; AU 230.03; AU 230.05; AU 230.07; and AU 230.08 and **Lie #53 –** AU 230.03.

783. In the morning of May 20, 2013, John Cleary (CannaVEST's outside counsel)

forwarded to Wahl and Wilson the Form 10-Q the company had sent to its filing agent, containing yellow highlighted areas for inserting numbers. Cleary stated "we need to file by 2pm today." Wahl then forwarded the yellow-highlighted Form 10-Q to Shek at 10:42 am, who then forwarded it to La.[1164] Ultimately, the Form 10-Q was filed with the yellow highlights removed, but with blanks for the missing financial information.[1165] The Form 10-Q, under the section

[1159] Ex. 704 (CannaVEST Form NT 10-Q).
[1160] Ex. 727 (May 15, 2013 email chain).
[1161] Ex. 88.1 (Devor Report) ¶ 669; Tr. (Vol. VI Devor) 1572:25-1575:7.
[1162] Tr. (Vol. VIII Shek) 2399:9-2400:20, 2497:20-2498:11; Tr. (Vol. X La) 2821:7-2822:12.
[1163] Ex. 88.1 (Devor Report) ¶ 671.
[1164] Exs. 728 and 728.1 (May 20, 2013 email chain with CannaVEST Q1 2013 Form 10-Q attached).
[1165] Ex. 705 (CannaVEST Q1 2013 Form 10-Q); *see also* Tr. (Vol. VIII Shek) 2515:24-2418:25.

entitled “Acquisition of Assets of PhytoSphere, LLC” also contained a discussion of a transaction that had nothing to do with PhytoSphere or CannaVEST.[1166]

LIE #783 A&C never approved the filing on May 20, 2013 as there was no rep letter. Cannavest didn’t issue its Form 10-Q until May 30, 2013 **(Exhibit 706)** when A&C received the management representation letter (**Exhibit 1000**).

784. Anton & Chia’s review was not complete as of May 20, 2013, when CannaVEST filed its Form 10-Q.[1167] Nor was there an EQR in connection with the May 20 filing.[1168]

LIE #784 Management filed the Form 10-Q not A&C. A&C never approved the filing on May 20, 2013 as there was no rep letter. Cannavest didn’t issue its Form 10-Q until May 30, 2013 **(Exhibit 706)** when A&C received the management representation letter (**Exhibit 1000**).

785. Wahl never expressed any surprise or concern that CannaVEST had filed its Form 10-Q before Anton & Chia’s review was complete.[1169]

LIE #785 Management filed the Form 10-Q not A&C. A&C never approved the filing on May 20, 2013 as there was no rep letter. Cannavest didn’t issue its Form 10-Q until May 30, 2013 **(Exhibit 706)**

when A&C received the management representation letter (**Exhibit 1000**).

786. Canote spoke to both Wahl and Shek about the fact that CannaVEST's Form 10-Q that had been filed on May 20, 2013. Neither of them expressed any concern about CannaVEST having filed the Form 10-Q on that date.[1170]

LIE #783 Management filed the Form 10-Q not A&C. It's the SEC's job to enforce securities laws. Not A&C. A&C never approved the filing on May 20, 2013 as there was no rep letter. Cannavest didn't issue its Form 10-Q until May 30, 2013 **(Exhibit 706)** when A&C received the management representation letter (**Exhibit 1000**).

b. Deficiencies Relating to Lack of Communications with Predecessor Auditors

787. CannaVEST's predecessor public accounting firm was Turner Stone & Company.[1171]

788. Turner Stone audited CannaVEST's 2012 Form 10-K.[1172]

789. The PhytoSphere transaction was not recorded in the financials of CannaVEST as of December 31, 2012, because the assets had not been transferred by that date, nor was any consideration paid by that date.[1173]

[1166] Tr. (Vol. VIII Shek) 2419:1-15; Ex.705 (CannaVEST Q1 2013 Form 10-Q) at 11; Tr. (Vol. IX Canote) 2596:11-2598:9.

[1167] Tr. (Vol. VIII Shek) 2419:14-24, 2420:21-2421:19; Ex.731 (Q1 signoff summary report showing various signoffs well after May 20).

[1168] *Id.* at 419:4-7.

[1169] *Id.* at 419:25-2420:3.

[1170] Tr. (Vol. IX Canote) 2594:3-2595:2.

[1171] Tr. (Vol. VII Turner) 2059:15-2060:15.

[1172] *Id.* at 060:16-18.

[1173] *Id.* at 072:16-2073:8.

790. AS 315 **required** Anton & Chia to communicate with CannaVEST's predecessor auditor (Turner Stone) as an initial procedure on a first time engagement.[1174] Among other things, AS 315 **requires** the successor auditor to communicate with the predecessor auditor and ask the predecessor auditor's understanding of the reason for the change in auditors, and whether there has been any disagreements with management as to accounting principles.[1175]

Lie #790 Footnote 1174 references **AU 722.12** but it doesn't say its "**required**" it says "**should**" implying its based on professional judgment. Here is **AU 722.12** in its Native not changed format below (and **AU 722.07** says "**should**" not "**required**"):

AU 722.12 "In an initial review of interim financial information, the accountant should perform procedures that will enable him or her to obtain sufficient knowledge of the entity's business and its internal control to address the objectives discussed in paragraph .07 of this section…."

AU 315 applies to audits not reviews.

And because Foreclosures Solutions was only a "shell company with only about $400 of assets, no revenue and no operating history." as of December 31, 2012. Wahl didn't feel based on his 20 years of

professional judgment that speaking to the previous auditor would provide any significant value to the engagements considering they were only interim reviews.

791. Neither Wahl, nor anyone else from Anton & Chia communicated with Turner Stone; nor is any such communication reflected in Anton & Chia's workpapers.[1176]

LIE #791 More side show by the Divison see **LIE #790**.

792. Turner Stone was terminated by CannaVEST over the amount of money Turner Stone would charge for audit work in 2013 in light of the PhytoSphere transaction.[1177]

793. Turner of Turner Stone testified that the applicable accounting standards for the PhytoSphere transaction were ASC 805 (business combinations) and 820 (fair value measurements). These standards require a determination of the fair value of the consideration paid to acquire the assets and a determination of the fair value of the assets being acquired.[1178]

794. Turner did not consider the trading prices of CannaVEST stock in the OTC market a level 1 input under ASC 820, given the stock's sporadic trading volume.[1179]

Lie #794 More side show by the Divison. The stock price had no bearing on determining the Purchase Price paid to Phytosphere. The Phytosphere price of $35,000,000 (**TR 3049 Lines 19-24; TR 3010 Lines 1-6**) was the price to get the transaction completed for CannaVEST but Mike Mona, Jr never mentioned anything regarding the fact he didn't

believe the price was not $35,000,000 and neither did John Creary. Without Phytosphere, CannaVEST would have no business, see **Exhibits 1030, 1031, 1032** and **1033**.

795. Turner was of the opinion that the value of Foreclosure Solution's stock was "essentially zero" as the company had only about $400 of assets, no revenue and no operating history.[1180]

Lie #795 More side show by the Divison. The stock price had no bearing on determining the Purchase Price paid to Phytosphere. See **Lie #794**.

[1174] *See also* AU 722.12.
[1175] Ex. 88.1 (Devor Report) ¶ 672; Tr. (Vol. VI Devor) 1562:11-1565:6; Tr. (Vol. VII Turner) 2090:11-2092:9.
[1176] Tr. (Vol. VII Turner) 2092:10-12; Tr. (Vol. X Stewart) 2870:16-21.
[1177] Tr. (Vol. VII Turner) 2087:16-2089:17.
[1178] *Id.* at 076:11-22.
[1179] *Id.* at 077:11-2079:3.
[1180] *Id.* at 067:2-9; 2071:24-2072:3 (CannaVEST's shares not worth between $4.50 and $6.00).

796. Turner recommended to the CEO of CannaVEST that the company hire an independent valuation firm to determine the fair value of the assets being acquired from PhytoSphere.[1181]

797. In the absence of CannaVEST hiring an independent valuation firm, Turner Stone would not have permitted the company to record the $35 million in assets on CannaVEST's balance sheet related to the PhytoSphere transaction.[1182]

798. On April 12, 2013, Turner Stone delivered a letter to CannaVEST, advising the company that with respect to the acquisition of PhytoSphere, the company's 2013 financial statements will require an appraisal of the fair value of those assets.[1183]

799. Turner opined that $2500 for a quarterly review (the amount charged by Anton & Chia) was unreasonably low.[1184]

c. Deficiencies in Inquiries and Analytical Procedures

800. As set forth in PCAOB standards, the fieldwork for interim reviews performed by auditors is comprised primarily of inquiries and analytical procedures.[1185] The acquisition of PhytoSphere constituted almost all of CannaVEST's total assets as of March 31, 2013, and was the most significant transaction recorded during the first quarter of 2013. In light of that, the inquiries and analytical procedures performed by Anton & Chia for its first quarter of 2013

[1181] *Id.* at 079:10-24; Ex.781 (March 27, 2013 email from Turner to Mona).
[1182] *Id.* at 080:25-2081:15, 2081:15-2082:19, 2105:4-21 ("as an auditor [you're left] with only one choice: have someone that's qualified determine that fair value.").
[1183] *Id.* at 082:20-2085:13; Ex.782 (Apr. 16, 2013 email, with Apr. 12, 2013 letter from Turner Stone to CannaVEST attached).

[1184] *Id.* at 088:22-2089:10 ("There's no way you can do the work and document that as required by professional standards for that amount of money"); *see also* Tr. (Vol. IX Canote) 2652:16-24 (Anton & Chia's $2500 fee for each interim review "seemed really low. It did not really make sense.").
[1185] AU 722.07.

interim review for CannaVEST were deficient in that they did not sufficiently address the PhytoSphere acquisition, in violation of PCAOB standards.[1186]

Lie #800 Devor again cant cite the standard, just says "PCAOB standards." **Footnote 1186** references his report **paragraph 674** which is pure opinion with no factual basis. Devor cant provide the guidance under US GAAP, the specific paragraph that was violated and where is the evidence? Not to mention that Devor and the Division changed AU 722.12 (**LIE #76**); AU 722.13 (**LIE #77**); AU 722.51 and AU 722.52 (**LIE #81**).

801. Wilson prepared CannaVEST's financial information for the first quarter of 2013, but was not qualified to assist with CannaVEST's GAAP reporting. After preparing the first quarter of 2013 financial information, Wilson sent Mona an "accountant's compilation report" that stated, among other things:

- he had merely compiled the financial statements for Q1 2013;
- he had "not reviewed or audited the accompanying financial statements;"
- he did not "provide any assurance about whether the financial statements are in accordance" with GAAP.[1187]

LIE #801 If the Division and Devor were simply honest like Wilson is and "compiled" the Authoritative Standards in US GAAP and GAAS instead of

"changing" the Authoritative Standards in US GAAP and GAAS to achieve a fraudulent result they wouldn't have such massive troubles. Due to this Respondents Wahl, Chung and Deutchman are demanding "treble" damages.

802. Neither Wahl nor any other member of Anton & Chia's engagement team ensured that inquiries were made of someone knowledgeable about the PhytoSphere transaction who was qualified to handle GAAP reporting. Rather, the only record evidence is an email from Wahl to Wilson and Cleary (CannaVEST's outside counsel) in which Wahl stated "No comments at this time. I assume Ed [Wilson] is drafting the financial statements in accordance with U.S. GAAP."[1188]

Lie #802 Wahl had multiple conversations with John Creary and CannaVEST management regarding the purchase and the purchase price allocation (**TR 2584 Lines 6-15; TR 3939 Lines 13-16; TR 3944 Lines 14-25; TR 3945 Lines 1-12**).

803. In response to one inquiry made by Anton & Chia to Wilson (*i.e.*, "[p]lease provide the allocation of intangibles and goodwill and your support on the allocation[]"), Wilson stated that CannaVEST did "not have a schedule for a detail of the intangibles," and that the PhytoSphere agreement was "not very specific."[1189]

Lie #803 Wahl had multiple conversations with John Creary and CannaVEST management regarding the purchase and the purchase price

allocation (**TR 2584 Lines 6-15; TR 3939 Lines 13-16; TR 3944 Lines 14-25; TR 3945 Lines 1-12**). The purchase price allocation is the responsibility of management. If management does not have all the information available at the end of the quarter. This does not mean its incorrect or a violation of US GAAP.

ASC 805 10-25-13: "The Measurement Period: **If the initial accounting for a business combination is** incomplete by the end of the reporting period in the which the combination occurs, the acquirer shall report in **its financial statements provisional amounts for the items for which the accounting is incomplete**."

During the measurement period, in which accordance with paragraph **805-10-25-17**, the acquirer shall adjust the provisional amounts recognized at the acquisition date to reflect new information obtained about facts and circumstances that existed as the acquisition date that, if known, would have affected the measurement amounts recognized as of the date.

ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional assets or liabilities if new information is obtained about facts and circumstances that existed as of the acquisition date that, if known, would resulted in the recognition of those assets and liabilities as of the date.* ***The*** measurement period ends as soon as the acquirer receives the information it was seeking about facts and ***circumstances that existed as of the acquisition date or learns that more information is not obtainable.*** *However, the measurement period* ***shall not exceed one year from the acquisition date****."*

[1186] Ex. 88.1 (Devor Report) ¶ 674).
[1187] Ex. 794 (Wilson's compilation report).
[1188] Ex. 727 (May 15, 2013 email chain).
[1189] Ex. 761 (May 16, 2013 email chain).

804. That should have been a red flag to Anton & Chia that the parties were not clear on the value of the subject assets and should have caused Anton & Chia to perform additional inquiries regarding how the value of the acquisition – and the journal entries purportedly reflecting such value – had been determined.[1190]

LIE #804 Clearly Devor and the Division require education on **ASC 805**, this is further mischaracterization of the A&C's responsibilities and an overstatement of the case. The purchase price allocation is management's responsibility but management did nothing incorrectly. See **LIE #803** as well.

805. In its workpaper entitled *Balance Sheet Analytics*, Anton & Chia stated that CannaVEST had allocated values to the assets acquired from PhytoSphere according to "a breakdown" from the PhytoSphere agreement itself.[1191] However, there were no values assigned to the assets in the PhytoSphere agreement.[1192] Instead, Wilson provided Anton & Chia with an allocation of the $35 million among the assets related to the PhytoSphere acquisition. Wilson had received this allocation from Mona. Wahl, however, failed to make, or direct the engagement team to make, inquiries of Mona or Wilson, regarding why he believed this asset allocation was appropriate.[1193]

LIE #805 Clearly Devor and the Division require education on **ASC 805**, this is further mischaracterization of the A&C's responsibilities and an overstatement of the case. The purchase price allocation is

management's responsibility but management did nothing incorrectly. See **LIE #803** as well.

806. La prepared the first quarter balance sheet analytics. La simply copied into the workpaper the breakdown for the PhytoSphere transaction that Wilson had provided.[1194]

807. La prepared also Anton & Chia's first quarter interim review checklist. This checklist failed to include any specific or tailored questions related to the PhytoSphere transaction, such as the fair value of the consideration, i.e., CannaVEST's stock, or the fair value of PhytoSphere's assets. In fact, as to Item 7, which asked the question, "If relevant to the entity, has the fair value of financial assets and liabilities… been measured and recorded in accordance with GAAP?" the box was marked "No."[1195]

LIE #807 Clearly Devor and the Division require education on **ASC 805**, this is further mischaracterization of the A&C's responsibilities and an overstatement of the case. The purchase price allocation is management's responsibility but management did nothing incorrectly. See **LIE #803** as well.

[1190] Ex. 784 (Q1 inquiries checklist); Ex. 88.1 (Devor Report) ¶ 679; Tr. (Vol. VI Devor) 1570:18-1571:19).
[1191] Ex. 850 (Q1 balance sheet analytics).
[1192] Ex. 751 (PhytoSphere agreement).
[1193] Tr. (Vol. X La) 2823:12-25); Tr. (Vol. IX Wilson) 2549:3-19, 2550:21-2551:2.
[1194] Tr. (Vol. X La) 2838:18-23; Ex.850 (Q1 balance sheet analytics).
[1195] Ex.784 (Q1 inquiries checklist); Ex. 88.1 (Devor report) ¶ 675; Tr. (Vol. X La) 2839:2840:17; Tr. (Vol. VIII Shek) 2427:25-2428:16.

808. Anton & Chia's workpapers did not include copies of any of the supposed agreements purportedly acquired by CannaVEST (*i.e.*, the Right to Purchase CBD, a Non- Compete Agreement, and what was vaguely referred to as "Other Agreements") – which represented 32%, 14%, and 50%, respectively, of the total $35 million in assets recorded as of March 31, 2013 on CannaVEST's balance sheet in connection with the PhytoSphere acquisition.[1196]

LIE #808 Clearly Devor and the Division require education on **ASC 805**, this is further mischaracterization of the A&C's responsibilities and an overstatement of the case. The purchase price allocation is management's responsibility but management did nothing incorrectly. See **LIE #803** as well.

809. In a May 15, 2013 email from Wilson to Shek, Wilson broke down the value of the assets acquired from PhytoSphere, including "Other agreements of $17,535,000 (to balance). Tommy Shek was never provided with those "other agreements" and, in hindsight, Shek testified that he should have seen this as a red flag.[1197]

LIE #809 Shek obviously has to educate himself on ASC 805 but Wahl knows the Division bullied Shek into these statements. Clearly Devor and the Division require education on **ASC 805**, this is further mischaracterization of the A&C's responsibilities and an overstatement of the case. The purchase price allocation is management's responsibility but management did nothing incorrectly. See **LIE #803** as well.

810. Wilson's breakdown of the assets acquired from PhytoSphere included "Other agreements of $17,545,000 (to balance)" which was a "fudge factor" Wilson had come up with for the difference between the value of the other identifiable assets and the total purchase price of $35 million. Wilson never saw those other agreements and did nothing to verify the other numbers that Mike Mona had given him for items 5 (right to purchase CBD oil) and 6 (non- compete agreement).[1198]

LIE #810 Clearly Devor and the Division require education on **ASC 805**, this is further mischaracterization of the A&C's responsibilities and an overstatement of the case. The purchase price allocation (**TR 2991 Lines 1-13; TR 3009 Lines 12-21; TR 3010 Lines 10-18**) is management's responsibility but management did nothing incorrectly. See **LIE #803** as well.

Its interesting that Devor and the Division bring up this so called "fudge factor" because they decided that the unchanged Authoritative Guidance in US GAAP and GAAS didn't explain their case very well so they decided to "fudge" the Authoritative Guidance in US GAAP and GAAS, see **LIE #15** to **LIE #110.**

811. When Wilson included the $35 million in PhytoSphere assets in CannaVEST's

balance sheets, he was not thinking of how to account for the transaction under ASC 805 or ASC 820; rather he was just taking the $35 million purchase price and breaking it down into a list of assets.[1199]

LIE #811 Clearly Devor and the Division require education on **ASC 805**, this is further mischaracterization of the A&C's responsibilities and is an overstatement of the case. The purchase price allocation is management's responsibility but management did nothing incorrectly. See **LIE #803** as well.

[1196] Ex. 3 (Anton & Chia's workpapers).
[1197] Tr. (Vol. VIII Shek) 2401:22-2402:21; Ex.793 (May 14, 2013 email chain).
[1198] Tr. (Vol. IX Wilson) 2558:2-10, 2558:11-21, 2559:3-5; Ex.793 (May 14, 3013 email chain).
[1199] *Id.* at 559:18-2560:7.

812. Wilson did not provide any assurance to CannaVEST that the first quarter financial information he had compiled was in compliance with GAAP.[1200]

813. Since Wahl was on vacation and not in the office, Shek called him by phone and described the terms of the PhytoSphere agreement. Wahl did not seem familiar with the stock collar provision in the agreement, and asked Shek "to look at the stock price, you know, in the OTC market." Shek told Wahl that the stock was trading in May 2013 at "more than $6." Wahl responded, "that's the only thing we can rely on, so we just take it."[1201]

LIE #813 This is totally not true. Wahl reviewed the agreement a few times and the stock collar provision was for paying the purchase price which the Division has mischaracterized and fabricated that it has something to do with the negotiated purchase price. The stock collar is for paying the associated liability with the Phytosphre agreement(**TR 2584 Lines 6-15; TR 3939 Lines 13-16; TR 3944 Lines 14-25; TR 3945 Lines 1-12**).

814. During the course of the first quarter interim review, Wahl never suggested that the company should obtain an independent valuation of its stock as of the acquisition date of January 29, 2013.[1202]

Lie #814 Clearly Devor and the Division require education on **ASC 805**, this is further mischaracterization of the A&C's responsibilities and an

overstatement of the case. The purchase price allocation is management's responsibility but management did nothing incorrectly. See **LIE #803** as well.

There is no requirement in US GAAP or GAAS that management is required to obtain a valuation report (**TR 3260 Lines 11-17 & Lines 21-25**; **TR 2941 Lines 14-17**). Obtaining a valuation report is management's responsibility not the responsibility of A&C.

815. Shek did not make, and Wahl did not direct him to make, any inquiries of CannaVEST management as to whether the transaction was orderly or between market participants, how the stock collar was determined or what it's purpose was, or how Wilson had determined the values of the assets acquired from PhytoSphere.[1203]

LIE #815 Wahl made all the inquires with CannaVest management and John Creary (**TR 2584 Lines 6-15; TR 3939 Lines 13-16; TR 3944 Lines 14-25; TR 3945 Lines 1-12**) to determine the initial accounting for the initial provisional purchase price and we all expected that the purchase price could change there is nothing wrong with this in US GAAP (**TR 2991 Lines 1-13; TR 3009 Lines 12-21; TR 3010 Lines 10-18**). The compliance with US GAAP in an interim review is management's responsibility. The

comments regarding "market participants" and "orderly transaction" were never allegations in the OIP. It was Wahl that pointed out the CannaVEST comment letters at his July 1, 2019 deposition and they decided to add to their fake story. Other than that the Division was unaware they even existed.

816. Neither Wahl nor anyone else at Anton & Chia directed La to make inquiries of CannaVEST concerning: (1) the purpose of the stock collar in the PhytoSphere agreement; (2) the fair value of CannaVEST's stock as of the acquisition closing date of January 29, 2013; (3) whether CannaVEST's stock traded in an active market; (4) the fair value of PhytoSphere assets as of the acquisition date of January 29, 2013; (5) whether the PhytoSphere transaction was an orderly transaction under ASC 805, that is, whether CannaVEST competed with other buyers for PhytoSphere or whether PhytoSphere marketed itself to other buyers; (6) whether the transaction

[1200] *Id.* at 560:12-2561:21; Ex.794 (Wilson's compilation report).
[1201] Tr. (Vol. VIII Shek) 2405:6-2406:2, 2407:24-2408:12.
[1202] *Id.* at 407:10-22).
[1203] *Id.* at 412:9-24, 2429:20-2430:24, 2422:22-2423:5, 2425:4-16).

was between market participants under ASC 805; (7) whether CannaVEST had conducted any due diligence on PhytoSphere or whether financial projections for PhytoSphere existed.[1204]

LIE #816 Wahl would never have requested La to do this. La didn't have the experience. Wahl made all the inquires with CannaVest management and John Creary to determine the initial accounting for the initial provisional purchase price and we all expected that the purchase price could change there is nothing wrong with this in US GAAP.

See **LIE #803**.

817. Neither Wahl nor anyone else at Anton & Chia instructed La to ask CannaVEST management whether it had obtained a valuation of its stock, or a valuation of the PhytoSphere assets.[1205]

LIE #817 The responsibility for US GAAP is with CannaVEST's management. There is no requirement in US GAAP or GAAS to obtain a valuation report (**TR 3260 Lines 11-17 & 21-25; TR 2914 Lines 12-17**) and the Division and Devor cant find. Wahl's bet is they are going to create their own fake US GAAS standard or GAAP standard.

818. The foregoing demonstrates that Wahl failed to perform, or failed to direct the engagement team to perform, sufficient inquiries related to:

- who at CannaVEST had the appropriate accounting qualifications to perform GAAP reporting;
- whether any due diligence had been performed by CannaVEST on the purchase of PhytoSphere;
- whether MJNA had marketed PhytoSphere to other buyers;
- the fair value of the consideration to be paid by CannaVEST for PhytoSphere (*i.e.*, the fair value of CannaVEST's stock as of January 29, 2013); and
- the fair value of the PhytoSphere assets.[1206]

LIE #818 Devor thinks Wahl should act like CannaVEST management, all of these actions are the responsibility of management. The fair value of the stock is lunacy it has no relevance to the purchase price. Management is required to comply with US GAAP in a review.

See **LIE #803**.

d. First Quarter 2013 Engagement Summary Memo

819. Anton & Chia also prepared an engagement summary memo for the first quarter of 2013. The engagement summary memo merely mimicked the language from the planning memo regarding the PhytoSphere transaction, except it provided in past tense that Anton & Chia

[1204] Tr. (Vol. X La) 2825:23-2828:6.

[1205] *Id.* at 829:9-2830:8; *see also* Tr. (Vol. VIII Shek) 2407:10-22 (during the course of the first quarter interim review, Wahl never suggested that the company should obtain an independent valuation of its stock as of the acquisition date of January 29, 2013).
[1206] Ex. 784 (Q1 inquiries checklist); Ex. 88.1 (Devor Report) ¶ 685; Tr. (Vol. VI Devor) 1596:17-1598:22.

had "made" inquiries "to ensure that provided financials are properly presented and repayment procedure is valid…" Again, the engagement summary memo mentioned nothing about Anton & Chia inquiring about the fair value of the consideration to be paid, i.e., the fair value of CannaVEST's stock as of January 29, 2013, or the fair value of PhytoSphere's assets. Moreover, there was no mention of the applicable accounting standards ASC 805 and 820.[1207]

LIE #819 There is no requirement in a review to complete an engagement summary memorandum. This is purely for an audit see **AS 3**. This was part of A&C's quality control to ensure it's included. **ASC 805** and **ASC 820** is a US GAAP standard and is the responsibility of CannaVEST management. Even if A&C did ascribe **ASC 805** and **ASC 820** the Division and Devor would have convinced the judge that they weren't using the correct version because in their version they changed **ASC 805** and **ASC 820**.

e. Chung's Failure to Discharge her Role as the *EQR during the First Quarter of 2013 Interim Review*

820. An engagement quality review and concurring approval of issuance are required for an interim review of financial information conducted pursuant to the PCAOB standards.[1208]

821. The objective of the EQR is to perform an evaluation of the significant

judgements made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report, if a report is to be issued, in order to determine whether to provide concurring approval of issuance.[1209]

822. In particular, the EQR should hold discussions with the engagement partner and other members of the engagement team and review documentation, in order to evaluate the significant judgments that relate to engagement planning, including the firm's recent engagement experience with the company, the company's business, recent significant activities, related financial reporting issues and risks, and the nature of identified risk of material misstatement due to fraud.[1210]

823. Among other things, the EQR should also evaluate whether appropriate consultations with management have taken place and review the documentation, including

[1207] Ex. 747 (Q1 engagement summary memo).
[1208] AS 7.1; *see also* Ex. 88.1 (Devor Report) ¶ 686.
[1209] AS 7.2; *see also* Ex. 88.1 (Devor Report) ¶ 687.
[1210] AS 7.14-16; *see also* Ex. 88.1 (Devor Report) ¶ 691.

conclusions of such consultations, and whether appropriate matters have been communicated to management.[1211]

824. The EQR should also review the interim financial information for all periods presented and for the immediately preceding interim period, and management's disclosures about any changes in internal control over financial reporting.[1212]

LIE #824 Footnote 1212 references **AS 7.14. AS 7.14** doesn't say this pretty anything that is in Division Proposed #824. Here is **AS 7.14** in its native format no eraser, unchanged.

AS 7. 14. "In an engagement to review interim financial information, the engagement quality reviewer **should** evaluate the significant judgments made by the engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report, if a report is to be issued. To evaluate such judgments and conclusions, the engagement quality reviewer should, to the extent necessary to satisfy the requirements of paragraphs 15 and 16: (1) hold discussions with the engagement partner and other members of the engagement team, and (2) review documentation."

825. **In addition,** in a review of interim financial information, the EQR should evaluate

whether the engagement documentation supports the conclusions reached by the engagement team with respect to the matters reviewed.[1213]

Lie #825 Here is **AS 7.16** in its native format. Not quite all of it.

AS 7.16. "In a review of interim financial information, the engagement quality reviewer should evaluate whether the engagement documentation **that he or she reviewed when performing the procedures required by paragraph 15** supports the conclusions reached by the engagement team with respect to the matters reviewed."

826. In a review of interim financial information, the EQR may provide concurring approval of issuance only if, after performing with due professional care the review required by AS 7, the EQR is not aware of any significant engagement deficiency. A deficiency exists, for purposes of the EQR review, when the engagement team **fails** to perform interim procedures necessary in the circumstances of the engagement or where the engagement team reaches an inappropriate overall conclusion on the subject matter of the engagement (**including whether material modifications to the interim financial statements under review would be necessary for such to comply with GAAP**).[1214]

Lie #826 This is amazing, the Division and Devor remove "**significan**t" from Note: A "**significant engagement deficiency**". Then they decide to add this entire new statement not even in the standard "**Including**

<u>whether material modifications to the interim financial statements under review would be necessary for such to comply with GAAP</u>"

The Division and Devor also miss points 3 and 4 highlighted in bold and underlined in the standard. The Division and Devor don't respect the laws, US GAAP and GAAS they must be desperate……..so they changed them. Lied about the rules to get their result.

Here is **AS 7.17** in its native format below.

AS 7.17. In a review of interim financial information, the engagement quality reviewer may provide concurring approval of issuance only if, after performing with due professional care the review required by this standard, he or she is not aware of a significant engagement deficiency.

Note: A ***significant*** *engagement deficiency* in a review of interim financial information exists when (1) the engagement team failed to perform interim review procedures necessary in the circumstances of the engagement, (2) the engagement team reached an inappropriate overall conclusion on the subject matter of the engagement, **<u>(3) the</u>**

engagement report is not appropriate in the circumstances, or (4) the firm is not independent of its client.

827. Finally, the documentation of an EQR should contain sufficient information to enable an experienced auditor, having no previous connection with the engagement, to understand the procedures performed by the EQR.[1215]

[1211] AS 7.15; *see also* Ex. 88.1 (Devor Report) ¶ 691.
[1212] AS 7.14; *see also* Ex. 88.1 (Devor Report) ¶ 692.
[1213] AS 7.16; *see also* Ex. 88.1 (Devor Report) ¶ 692.
[1214] AS 7.17; *see also* Ex. 88.1 (Devor Report) ¶ 693.
[1215] AS 7.19; *see also* Ex. 88.1 (Devor Report) ¶ 693.

828. Chung was the EQR for Anton & Chia's first quarter of 2013 review of CannaVEST.[1216]

829. In his investigative testimony, **Wahl acknowledged that his wife, Chung, had not been involved in the auditing business for three to four years as of 2013**, and was the EQR on CannaVEST's first quarter interim review only because Anton & Chia's other partner, David Ruan, had left.[1217]

The date of Wahl's investigative testimony was **January 21, 2016**. The Division changed Wahl's testimony from 2016 to 2013 to basically imply that Chung had no experience in 2013. With all the resources the Division has against us they resort to lying and cheating to get their precious result its disgusting behavior to attempt to use Wahl's own mischaracterized testimony against his wife. Here it is in native format.

Page 355 Lines 8-17.

Q Are you both -- is your wife an audit partner?

A She's not involved in the business really anymore ("**As of January 21, 2016**"). I mean I put her in there because she's, technically, an equity partner, but she's not involved in the business.

Q She's not involved in performing now day-to-day engagement activities?

A No. She hasn't been for a long time, three years, four years ("**as of January 21, 2016"**).

Page 364 Lines 4-13.

Q Both. So first, for the 2013 first – second quarter -- second and third quarter reviews, who was the quality control partner now?

A Well, when this review happened, we only had two partners; technically, three with my wife. So Dave Ruan left at that -- at that time. So that's why my wife signed off as EQR on Q1. Now, when you say "quality control," you mean like someone who sits there and crosses the T's and dots the I's, like a technical resource; is that correct?

830. In connection with her role as the EQR for the first quarter of 2013 interim review for CannaVEST, Chung failed to conduct an adequate engagement quality review in that she failed to properly evaluate, among other things, the planning of the engagement, the sufficiency of the inquiries made and analytical procedures performed, the sufficiency of any evidence obtained, or evidence of which the engagement team should have been aware, and the engagement team's significant judgments. As a result, Chung failed to identify significant engagement deficiencies in the interim

review. Specifically, Chung failed to identify that the engagement team did not properly plan the engagement, did not make adequate inquiries of management, did not prepare adequate documentation for the engagement, and inappropriately concluded that CannaVEST's first quarter financial statements did not require any material modifications to conform with GAAP.[1218]

Lie #830 This is more of Devor's opinions he cant tie this to any US GAAS or GAAP standard and it should be thrown out. The Division and Devor have fraudulently made changes in this document regarding the Authoritative Guidance under US GAAP and GAAS. It needs to stop. This is clearly a systemic problem.

831. Anton & Chia, during the planning of the first quarter of 2013 review, and throughout its procedures, failed to address that a material weakness existed within CannaVEST's system of internal control over financial reporting, specifically with respect to

[1216] Ex. 839.6 (Prior Testimony Designations) 360 (July 1, 2019 Chung AP Dep. Tr. at 57:11-16).
[1217] Ex. 839.6 (Prior Testimony Designations) 195, 200 (Jan. 21, 2016 Wahl Inv. Test. at 355:8-17, 364:4-13).
[1218] Ex. 88.1 (Devor Report) ¶ 700); Ex. 759 (Q1 planning memo); Ex. 784 (Q1 inquiries checklist); Ex. 850 (Q1 balance sheet analytics); Ex. 747 (Q1 engagement summary memo); Ex. 745 (Q1 supervision, review, and approval form).

CannaVEST's lack of qualified accounting personnel. This included Anton & Chia's failure to assess whether the material weakness would increase the **risk of material misstatements** in CannaVEST's first quarter financial statements, and its failure to plan interim review procedures accordingly to address that risk, such as performing additional inquiries or other procedures.

Chung failed to identify these planning failures.[1219]

Lie #831 This is more of Devor's opinions and nonsense. There is no requirement in US GAAS for an interim review to identify a Material Weakness. Auditors do not test controls in an inerim review. There is no requirement under **AU 722** to assess material weakenesses in internal control as part of their review. The language for "risk of material mistatements" is not review language, review standard is "material modification".

832. Chung also failed to identify that the engagement team did not make appropriate inquiries of CannaVEST's management regarding the $35 million value recorded on CannaVEST's balance sheet related to the PhytoSphere acquisition. For example, Chung failed to identify that the engagement team did not make inquiries of management for the fair value of the consideration, *i.e.*, the fair value of CannaVEST's shares as of January 29, 2013, or the fair value of the PhytoSphere assets. As the EQR, Chung should have identified that the engagement team failed to make these critical inquiries regarding the value related to fair value.[1220]

Lie #832 The SEC and Devor "failed" to read US GAAP and GAAS. The shares price has nothing to do with the purchase price. Its management's responsibility to determine the purchase price allocation. There is no requirement in US GAAP or GAAS to obtain a valuation (**TR 2941 Lines 14-17; TR 3260 Lines 11-17 & Lines 21-25**).

Wahl had multiple conversations with John Creary and CannaVEST management regarding the purchase and the purchase price allocation, even while he and Chung were visiting Wahl's parents in Canada. Wahl and Chung discussed the transaction multiple times. The purchase price allocation is the responsibility of management. This does not mean its incorrect or a violation of US GAAP. This is where the Division and Devor have made up a fake and fraudulent case against respondents.

ASC 805 10-25-13: "The Measurement Period: **If the initial accounting for a business combination is** incomplete by the end of the reporting period in the which the combination occurs, the acquirer shall report in **its financial statements provisional amounts for the items for which the**

accounting is incomplete."

During the measurement period, in which accordance with paragraph **805-10-25-17**, the acquirer shall adjust the provisional amounts recognized at the acquisition date to reflect new information obtained about facts and circumstances that existed as the acquisition date that, if known, would have affected the measurement amounts recognized as of the date.

ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional assets or liabilities if new information is obtained about facts and circumstances that existed as of the acquisition date that, if known, would resulted in the recognition of those assets and liabilities as of the date. The* measurement period ends as soon as the acquirer receives the information it was seeking about facts and ***circumstances that existed as of the acquisition date or learns that more information is not obtainable.*** *However, the measurement period* ***shall not exceed one year from the acquisition date****."*

833. In fact, in her investigative testimony, Chung acknowledged that she would, in general, for a transaction similar in size to the PhytoSphere acquisition, request a valuation of the subject assets, as well as inquire about whether the company had performed due diligence in connection with the acquisition.[1221]

Lie #833 There is no requirement under US GAAP or GAAS to obtain a valuation report. Determining the fair value of the assets and liabilities related to the purchase price is not the auditors' responsibility. It's managements responsibility.

834. Anton & Chia, however, failed to make such inquiries and Chung did not ask the engagement team to make inquiries of CannaVEST management to obtain such a valuation.[1222]

LIE #834 See **LIE #833.** A&C did request a valuation report (**TR 2941 Lines 14-17; TR 3260 Lines 11-17 & Lines 21-25**) but it wasn't provided until Q3 2013 and it was merely a draft, unreliable, didn't provide for a 4th updated purchase price allocation (**TR 2991 Lines 1-13; TR 3009 Lines 12-21; TR 3010 Lines 10-28**).

835. In addition, Chung failed to identify that the engagement team was not thinking about the fair value of PhytoSphere acquisition, as evidenced by the engagement team

[1219] Ex. 88.1 (Devor Report) ¶ 701; Ex. 759 (Q1 planning memo).
[1220] Ex. 88.1 (Devor Report) ¶ 701; Ex. 784 (Q1 inquiries checklist).
[1221] Ex. 839.6 (Prior Testimony Designations) 318-319 (Feb. 8, 2016 Chung Inv. Test. at 63-64.
[1222] Ex. 745 (Q1 supervision, review, and approval form).

inappropriately check marking "no" to the inquiry "…has the fair value of financial assets and liabilities… been measured and disclosed in accordance with GAAP?"[1223]

LIE #835 The SEC and Devor "failed" to read US GAAP and GAAS. The shares price has nothing to do with the purchase price. Its management's responsibility to determine the purchase price allocation. There is no requirement in US GAAP or GAAS to obtain a valuation(**TR 2941 Lines 14-17; TR 3260 Lines 11-17 & Lines 21-25**).

Wahl had multiple conversations with John Creary and CannaVEST management regarding the purchase and the purchase price allocation, even while he and Chung were visiting Wahl's parents in Canada. Wahl and Chung discussed the transaction multiple times. The purchase price allocation is the responsibility of management. This does not mean its incorrect or a violation of US GAAP. This is where the Division and Devor have made up a fake and fraudulent case against respondents.

ASC 805 10-25-13: "The Measurement Period: **If the initial accounting for a business combination is** incomplete by the end of the reporting period in the which the combination occurs, the acquirer shall report in

its financial statements provisional amounts for the items for which the accounting is incomplete."

During the measurement period, in which accordance with paragraph **805-10-25-17**, the acquirer shall adjust the provisional amounts recognized at the acquisition date to reflect new information obtained about facts and circumstances that existed as the acquisition date that, if known, would have affected the measurement amounts recognized as of the date.

ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional assets or liabilities if new information is obtained about facts and circumstances that existed as of the acquisition date that, if known, would resulted in the recognition of those assets and liabilities as of the date. The* measurement period ends as soon as the acquirer receives the information it was seeking about facts and ***circumstances that existed as of the acquisition date or learns that more information is not obtainable.*** *However, the*

measurement period ***shall not exceed one year from the acquisition date.”***

836. Chung also failed to identify that the work papers did not even mention the applicable accounting standards to the PhytoSphere acquisition, ASC 805 (*Business Combinations*) and ASC 820 (*Fair Value Measurement*).[1224]

LIE #836 ASC 805 and **ASC 820** is a US GAAP standard and is the responsibility of CannaVEST management. Even if A&C did ascribe **ASC 805** and **ASC 820** the Division and Devor would have convinced the judge that they weren’t using the correct version because in their version they changed **ASC 805** and **ASC 820**.

837. Furthermore, Chung failed to identify that the engagement team did not prepare adequate documentation for the Q1 interim review. For example, Chung should have identified that the work papers were devoid of any inquiries regarding the fair value of PhytoSphere acquisition. In addition, Chung should have identified that the planning memo did not document CannaVEST’s material weakness related to its lack of qualified accounting personnel, the associated risk of material misstatement, and plans to address that risk.[1225]

LIE #837 See LIE #803.

838. Lastly, Chung failed to identify that the engagement team reached an

inappropriate overall conclusion on the CannaVEST first quarter interim review in that the engagement team did not identify that CannaVEST's first quarter financial statements required material modifications to conform with GAAP.[1226]

LIE #838 The purchase price allocation is the responsibility of management. If management does not have all the information available at the end of the quarter. This does not mean its incorrect or a violation of US GAAP.

ASC 805 10-25-13: "The Measurement Period: **If the initial accounting for a business combination is** incomplete by the end of the reporting period in the which the combination occurs, the acquirer shall report in **its financial statements provisional amounts for the items for which the accounting is incomplete**."

During the measurement period, in which accordance with paragraph **805-10-25-17**, the acquirer shall adjust the provisional amounts recognized at the acquisition date to reflect new information obtained about facts and circumstances that existed as the acquisition date that, if known, would have affected the measurement amounts recognized as of the date.

ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional assets or liabilities if new information is obtained about facts and circumstances that existed as of the acquisition date that, if known, would resulted in the recognition of those assets and liabilities as of the date.* ***The*** measurement period ends as soon as the acquirer receives the information it was seeking about facts and ***circumstances that existed as of the acquisition date or learns that more information is not obtainable.*** *However, the measurement period* ***shall not exceed one year from the acquisition date****."*

839. To complete her engagement quality review, Chung had to review and sign off on the supervision, review, and approval form. The staff in charge of fieldwork, the engagement partner, and the EQR were supposed to sign-off on this checklist prior to CannaVEST filing its Form 10-Q.[1227]

[1223] Ex. 784 (Q1 inquiries checklist).
[1224] Ex. 759 (Q1 planning memo); Ex. 747 (Q1 engagement summary memo).
[1225] Ex. 759 (Q1 planning memo); Ex. 784 (Q1 inquiries checklist); Ex. 850 (Q1 balance sheet analytics); Ex. 747 (Q1 engagement summary memo).
[1226] Ex. 747 (Q1 engagement summary memo).
[1227] Ex. 745 (Q1 supervision, review, and approval form).

840. In reviewing the approval form, Chung marked "not applicable" to the question of "whether appropriate consultations have taken place on difficult or contentious matters, or significant unusual transactions." Chung, in fact, specifically documented in the comments section that "none is necessary."[1228]

Lie #840 That is correct statement, if Devor and the Division actually had audited or reviewed a public company in accordance with PCAOB standards in their life they would realize this is a correct statement. See **LIE #838**.

841. The engagement team elsewhere in its work papers had identified the PhytoSphere acquisition as "significant," and documented in its first quarter inquiries checklist that CannaVEST had an "unusual or complex situation or significant unusual transactions" during the quarter that could impact the financial statements.[1229]

Lie #841 That is correct statemetn, if Devor and the Division actually had audited or reviewed a public company in accordance with PCAOB standards in their life they would realize this is a correct statement. See **LIE #838**.

842. Chung marking "not applicable" to the question of whether appropriate consultations had taken place on significant unusual transactions further demonstrates her failure to conduct an appropriate engagement quality review and exercise due professional care in the performance of her work.[1230]

LIE #842 That is correct statement, if Devor and the Division actually had audited or reviewed a public company in accordance with PCAOB standards in their life they would realize this is a correct statement. See **LIE #838**.

f. Chung's Failure to Exercise Due Professional Care during the First Quarter of 2013 Interim Review

843. PCAOB Standard AS No. 7, *Engagement Quality Review*, **requires** that an EQR perform her review with due professional care.[1231] Under PCAOB Standard AU § 230, *Due Professional Care in the Performance of Work*, due professional care requires that an accountant exercise professional skepticism, which is an attitude that includes a questioning mind and a critical assessment of the evidence.[1232]

LIE #843 The Division and Devor changed US GAAS again replaced "**may provide**" with "**requires**"**. AS 7.17** "In a review of interim financial information, the engagement quality reviewer **may provide** concurring approval of issuance only if, after performing with due professional care the review required by this standard, he or she is not aware of a significant engagement deficiency."

In reference to Due Care are they using the standards under **LIE #48 AU 230; AU 230.03; AU 230.05; AU 230.07; AU 230.08** and **LIE #53 AU**

230.05, where they changed the standard, so which standard are they referencing?

844. Chung failed to exercise due professional care and failed to exercise a sufficient level of professional skepticism when providing an engagement quality review for CannaVEST's

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[1228] *Id.*
[1229] Ex. 839.6 (Prior Testimony Designations) 231 (Oct. 27, 2015 Wahl Inv. Test. at 68); Ex. 784 (Q1 inquiries checklist).
[1230] Ex. 88.1 (Devor Report) ¶ 705.
[1231] AS No. 7.17.
[1232] AU § 230.07.

first quarter interim review. As a result, Chung failed to identify that the interim review had significant engagement deficiencies, which included planning failures, not performing adequate inquiries, not preparing adequate documentation, and not identifying that CannaVEST's first quarter financial statements required material modifications to conform to GAAP.[1233]

LIE #844 See LIE #843. The purchase price allocation is the responsibility of management. If management does not have all the information available at the end of the quarter, this does not mean its incorrect or a violation of US GAAP (**TR 2991 Lines 1-13; TR 3009 Lines 12-21; TR 3010 Lines 10-18**).

ASC 805 10-25-13: "The Measurement Period: **If the initial accounting for a business combination is** incomplete by the end of the reporting period in the which the combination occurs, the acquirer shall report in **its financial statements provisional amounts for the items for which the accounting is incomplete**."

During the measurement period, in which accordance with paragraph **805-10-25-17**, the acquirer shall adjust the provisional amounts recognized at the acquisition date to reflect new information obtained about facts and circumstances that existed as the acquisition date that, if

known, would have affected the measurement amounts recognized as of the date.

ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional assets or liabilities if new information is obtained about facts and circumstances that existed as of the acquisition date that, if known, would resulted in the recognition of those assets and liabilities as of the date.* ***The*** measurement period ends as soon as the acquirer receives the information it was seeking about facts and ***circumstances that existed as of the acquisition date or learns that more information is not obtainable.*** *However, the measurement period* ***shall not exceed one year from the acquisition date****."*

g. Chung's Lack of Competency to Act as an EQR

845. The EQR must be competent to perform the review. Specifically, the EQR must possess the level of knowledge and competence related to accounting, auditing, and financial reporting required to serve as the engagement partner on the engagement under review.[1234]

846. Chung was not qualified to act as the EQR because she lacked the requisite level of knowledge and competence required under PCAOB standard AS 7.[1235]

Lie #846 This is simply a matter of pure opinion. Ms. Chung was a second partner on one interim review, in an emergency capacity. Ms. Chung was not leading as the engagement partner on the audit of Enron or General Motors.

847. Prior to 2009, Chung had limited accounting experience in entry-level positions. From April 2005 to November 2006, she was employed as a staff accountant at audit firm, Grobstein, Horwath & Company.[1236] Thereafter, from November 2006 to December 2008, she worked as an internal auditor at the Automobile Club of Southern California.[1237] In those capacities, she never acted as an engagement partner or a manager.[1238]

Lie #847 This further mischaractrizes Ms. Chung's work experience and professional background.

848. Chung also did not obtain any relevant experience at Anton & Chia. During the five-year period she was involved with Anton & Chia, Chung was the engagement quality reviewer for only approximately three engagements, one of which was CannaVEST. Chung did

[1233] Ex. 88.1 (Devor Report) ¶ 707; Ex. 759 (Q1 planning memo); Ex. 784 (Q1 inquiries checklist); Ex. 850 (Q1 balance sheet analytics); Ex. 747 (Q1 engagement summary memo); Ex. 745 (Q1 supervision, review, and approval form).

[1234] AS 7.5; *see also* Ex. 88.1 (Devor Report) ¶ 690.
[1235] Tr. (Vol. VI Devor) 1601:16-1603:21.
[1236] Ex. 875 (Chung background questionnaire); Ex. 839.6 (Prior Testimony Designations) 349-352, (July 1, 2019 Chung AP Dep. Tr. at 46:1-48:12, 49:20-25).
[1237] Ex. 875 (Chung background questionnaire); Ex. 839.6 (Prior Testimony Designations) 349, 353-355, 361 (July 1, 2019 Chung AP Dep. Tr. at 46, 50-52, 59:22-25).
[1238] *Id.* at 61 (AP Dep. Tr. 59:22-25).

not work on any other engagements while at Anton & Chia, and never acted as a manager or an engagement partner. Chung could not even recall whether she was partner at Anton & Chia.[1239]

849. At the time she served as the engagement quality reviewer in connection with Anton & Chia's review of CannaVEST's first quarter of 2013 financial statements, Chung was nearly five years removed from doing any accounting and auditing work.[1240]

850. Chung claimed that she had a copy of AS 7 whenever she did an interim review, and thus knew or at a minimum should have known that she did not satisfy the AS 7.5 competency standard.[1241] At her July 2019 deposition, Chung could not say whether she would have been comfortable serving as the engagement partner on the CannaVEST first quarter of 2013 engagement.[1242]

851. Furthermore, Chung could not recall having any experience in applying ASC 805 or ASC 820.[1243]

Lie #851 Ms. Chung had enough knowledge of ASC 805 and ASC 820 to understand that the purchase price allocation is the responsibility of management. If management does not have all the information available at the end of the quarter. This does not mean its incorrect or a violation of US GAAP (**TR 2992 Lines 1-13; TR 3009 Lines 12-21; TR 3010 Lines 10-18**).

ASC 805 10-25-13: "The Measurement Period: **If the initial accounting for a business combination is** incomplete by the end of the reporting

period in the which the combination occurs, the acquirer shall report in **its financial statements provisional amounts for the items for which the accounting is incomplete**."

During the measurement period, in which accordance with paragraph **805-10-25-17**, the acquirer shall adjust the provisional amounts recognized at the acquisition date to reflect new information obtained about facts and circumstances that existed as the acquisition date that, if known, would have affected the measurement amounts recognized as of the date.

ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional assets or liabilities if new information is obtained about facts and circumstances that existed as of the acquisition date that, if known, would resulted in the recognition of those assets and liabilities as of the date.* ***The*** measurement period ends as soon as the acquirer receives the information it was seeking about facts and ***circumstances that existed as of the acquisition date or learns that more information is not obtainable.*** *However, the*

measurement period ***shall not exceed one year from the acquisition date.”***

852. Because Chung lacked the level of knowledge and competence required to serve as the engagement partner, she was not competent to act as the EQR on the CannaVEST first quarter interim review.[1244]

Lie #852 SEE **LIE #853.**

853. David Ruan resigned in April 2013, leaving Anton & Chia with just two partners: Wahl and Chung. Shek did not think Chung was competent to serve as the EQR on CannaVEST’s first quarter interim review.[1245]

Lie #853 Shek after 5 years of professional practice experience. Shek attempted to absolve himself of any responsibility on Q1 and if Shek did some basic research and had nominal understanding of ASC 805 and ASC 820 that he did not. See **LIE #51**. He wouldn’t have settled. Shek is providing his opinion based on being bullied into a settlement.

[1239] *Id.* at 346, 349, 360-361-362 (AP Dep. Tr. 25:1-20, 46:13-15, 57:11-16, 59:15-17, 60:1-20).
[1240] *Id.* at 349, 353-355, 361 (AP Dep. Tr. 46, 50-52, 59); Ex. 875 (Chung background questionnaire).
[1241] Ex. 839.8 (Addendum to the Prior Testimony Designations) 11 (February 8, 2016 Chung Inv. Test. at 110:3-13).
[1242] *Id.* at 452 (AP Dep. Tr. 184) (Q. And you never worked as an engagement partner at Anton & Chia. Correct? A. No. Q. And you never worked as an engagement partner in any capacity for any company prior to working for Anton & Chia. Correct? A. I don’t recall. Q. Would you have felt comfortable being the engagement partner conducting, managing this review on CannaVEST? A. I can’t answer that question.).
[1243] *Id.* at 355-358 (AP Dep. Tr. 52-55).
[1244] AS 7.5; *see also* Ex. 88.1 (Devor Report) ¶ 697.
[1245] Tr. (Vol. VIII Shek) 2431:15-2432:13.

854. Shek did not observe Chung doing any work on the CannaVEST engagement. Nor did she ask Shek any questions with respect to the judgments and decisions that the engagement team had made.[1246]

Lie #854 Shek didn't make any judgments and decisions because Wahl had handled it with Chung from May 20th to May 30th. Shek obviously doesn't remember the planning meeting on May 16, 2013 (**See Exhibit 1003**) where Chung, La, SHek and Wahl all attended the meeting.

In April 2013 it was confirmed A&C was planning to become the auditor of CannaVEST. **Exhibit 703** shows the board approved A&C as their auditor on May 3, 2013. On May 9, 2013, Anton & Chia sent a request to CannaVEST for various financial information, with a requested delivery date of May 11, 2013. Planning meeting occurred on May 16, 2013 with Shek, Wahl, La and Chung in attendance **(Exhibit 1003)**. Cannavest didn't issue its Form 10-Q until May 30, 2013 **(Exhibit 706)** when A&C received the management representation letter **(Exhibit 1000)**.

855. Shek did not believe that Chung possessed the necessary skills to review the

PhytoSphere transaction, or the independence to question or challenge Wahl, in her capacity as EQR, since she was his wife.[1247]

LIE #855 Shek attended the planning with Chung see **Exhibit 1003**. If Shek truly believed this he could of objected to using Chung as an EQR at the planning meeting on May 16, 2016. Shek did not. Sounds like Shek was bullied into saying this after the fact by the Division.

856. Shek had no interaction with Chung during the first quarter interim review of CannaVEST; for that matter, he had **no interaction with her during the four years of his employment at Anton & Chia.**[1248]

Lie #856 Shek attended the planning meeting with Chung see **Exhibit 1003**. Hard to believe Shek didn't have any interactions with Ms. Chung during his four year and half year employment. Specifically, Ms. Chung recalls meeting with Shek September 4, 2012 when A&C merged in a practice in San Diego; Ms. Chung attended the firm's Christmas parties from 2012 to 2015 where Shek was there; Wahl invited Shek and his wife for dinner at Wahl & Chung's home, Ms. Chung was there, Shek's wife went with Ms. Chung to a neighbor's place for drinks; after Wahl helped Shek to buy his house, Shek invited Wahl's family to his house warming party, which Ms. Chung was in attendance (See pictures

attached). A&C's quarterly parties in 2014 Shek attended those parties and interacted in Ms. Chung.

Ms. Chung also attended training which was put on by Shane Garbutt and Shek was in attendance at these same firm trainings.

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Q. Did you work for Ms. Georgia Chung? A. I Don't believe so. I think she was at a few trainings, but I don't think I worked on any engagement with her.

Specifically, to China engagements and / or marketing activities, Wahl heavily relied on Shek's and Ms. Chung's input into those engagements.

A picture is worth a thousand words, attached are pictures of:

1) Shek standing with Ms. Chung at A&C's office closing a merger September 4, 2012.

2) Shek and his wife at Wahl's house interacting with Ms. Chung.

3) Chung and Shek's daughters playing together at Shek's house warming party after Wahl gave Shek $5,000 to complete the purchase.

857. Shek did not observe Chung doing any work on the CannaVEST engagement. Nor did she ask Shek any questions with respect to the judgments and decisions that the engagement team had made.[1249]

Lie #857. Shek testified he was not competent in **ASC 805** and **ASC 820** so why would Chung risk her license by talking to Shek.

858. La did not have confidence in Chung that Anton & Chia's interim review and **audit work** was being done properly.[1250]

Lie #858 La had 5 months of audit experience if that. If "La did not have confidence" he could have resigned, not signed off on the working papers.

La attended the planning with Chung see **Exhibit 1100**. If La truly believed this he could have objected to using Chung as an EQR at the planning meeting on May 16, 2016. La did not. Sounds like La was bullied into saying this after the fact by the Division.

There was no "**audit work**" being completed for CannaVEST or by Ms. Chung. This statement is not factual.

859. La had no interaction with Chung during the first quarter interim review of CannaVEST.[1251]

Lie #859 LA attended the planning meeting with Chung see **Exhibit 1003.** EQR's don't typically interact with staff accountants like La that have no experience.

2. Second Quarter 2013.

860. Wahl also failed to perform the review of CannaVEST's interim financial statements for the second quarter of 2013 in accordance with PCAOB standards. As a result of such deficiencies, Wahl failed to determine and conclude that CannaVEST's interim financial

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[1246] *Id.* at 433:1-17, 2434:4-21.
[1247] *Id.* at 374:19-2375:13; Ex.726 (Shek supplemental Wells submission).
[1248] *Id.* at 431:5-14.
[1249] *Id.* at 433:1-17, 2434:4-21.
[1250] Tr. (Vol. X La) 2860:25-2861:25-2861:9.
[1251] *Id.* at 845:12-2846:3.

statements for the second quarter required material modification to be in conformity with GAAP. Wahl's deficiencies included the failure to:

- properly plan the review;
- exercise an appropriate level of due professional care and professional skepticism;
- appropriately consider and/or address known red flags;
- obtain an understanding of CannaVEST's business and the PhytoSphere acquisition;
- sufficiently assess evidence obtained; and
- sufficiently document information relevant to the interim review.[1252]

Lie #860 This is simply a laundry list of allegations that are not tied to any specfic US GAAS or PCAOB cited paragraph within an applicable standard with no supporting evidence. Devor's mindless and insufficient opinions from a biased and discredited CPA.

The purchase price allocation is the responsibility of management. If management does not have all the information available at the end of the quarter. This does not mean its incorrect or a violation of US GAAP.

ASC 805 10-25-13: "The Measurement Period: **If the initial accounting for a business combination is** incomplete by the end of the reporting period in the which the combination occurs, the acquirer shall report in

its financial statements provisional amounts for the items for which the accounting is incomplete."

During the measurement period, in which accordance with paragraph **805-10-25-17**, the acquirer shall adjust the provisional amounts recognized at the acquisition date to reflect new information obtained about facts and circumstances that existed as the acquisition date that, if known, would have affected the measurement amounts recognized as of the date.

ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional assets or liabilities if new information is obtained about facts and circumstances that existed as of the acquisition date that, if known, would resulted in the recognition of those assets and liabilities as of the date.* ***The*** measurement period ends as soon as the acquirer receives the information it was seeking about facts and ***circumstances that existed as of the acquisition date or learns that more information is not obtainable.*** *However, the*

measurement period ***shall not exceed one year from the acquisition date.”***

a. Deficiencies in Planning the Interim Review

861. According to Anton & Chia’s *Review Planning Memorandum* dated July 30, 2013, the same engagement team was to perform the interim review for the second quarter of 2013 that had performed the first quarter of 2013, but for a change in the EQR. The EQR for the second quarter interim review was Richard Koch.[1253]

862. The second quarter 2013 planning memo again did not making any inquiries into the fair value of the CannaVEST stock as of January 29, 2013, the fair value of PhytoSphere, or applying ASC 805 or ASC 820. Instead, the planning memo vaguely stated, as it had for the first quarter of 2013, that Anton & Chia “will make inquiries of management to ensure that provided financials are properly presented and repayment procedure is valid…” *Id.*

Lie #862 Devor and the Division didn’t reconcile **Exhibit 1001** where on **page 3** A&C reconciles the purchase price allocations and explains the changes.

The purchase price allocation is the responsibility of management. If management does not have all the information available at the end of the quarter. This does not mean its incorrect or a violation of US GAAP.

ASC 805 10-25-13: “The Measurement Period: **If the initial accounting for a business combination is** incomplete by the end of the reporting

period in the which the combination occurs, the acquirer shall report in **its financial statements provisional amounts for the items for which the accounting is incomplete**."

During the measurement period, in which accordance with paragraph **805-10-25-17**, the acquirer shall adjust the provisional amounts recognized at the acquisition date to reflect new information obtained about facts and circumstances that existed as the acquisition date that, if known, would have affected the measurement amounts recognized as of the date.

ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional assets or liabilities if new information is obtained about facts and circumstances that existed as of the acquisition date that, if known, would resulted in the recognition of those assets and liabilities as of the date.* ***The*** measurement period ends as soon as the acquirer receives the information it was seeking about facts and ***circumstances that existed as of the acquisition date or learns that more information is not obtainable.*** *However, the*

measurement period ***shall not exceed one year from the acquisition date.”***

863. Furthermore, the planning memo again did not mention CannaVEST’s material weakness in internal controls related to its lack of qualified accounting personnel, how that risk

[1252] Ex. 88.1 (Devor Report) ¶ 708.
[1253] Ex. 808 (Q2 planning memo).

could increase the likelihood of misstatements, and plans by Anton & Chia to address that risk, such as performing additional review procedures. *Id.* The material weakness in internal control over financial reporting had previously been identified by management both as of December 31, 2012 and as of March 31, 2013. The failure to consider the existence of such material weakness for purposes of the second quarter 2013 interim review increased the risk that necessary material modifications to CannaVEST's financial statements might not be detected as a result of Anton & Chia's review procedures.[1254]

Exhibit 1001 On **page 3** A&C reconciles the purchase price allocations and explains the changes provided by CannaVest management.

The purchase price allocation is the responsibility of management. If management does not have all the information available at the end of the quarter. This does not mean its incorrect or a violation of US GAAP.

ASC 805 10-25-13: "The Measurement Period: **If the initial accounting for a business combination is** incomplete by the end of the reporting period in the which the combination occurs, the acquirer shall report in **its financial statements provisional amounts for the items for which the accounting is incomplete**."

During the measurement period, in which accordance with paragraph **805-10-25-17**, the acquirer shall adjust the provisional amounts

recognized at the acquisition date to reflect new information obtained about facts and circumstances that existed as the acquisition date that, if known, would have affected the measurement amounts recognized as of the date.

ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional assets or liabilities if new information is obtained about facts and circumstances that existed as of the acquisition date that, if known, would resulted in the recognition of those assets and liabilities as of the date. The* measurement period ends as soon as the acquirer receives the information it was seeking about facts and ***circumstances that existed as of the acquisition date or learns that more information is not obtainable.*** *However, the measurement period* ***shall not exceed one year from the acquisition date****."*

b. Deficiencies in Inquiries and Analytical Procedures

864. For the second quarter of 2013, CannaVEST's made significant changes to the manner in which it had allocated the $35,000,000 purchase price to the PhytoSphere assets purportedly acquired.[1255]

Lie #864 Exhibit 1001 On **page 3** A&C reconciles the purchase price allocations and explains the changes provided by CannaVest management.

The purchase price allocation is the responsibility of management. If management does not have all the information available at the end of the quarter. This does not mean its incorrect or a violation of US GAAP.

ASC 805 10-25-13: "The Measurement Period: **If the initial accounting for a business combination is** incomplete by the end of the reporting period in the which the combination occurs, the acquirer shall report in **its financial statements provisional amounts for the items for which the accounting is incomplete**."

During the measurement period, in which accordance with paragraph **805-10-25-17**, the acquirer shall adjust the provisional amounts

recognized at the acquisition date to reflect new information obtained about facts and circumstances that existed as the acquisition date that, if known, would have affected the measurement amounts recognized as of the date.

ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional assets or liabilities if new information is obtained about facts and circumstances that existed as of the acquisition date that, if known, would resulted in the recognition of those assets and liabilities as of the date.* ***The*** measurement period ends as soon as the acquirer receives the information it was seeking about facts and ***circumstances that existed as of the acquisition date or learns that more information is not obtainable.*** *However, the measurement period* ***shall not exceed one year from the acquisition date****."*

865. Anton & Chia's work paper entitled *Balance Sheet Analytics* for the second

quarter of 2013 also reflected these changes to the allocation of the purchase price, but the work papers did not provide reasons or explanations for the changes in the allocation, nor was there apparent further analysis regarding such changes.[1256]

Lie #865 Exhibit 1001 On **page 3** A&C reconciles the purchase price allocations and explains the changes provided by CannaVest management.

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During the measurement period, in which accordance with paragraph **805-10-25-17**, the acquirer shall adjust the provisional amounts recognized at the acquisition date to reflect new information obtained

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866. For example, from the first quarter to the second quarter of 2013, CannaVEST decreased the value of its right to purchase CBD oil from $11.5 million to $947,388, and increased the value of its goodwill from $17,535,000 to $26,998,125. These significant changes in individual asset balances should have been a red flag to Anton & Chia regarding the accuracy of the $35 million total asset value recorded on the balance sheet. None of these significant

[1254] Tr. (Vol. X Stewart) 2947:21-2948:11; Tr. (Vol. VI Devor) 1568:24-1570:16, 1581:15-1583:8 ("the entire first quarter review as well as subsequent ones needs to be done with awareness and understanding that there is a material internal control relating to – directly to the preparation of financial statements.").
[1255] Exs. 843 & 843.1 (Aug. 1, 2013 email from Canote spreadsheet with intangibles tab attached).
[1256] Ex. 851 (Q2 balance sheet analytics).

changes were addressed by Anton & Chia in its second quarter 2013 analytical procedures. This is despite the fact that the PhytoSphere assets comprised nearly all of CannaVEST's total assets as of March 31, 2013 and June 30, 2013.[1257]

Lie #866 Exhibit 1001 On **page 3** A&C reconciles the purchase price allocations and explains the changes provided by CannaVest management.

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ASC 805 10-25-13: "The Measurement Period: **If the initial accounting for a business combination is** incomplete by the end of the reporting period in the which the combination occurs, the acquirer shall report in **its financial statements provisional amounts for the items for which the accounting is incomplete**."

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about facts and circumstances that existed as the acquisition date that, if known, would have affected the measurement amounts recognized as of the date.

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867. Moreover, the balance sheet analytics failed to compare the first and second quarter balance sheets in accordance with PCAOB standards. *See* AU § 722.16, *Analytical Procedures and Related Inquiries*, analytical procedures **should** include comparing the quarterly interim financial information with comparable information from the immediately preceding interim period. Anton &

Chia second quarter balance sheet analytics only compared the FYE 2012 balance sheet (when CannaVEST had only $431 in assets) to the second quarter of 2013 balance sheet. An appropriate balance sheet analytics would have shown the substantial changes in allocation between the first and second quarters of 2013. Again, if these significant changes between the first and second quarters had been documented in the analytics, the changes should have raised a red flag with Wahl regarding the accuracy of the $35 million total asset value for PhytoSphere. For example, the reallocation of a significant portion of the purchase price to "goodwill," should have been a red flag to Wahl – as the goodwill balance increased significantly to bridge the gap between the $35 million purchase price and the updated value of the identifiable assets acquired. This should have prompted Wahl to make inquiries of management related to the fair value of the consideration paid by CannaVEST and the fair value of PhytoSphere. If Wahl had made such inquiries related to fair value, he would have become aware that material modifications to the total asset value on CannaVEST's balance sheet should have been made.[1258]

LIE #867 The standard only says "**should**" and is not requried. Plus the Division forgets that Wahl went and met with Canote and walked through all the purchase price allocation and obtaining updates on when they were planning to provide a valuation report. Wahl was fully aware of the updates in the purchase price allocation that his expectations were that it would potentially change right up until December 31, 2013.

Exhibit 1101 On **page 3** A&C reconciles the purchase price allocations and explains the changes provided by CannaVest management.

The purchase price allocation is the responsibility of management. If management does not have all the information available at the end of the quarter. This does not mean its incorrect or a violation of US GAAP.

ASC 805 10-25-13: "The Measurement Period: **If the initial accounting for a business combination is** incomplete by the end of the reporting period in the which the combination occurs, the acquirer shall report in **its financial statements provisional amounts for the items for which the accounting is incomplete**."

During the measurement period, in which accordance with paragraph **805-10-25-17**, the acquirer shall adjust the provisional amounts recognized at the acquisition date to reflect new information obtained about facts and circumstances that existed as the acquisition date that, if known, would have affected the measurement amounts recognized as of the date.

ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional assets or liabilities if new information is obtained about facts and circumstances that existed as of the acquisition date that, if known, would resulted in the recognition of those assets and liabilities as of the date.* ***The*** measurement period ends as soon as the acquirer receives the information it was seeking about facts and ***circumstances that existed as of the acquisition date or learns that more information is not obtainable.*** *However, the measurement period* ***shall not exceed one year from the acquisition date****."*

[1257] Ex. 88.1 (Devor Report) ¶ 715; Tr. (Vol. VI Devor) 1606:21-1612:1.
[1258] *Id.* ¶¶ 716-717.

868. Wahl did not make, and did not direct the engagement team to make, any inquiries as to why there were there such dramatic and unexpected changes between the two quarters.[1259]

Lie #868 The standard only says "should" and is not requried. Plus the Division forgets that Wahl went and met with Canote and walked through all the purchase price allocation and obtaining updates on when they were planning to provide a valuation report. Wahl was fully aware of all the changes from prior period and there was an expectation that once the valuation was received there would be another round of changes.

Exhibit 1001 On **page 3** A&C reconciles the purchase price allocations and explains the changes provided by CannaVest management.

The purchase price allocation is the responsibility of management. If management does not have all the information available at the end of the quarter. This does not mean its incorrect or a violation of US GAAP.

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ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional assets or liabilities if new information is obtained about facts and circumstances that existed as of the acquisition date that, if known, would resulted in the recognition of those assets and liabilities as of the date.* ***The*** measurement period ends as soon as the acquirer receives the information it was seeking about facts and ***circumstances that existed as of the acquisition date or learns that more information***

is not obtainable. *However, the measurement period* ***shall not exceed one year from the acquisition date****."*

869. La prepared the second quarter interim review checklist. That checklist, under the section entitled "general-required," in response to the question #5, "Inquiries relating to significant unexpected differences noted during the performance of analytical procedures and other questions arising during the review" stated that "no unexpected differences were noted."[1260] The same question was asked in the section entitled "intangibles and other assets" (question #7), and no response at all was provided by Anton & Chia.[1261]

Lie #869 The standard only says "should" and is not requried. Plus the Division forgets that Wahl went and met with Canote and walked through all the purchase price allocation and obtaining updates on when they were planning to provide a valuation report. Wahl was fully aware of all the changes from prior period and there was an expectation that once the valuation was received there would be another round of changes.

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ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional assets or liabilities if new information is obtained about facts and*

circumstances that existed as of the acquisition date that, if known, would resulted in the recognition of those assets and liabilities as of the date. ***The*** measurement period ends as soon as the acquirer receives the information it was seeking about facts and ***circumstances that existed as of the acquisition date or learns that more information is not obtainable.*** *However, the measurement period* ***shall not exceed one year from the acquisition date****."*

870. The second quarter interim review checklist also erroneously answered "no" to the question whether there were any significant deficiencies or material weaknesses in the design or operation of internal control over financial reporting.[1262] In its Form 10-Q for the second quarter of 2013, however, CannaVEST disclosed that it had determined – as it had for the prior two period ends – that there was a material weakness in its internal control over financial reporting.[1263]

Lie #870 There were no "NEW" signifcant deficiency or material weaknesses. The standard only says "should" and is not requried. Plus the Division forgets that Wahl went and met with Canote and walked through all the purchase price allocation and obtaining updates on when they were planning to provide a valuation report. Wahl was fully aware of all the changes from prior period and there was an expectation that

once the valuation was received there would be another round of changes.

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871. The second quarter interim review checklist also answered "no" to the question, "If relevant to the entity, has the fair value of financial assets and liabilities… been measured and disclosed in accordance with GAAP?[1264]

Lie #871 The standard only says "should" and is not requried. Plus the Division forgets that Wahl went and met with Canote and walked through all the purchase price allocation and obtaining updates on when they were planning to provide a valuation report. Wahl was fully aware

of all the changes from prior period and there was an expectation that once the valuation was received there would be another round of changes.

Exhibit 1001 On **page 3** A&C reconciles the purchase price allocations and explains the changes provided by CannaVest management.

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[1259] Tr. (Vol. VIII Shek) 2436:7-2437:20, 2440:5-18, 2441:20-2442:4, 2442:6-18); Tr. (Vol. X La) 2847:1-2849:18.
[1260] Tr. (Vol. X La) 2851:19-2852:10; Ex.785 (Q2 inquiries checklist).
[1261] *Id.* at 853:22-2854:6.
[1262] *Id.* at 852:24-2853:10; *compare* Ex.785 (Q2 inquiries checklist) (general-required/question #11) *with* Ex.708 (CannaVEST Q2 2013 Form 10-Q) at 16.
[1263] Ex. 708 (CannaVEST Q2 2013 Form 10-Q).
[1264] Tr. (Vol. X La) 2853:1421; Ex.785 (Q2 inquiries checklist) (general-other/question #7).

c. Second Quarter 2013 Engagement Summary Memo

872. Anton & Chia's *Engagement Summary Memorandum* for the second quarter interim review was almost identical to what was prepared for the first quarter, but for changes in dates and measures of materiality for its test work.[1265]

873. Just as in the first quarter review, Wahl failed to make adequate inquiries of management regarding the fair value of PhytoSphere' s assets and the fair value of the consideration to be paid for PhytoSphere and the fair value of PhytoSphere's assets. Wahl also failed to perform appropriate balance sheet analytics.[1266]

Lie #873 Re "balance sheet analytics", the standard only says "should" and is not "requried". Plus the Division forgets that Wahl went and met with Canote and walked through all the purchase price allocation and obtaining updates on when they were planning to provide a valuation report. Wahl was fully aware of all the changes from prior period and there was an expectation that once the valuation was received there would be another round of changes.

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ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional*

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3. Third Quarter 2013.

874. In CannaVEST's third quarter of 2013 interim review, Wahl failed to identify that CannaVEST's previously-issued financial statements for the first and second quarters of 2013 required restatement under GAAP.[1267]

Lie #874 There was no evidence that there was any impairment as of Q2 and management had not received a "Final Valuation" and had not received a "Final Purchase Price Allocation". There was no evidence to restate. Again the Division and Devor are mistating the requirements under **ASC 250**, which is the responsibility of management. The purchase price allocation is the responsibility of management. If management

does not have all the information available at the end of the quarter for a perfect purchase price allocation which is management's best estimate. This does not mean its incorrect or a violation of US GAAP.

ASC 805 10-25-13: "The Measurement Period: **If the initial accounting for a business combination is** incomplete by the end of the reporting period in the which the combination occurs, the acquirer shall report in **its financial statements provisional amounts for the items for which the accounting is incomplete**."

During the measurement period, in which accordance with paragraph **805-10-25-17**, the acquirer shall adjust the provisional amounts recognized at the acquisition date to reflect new information obtained about facts and circumstances that existed as the acquisition date that, if known, would have affected the measurement amounts recognized as of the date.

ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional*

assets or liabilities if new information is obtained about facts and circumstances that existed as of the acquisition date that, if known, would resulted in the recognition of those assets and liabilities as of the date. The measurement period ends as soon as the acquirer receives the information it was seeking about facts and ***circumstances that existed as of the acquisition date or learns that more information is not obtainable.*** *However, the measurement period* ***shall not exceed one year from the acquisition date****."*

875. For the third quarter of 2013, Anton & Chia's engagement partner was again Wahl. The EQR was Koch, and the audit manager was Shek.[1268]

876. The form and substance of Anton & Chia's work papers for the third quarter of 2013, in the areas of planning and inquiries, were very similar to the work papers for the prior two quarters. Anton & Chia once again responded "no" regarding whether there were significant deficiencies or material weaknesses in the company's system of internal control over financial reporting despite CannaVEST's public disclosures to the contrary in its third quarter 2013 Form 10-Q.[1269]

Lie #876 Based on A&C's engagement summary memorandum that CannaVEst has significant deficiencies and material weaknesses in financial reporting. See **Exhibit 1029** under Significant Adjustments and

Accounting Issues A&C proposed and forced management to record these adjustments.

4) Goodwill impairment $26,998,125

5) Roen Ventures adjustment for BCF $637,400

6) Reversing Sample Revenue of $75,426

And **Exhibit 1029** where A&C communicated significant concerns with the quality of revenues and accounts receivable related to CannaVEST management. Any one of these matters would demonstrate a material weakness in financial reporting.

[1265] Ex. 809 (Q2 engagement summary memo).
[1266] Ex. 88.1 (Devor Report) ¶ 722.
[1267] *Id.* ¶ 723.
[1268] Ex. 787 (Q3 planning memo).
[1269] Ex. 789 (Q3 inquiries checklist); Ex. 710 (CannaVEST Q3 2013 Form 10-Q).

877. During its third quarter of 2013 review, Anton & Chia did, however, obtain reports relating to the fair values of both (a) CannaVEST's stock, and (b) PhytoSphere. These valuation reports indicated that the $35 million value assigned to PhytoSphere and the $4.50 to $6.00 per share collar price assigned to CannaVEST's stock under the PhytoSphere agreement were materially incorrect.[1270]

Lie #877 There was no valuation provided for CannaVEST's stock **Exhibit 1018** was for valuing a minority interest, not the stock.

CannaVEST Corporation ("CannaVEST", the "Company", or "Client") requested Vantage Point Advisors, Inc. to perform valuation services (the "Services") for financial reporting and tax reporting requirements as outlined under U.S. GAAP Codification of Accounting Standards Codification Topic 718: Compensation-Stock Compensation and the Internal Revenue Code Section 409A ("IRC 409A") in relation to the valuation of privately-held equity securities issued as compensation. No other use is intended or inferred.

We estimated the fair value of the Company's common stock from the perspective of a market participant transacting for a minority interest in the Company's common stock. Our analysis provides a non-

marketable, minority interest in CannaVEST as of August 21, 2013 (the "Valuation Date").

The valuation reports had nothing to do with the collar of $4.5 to $6.0 this was negotiated between arms length individuals and had nothing to do with the purchase price.

a. Valuation of PhytoSphere and the Goodwill Impairment

878. Vantage Point performed a fair market valuation of PhytoSphere as of January 29, 2013. A draft version of the PhytoSphere valuation was dated October 29, 2013.[1271] The report was finalized in November of 2013.[1272] Anton & Chia included the draft version of the valuation in its workpapers.[1273] Vantage Point determined, in the PhytoSphere valuation, that the fair market value of PhytoSphere was, as of January 29, 2013, $8,150,000.[1274] This was approximately 23% of the $35 million purported purchase price stated in the PhytoSphere agreement and recorded by CannaVEST in its financial statements for the first and second quarters of 2013.

LIE #878 The report was finalized after Anton & Chia, LLP had fired CannaVEST on November 14, 2013. Then CannaVEST obtained another valuaton on March 28, 2014 with a fourth purchase price allocation (**Exhibit 859**).

879. Using this valuation, Anton & Chia proposed that CannaVEST effectively eliminate the then-existing goodwill balance of $26,998,125 by recording an impairment charge for that amount ($35,000,000 less $8,150,000 million approximately equals the $26,998,125

[1270] Ex. 88.1 (Devor Report) ¶ 726.
[1271] Ex. 856 (Q3 2013 review WP REF 0408 – *CannaVEST - PhytoSphere - BEV - 1.29.2013_29Oct2013*).
[1272] Ex.859 (Nov. 2013 Vantage Point PhytoSphere valuation report).
[1273] Ex. 856 (Q3 2013 review WP REF 0408 – *CannaVEST - PhytoSphere - BEV - 1.29.2013_29Oct2013*).
[1274] Vantage Point's final valuation report of PhytoSphere, dated November 2013, valued PhytoSphere at $8,020,000. Ex. 859.

goodwill impairment charge).[1275] This impairment charge was recorded in the third quarter of 2013 despite the fact that the valuation of PhytoSphere was as of January 29, 2013.[1276]

Lie #879 This only corroborated A&C's evidence that the goodwill should be impaired. The report was not final but draft and Canote and Mona were not happy with the report and expected to obtain an updated report, which they did March 28, 2014 (**Exhibit 859)**.

880. In connection with the PhytoSphere valuation and the related impairment charge, Anton & Chia wrote a memo, during its third quarter review, titled *Stock Installment Payment and Goodwill Impairment Memo*.[1277] Under the section titled, "goodwill impairment," the memo simply stated:

> Independent advisors [ ] provided fair valuation of PhytoSphere Systems, LLC's total equity at date of the sale [sic] which concludes the estimated fair valuation [sic] is $8,150,000. However, the transaction was originally booked with [a] purchase price of $35 million which leads to impairment of good will previously recorded.[1278]

Lie #880 The draft incorrect valuation report only corroborated A&C's evidence that the goodwill should be impaired. The report was not final but draft and Canote and Mona were not happy with the report and expected to obtain an updated report, which they did March 28, 2014 (**Exhibit 859)**.

881. The memo failed to discuss whether under GAAP the company should restate its

first and second quarter financial statements given that PhytoSphere was worth $8 million as of January 29, 2013.

Lie #881 ASC 250 is the responsibility of the Company's management and The report was not final but draft and Canote and Mona were not happy with the report and expected to obtain an updated report, which they did March 28, 2014 (**Exhibit 859)**.

The Division mischaracterizes the US GAAP pronouncements because it doesn't provide a clear response to the full standards that are applicable to goodwill and business combinations. **ASC 805-10-25-13 to 19** clearly state that transactions record provisional amounts for up to 12 months based on management's best estimate.

ASC 805-10-S25-19 Recognition the Native Paragraph States: After the measurement period ends (i.e. 12 months), the acquirer shall revise the accounting for a business combination only to correct the error in accordance with TOPIC 250 (ASC 250).

Under **ASC 250 -10-50-5 Change in Estimate Used in Valuation Technique** (ASC "250") "The disclosure provisions of this subtopic for a

change in accounting estimate are not required for revisions resulting from a change in a valuation techniques used to measure fair value or its application when the resulting measurement is fair value in accordance with Topic 820. This would not also include **ASC 805-10-25-15** and **ASC 805-10-30-1** to **ASC 805-10-30- 3** and **ASC 805-10-25-13 to 19.**

882. Moreover, the memo failed to assess whether it was appropriate for CannaVEST to have valued its stock using the per share collar price stated in the PhytoSphere agreement. Anton & Chia even specifically found that (a) CannaVEST's stock had "a finite trading volume" and (b) the stock did not qualify for level 1 (*i.e.*, from published indices) fair value measurement. *Id.*

Lie #882 Simply an error by a staff accountant doing their best in documenting very complicated accounting and audit related matters. The Division and Devor hate the CPA profession and US GAAP and GAAS that they decided to change the Authoritative Guidance in US GAAP and GAAS. See **LIE #15** to **LIE #115**.

[1275] *See* Ex. 763 (Q3 goodwill impairment memo); Ex. 852 (Q3 balance sheet analytics with adjusting journal entry for the goodwill impairment) at lines 71-74; Ex. 787 (Q3 planning memo); Ex. 810 (Q3 engagement summary memo); Ex. 758 (Q3 management representation letter, item 26); Ex. 752 (Nov. 8, 2013 email chain); Ex. 753 (Nov. 12, 2013 email chain); Exs. 871, 871.2, 871.3 (Nov. 12, 2013 email, with draft Q3 management rep letter attached, and spreadsheet with goodwill impairment tab attached); Tr. (Vol. IX Canote) 2638:18-2639:16, 2646-25.

[1276] Ex. 763 (Q3 goodwill impairment memo).

[1277] *Id.*

[1278] *Id.*

883. In his investigative testimony, Wahl admitted that the Vantage Point valuation of PhytoSphere indicated there was an impairment of goodwill.[1279]

Lie #883 Read the transcript it says "There was **<u>further</u>** evidence provided by management that they indicated that there was an impairment."

884. In a November 12, 2013 email, Wahl communicated to CannaVEST that "the third party valuation came in at approximately $8.0 [million]," and that it "looks like [the acquisition] should have been booked originally at $8.0 [million] not the approximately $35 [million]."[1280] In that email, Wahl effectively acknowledged that the total $35 million value of the PhytoSphere assets reflected on CannaVEST's balance sheet had been wrong all along. *Id.*

Lie #884 Wahl never "acknowledged" this. Did they change Wahl's testimony transcript again? Wahl has testified from day one that there was no indicators of impairment for Q1 and Q2. CannaVEST management never wanted to restate consistent with the fact A&C had to propose the third quarter goodwill impairment not CannaVEST management. Wahl knew that management was planning to obtain a 4th purchase price allocation and another valuations.

The Division and Devor has no problem making false allegations against Honest Hardworking Americans but when they know they are beat. They decide to change the transcripts or change the Authoritative Guidance in US GAAP or GAAS.

885. Despite this conclusion, Wahl inexplicably testified that he was comfortable with the fact that CannaVEST had recorded the goodwill impairment in the third quarter of 2013.[1281]

Lie #885 See **Lie #884**.

886. Recording the impairment charge in the third quarter of 2013 was not proper with respect to GAAP. GAAP states that if material errors are identified in previously filed financial statements, such financial statements should be amended and corrected.[1282] While Anton & Chia was its auditor, CannaVEST never addressed the fact that its balance sheet for the first and second quarter of 2013 was materially overstated with respect to the PhytoSphere acquisition.

Anton & Chia's workpapers also do not reflect any analysis or related conclusions pertaining to

[1279] Ex. 839.6 (Prior Testimony Designations) 245 (Oct. 27, 2015 Wahl Inv. Test. at 86:15-87:2) (Q Okay. So let's move, then, to Q3 of 2013. So Q3 of 2013 is when assets were written off? A Yes. Q And what was written off? A I believe the goodwill was written off for about 26 – almost $27 million. Q And why was that written off? A There was further evidence provided by management that they indicated there was an impairment. Q And what was that evidence? A There was a valuation completed that assigned the values to – to CannaVEST. Or pardon me. To the PhytoSPHERE assets. Pardon me."); *id.* at74 (Oct. 27, 2015 Wahl Inv. Test. at 154:14-17) ("The results of obtaining the third party purchase price allocation and valuation indicated that there was an impairment."); *id.* at79 (Oct. 27, 2015 Wahl Inv. Test. at 170:2-15) ("Q And that valuation was used for you – for Anton & Chia to propose an impairment charge related to the PhytoSPHERE acquisition; is that correct? A When we were provided with a report, it indicated that there was an impairment. Q Is that – this valuation report, the first indication to you and your firm that there was a – there was an impairment that needed to be booked? A Yes. BY MS. PURPERO: Q

Okay. So this valuation report indicated there was an impairment. MS. LEVIN: And just to confirm, that's the PhytoSPHERE Systems report in Exhibit 15, 1644.").

[1280] Ex. 753 (Nov. 12, 2013 email chain).

[1281] Ex. 839.6 (Prior Testimony Designations) 289-290 (Oct. 27, 2015 Wahl Inv. Test. at 192-193).

[1282] ASC 250.

whether a restatement of CannaVEST's first and second quarter financial statements was necessary.[1283]

Lie #886 Wahl never "acknowledged" this. Did the Division change Wahl's testimony transcript again? Wahl has testified from day one that there was no indicators of impairment for Q1 and Q2. CannaVEST management never wanted to restate consistent with the fact A&C had to propose the third quarter goodwill impairment not CannaVEST management. Wahl knew that management was planning to obtain a 4th purchase price allocation and another valuation wrong.

The Division and Devor has no problem making false allegations against Honest Hardworking Americans but when they know they are beat. They decide to change the transcripts or change the Authoritative Guidance in US GAAP or GAAS.

ASC 250 is the responsibility of the Company's management and the report was not final but draft and Canote and Mona were not happy with the report and expected to obtain an updated report, which they did March 28, 2014 (**Exhibit 859)**.

The Division mischaracterizes the US GAAP pronouncements because it doesn't provide a clear response to the full standards that are applicable to goodwill and business combinations. **ASC 805-10-25-13 to 19** clearly state that transactions record provisional amounts for up to 12 months based on management's best estimate.

ASC 805-10-S25-19 Recognition the Native Paragraph States: After the measurement period ends (i.e. 12 months), the acquirer shall revise the accounting for a business combination only to correct the error in accordance with TOPIC 250 (ASC 250).

Under **ASC 250 -10-50-5 Change in Estimate Used in Valuation Technique** (ASC "250") "The disclosure provisions of this subtopic for a change in accounting estimate are not required for revisions resulting from a change in a valuation techniques used to measure fair value or its application when the resulting measurement is fair value in accordance with Topic 820. This would not also include **ASC 805-10-25-15** and **ASC 805-10-30-1** to **ASC 805-10-30- 3** and **ASC 805-10-25-13 to 19.**

Lie #874 There was no evidence that there was any impairment as of Q2 and management had not received a "Final Valuation" and had not received a "Final Purchase Price Allocation". There was no evidence to restate. Again the Division and Devore are mistating the requirements under ASC 250, which is the responsibility of management. The purchase price allocation is the responsibility of management. If management does not have all the information available at the end of the quarter. This does not mean its incorrect or a violation of US GAAP.

ASC 805 10-25-13: "The Measurement Period: **If the initial accounting for a business combination is** incomplete by the end of the reporting period in the which the combination occurs, the acquirer shall report in **its financial statements provisional amounts for the items for which the accounting is incomplete**."

During the measurement period, in which accordance with paragraph **805-10-25-17**, the acquirer shall adjust the provisional amounts recognized at the acquisition date to reflect new information obtained about facts and circumstances that existed as the acquisition date that, if

known, would have affected the measurement amounts recognized as of the date.

ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional assets or liabilities if new information is obtained about facts and circumstances that existed as of the acquisition date that, if known, would resulted in the recognition of those assets and liabilities as of the date. The* measurement period ends as soon as the acquirer receives the information it was seeking about facts and ***circumstances that existed as of the acquisition date or learns that more information is not obtainable.*** *However, the measurement period* ***shall not exceed one year from the acquisition date****."*

b. CannaVEST Stock Valuation

887. Vantage Point issued the CannaVEST Stock Valuation on September 3, 2013. The report found that CannaVEST's restricted stock was valued at only $0.68 per share as of August 21, 2013.

Lie #887 There was no valuation provided for CannaVEST's stock

Exhibit 1018 was for valuing a minority interest.

CannaVEST Corporation ("CannaVEST", the "Company", or "Client") requested Vantage Point Advisors, Inc. to perform valuation services (the "Services") for financial reporting and tax reporting requirements as outlined under U.S. GAAP Codification of Accounting Standards Codification Topic 718: Compensation-Stock Compensation and the Internal Revenue Code Section 409A ("IRC 409A") in relation to the valuation of privately-held equity securities issued as compensation. No other use is intended or inferred.

We estimated the fair value of the Company's common stock from the perspective of a market participant transacting for a minority interest in the Company's common stock. Our analysis provides a non-marketable, minority interest in CannaVEST as of August 21, 2013 (the "Valuation Date").

888. The same report reflected a value of $1.13 per share for CannaVEST's non-

restricted stock.[1284]

Lie #888 See **LIE #887**

889. Similarly, the third quarter 2013 *Management Representation Letter* asserted, in the context of the goodwill impairment charge, that the "estimated fair value of PhytoSphere Systems, LLC amounted to $8,150,000 and estimated fair value of the Company's restricted common stock amounted to $0.68 per share."[1285] The management representation letter was drafted by Anton & Chia.[1286] The per share value of $0.68 was well below the range established as the "collar" in the PhytoSphere agreement (*i.e.*, between $4.50 and $6.00 per share).

Lie #889 The management rep letter was a template provide by Thompson and Reuters and is requreid for every engagement. They are management's representations not A&C's representations.

See **LIE #887.**

890. Wahl failed, even during the third quarter interim review, after valuations had been performed both on the PhytoSphere business and the CannaVEST stock, to make inquiries related to the consideration to be paid by CannaVEST to acquire PhytoSphere, i.e., the fair value of CannaVEST stock as of January 29, 2013.[1287]

Lie #890 The contractual consideration and purchase price never changed. See **LIE #887**.

891. Indeed, CannaVEST ultimately concluded, in its 2013 Form 10-K (which was audited by successor auditor, PKF), that the stock price used for purposes of the PhytoSphere

[1283] Ex. 88.1 (Devor Report) ¶ 735.
[1284] Ex. 857 (Q3 2013 review WP REF 0409 – *CannaVEST 8.21.2013 - ASC 718 IRC 409A Report*).
[1285] Ex. 800 (Q3 management representation letter).
[1286] Exs. 871 and 871.3 (Nov. 12, 2013 email with management representation letter attached).
[1287] Ex. 789 (Q3 inquiries checklist).

agreement was significantly overstated, and was not reflective of the actual fair market value of the stock. The 2013 Form 10-K states the following, in relevant part:

> The purchase price of the acquisition was determined to be $8,020,000 based on management's estimate of the fair market value of the business acquired. The fair market value was determined to be the more appropriate basis of valuation as the Company's common stock was not trading and the Company had no operations at the time of acquisition in order to estimate a fair market value of Company common stock. The Company's common stock issued was contemporaneously valued with the purchase price of PhytoSphere.[1288]

Lie #891 This is purely opinion that does not one cite reference to US GAAP. The fair value determination CannaVEST stock is not calculated in this manner and the purchase price in the transaction does not change. This is exactly why the Division of Corporate Finance objected to the treatment. The contract price is the purchase price and then you would immediately impair the goodwill if the fair value was $8,020,000. This was specifically stated by Mr. Woody at the SEC. CannaVEST would have appealed the decision. However, Wahl and A&C did not have any of this information.

892. CannaVEST ultimately concluded, in connection with the restatement that occurred in 2014 (after a new auditor PKF had been engaged), that the per-share value of its stock as of January 29, 2013, for purposes of the PhytoSphere acquisition, was $1.21. This was effectively determined by using the $8,020,000 fair value of PhytoSphere as of January 29, 2013, subtracting the amount of cash

paid by CannaVEST ($950,000) and then dividing the difference by the number of shares CannaVEST issued to MJNA during 2013 (5,825,000 shares).[1289]

Lie #892 This is exatly what Wahl testified to that the Division was looking back at the transaction with significant hindsight. They didn't change MJNA agreement as they still used $4.5 to $6.00 collar to pay MJNA because the number of shares issued were at 5,820,000 shares. If they did go back to MJNA and tried to negotiate at a $1.21 per share. MJNA would not have changed the $35,000,000 purchase and they would have had to pay MJNA more shares at $1.21. On January 29, 2013, the only cash that was known to be paid to MJNA was the $50,000 at that point in time and without fourteen months of hindsight CannaVEST would not have known how many shares versus cash it was planning to pay.

The determination of the fair value of the shares is technically incorrect they just mathematically made it work (i.e. they took the fair value less cash paid and the plugged the share value based on the same collar at $4.5 to $6.00 shares that is not the correct calculation and this is exactly why the Division of Corporate Finance objected to the calculation) and is

not the true fair value of the shares. CannaVEST just simply adjusted the purchase price for accounting purposes so that they didn't have to go back to MJNA to renegotiate the transaction. The $1.21 is a pure plug based on the valuation report which is the least reliable determination of fair value (**TR 2944 Lines 15-17**), the cash paid during the 12 month provisional period of $950,000 and CannaVEST management used the same collar of $4.50 to $6.00 in the original agreement (**Exhibit 1001**).

893. The foregoing demonstrates that: (a) the assets acquired from PhytoSphere were materially overstated as of the end of the first and second quarters of 2013, (b) the $4.50 to $6.00 collar price for CannaVEST's stock in the PhytoSphere agreement was for anti-dilutive purposes and was not the fair value of CannaVEST stock as of January 29, 2013, and (c) Wahl violated PCAOB standards by, among other things, not making adequate inquiries or performing appropriate balance sheet analytics related to the PhytoSphere acquisition.[1290]

Lie #893 Which PCAOB standards did Wahl violate? The Division cant cite a specific paragraph and point to it b/c the standards say "should", "shall", "may" meaning it's up to the auditors' professional judgement to determine the procedures. This is pure opinion and nothing more.

[1288] Ex. 715 (CannaVEST 2013 Form 10-K) F-12.
[1289] Ex. 721 (Apr. 30, 2014 Form 8-K/A).
[1290] Ex. 88.1 (Devor Report) ¶ 742.

G. Summary

894. CannaVEST's Forms 10-Q for the first two quarters of 2013 materially overstated CannaVEST's total assets on the balance sheet. The overstatements related to CannaVEST improperly accounting for its acquisition of PhytoSphere.[1291]

Lie #894 Wahl has testified from day one that there was no indicators of impairment for Q1 and Q2. CannaVEST management never wanted to restate consistent with the fact A&C had to propose the third quarter goodwill impairment not CannaVEST management. Wahl knew that management was planning to obtain a 4th purchase price allocation and another valuation wrong.

The Division and Devor has no problem making false allegations against Honest Hardworking Americans but when they know they are beat. They decide to change the transcripts or change the Authoritative Guidance in US GAAP or GAAS.

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The Division mischaracterizes the US GAAP pronouncements because it doesn't provide a clear response to the full standards that are applicable to goodwill and business combinations. **ASC 805-10-25-13 to 19** clearly state that transactions record provisional amounts for up to 12 months based on management's best estimate.

ASC 805-10-S25-19 Recognition the Native Paragraph States: After the measurement period ends (i.e. 12 months), the acquirer shall revise the accounting for a business combination only to correct the error in accordance with TOPIC 250 (ASC 250).

Under **ASC 250 -10-50-5 Change in Estimate Used in Valuation Technique** (ASC "250") "The disclosure provisions of this subtopic for a change in accounting estimate are not required for revisions resulting from a change in a valuation techniques used to measure fair value or its application when the resulting measurement is fair value in accordance with Topic 820. This would not also include **ASC 805-10-25-15** and **ASC 805-10-30-1** to **ASC 805-10-30- 3** and **ASC 805-10-25-13 to 19.**

There was no evidence that there was any impairment as of Q2 and management had not received a “Final Valuation” and had not received a “Final Purchase Price Allocation”. There was no evidence to restate. Again the Division and Devore are mistating the requirements under ASC 250, which is the responsibility of management. The purchase price allocation is the responsibility of management. If management does not have all the information available at the end of the quarter. This does not mean its incorrect or a violation of US GAAP.

ASC 805 10-25-13: “The Measurement Period: **If the initial accounting for a business combination is** incomplete by the end of the reporting period in the which the combination occurs, the acquirer shall report in **its financial statements provisional amounts for the items for which the accounting is incomplete**.”

During the measurement period, in which accordance with paragraph **805-10-25-17**, the acquirer shall adjust the provisional amounts recognized at the acquisition date to reflect new information obtained about facts and circumstances that existed as the acquisition date that, if

known, would have affected the measurement amounts recognized as of the date.

ASC 805 10-25-14: "*The Measurement Period*: *During the measurement period, the acquirer also shall recognize additional assets or liabilities if new information is obtained about facts and circumstances that existed as of the acquisition date that, if known, would resulted in the recognition of those assets and liabilities as of the date. The* measurement period ends as soon as the acquirer receives the information it was seeking about facts and ***circumstances that existed as of the acquisition date or learns that more information is not obtainable.*** *However, the measurement period* ***shall not exceed one year from the acquisition date****."*

895. CannaVEST's Form 10-Q for the third quarter of 2013 was materially misleading because CannaVEST wrote down the value of the assets related to the PhytoSphere acquisition in that period, failed to disclose that the consideration to be paid for PhytoSphere was not $35 million, PhytoSphere was never worth $35 million, and that the assets included in the balance sheets for the first and second quarters of 2013 were materially overstated – in violation of GAAP.[1292]

Lie #895 See **LIE #894** The Division and Devor violated GAAP, they violated the integrity of US GAAP by changing the standards to fit their own story.

896. Anton & Chia's engagement team, Wahl, and Chung failed to perform sufficient PCAOB procedures, and as a result, nothing came to their attention that indicated CannaVEST's 2013 interim financial statements required material modifications to be presented in accordance with GAAP.[1293]

Lie #896 This is simply pure opinion with no references to US GAAP or GAAS standards that were actually violated because there were no US GAAP or GAAS standards that were violated. **See LIE #893**.

897. Specifically, Wahl failed to:

- obtain an understanding of the Company's business, the PhytoSphere acquisition, and/or CannaVEST's material weakness in internal control over financial reporting (*i.e.*, relating to the lack of personnel with appropriate accounting qualifications) when planning its 2013 interim reviews;
- make adequate inquiries and perform appropriate analytical procedures;

[1291] *Id.* ¶ 743.

[1292] *Id.*

[1293] *Id.* ¶ 897.

- consider, during the third quarter 2013 interim review, whether a restatement of CannaVEST's first and second quarter 2013 financial statements was necessary;
- ensure that the engagement team prepared adequate documentation; and
- exercise due professional care.[1294]

Lie #897 This is simply pure opinion with no references to US GAAP or GAAS standards that were actually violated because there were no US GAAP or GAAS standards that were violated. **See LIE #893**.

898. Chung, EQR for Anton & Chia's first quarter of 2013 interim review of CannaVEST, specifically failed to:

- identify significant engagement deficiencies;
- exercise due professional care; and
- have the requisite competency to act as an EQR.[1295]

LIE #898 This is simply prue opinion with no references to US GAAP or GAAS standards that were actually violated because there were no US GAAP or GAAS standards that were violated. **See LIE #893**.

REMEDIES

A. Recurrent Nature of Violations

1. Deutchman

899. On July 29, 2008, Deutchman was censured for "willfully violat[ing] Section 102(a) of the Sarbanes-Oxley Act of 2002" by practicing public accounting while [redacted] "did not possess the requisite qualifications to represent others."[1296]

The Division continues to create a side show because they never had a case and are now trying to embellish matters to justify their pathetic existence. Deutchman was in the process of registering the Firm. The client was a shell with no income or assets and Deutchman did not take any fees for the service. Also the matter is now over 15 years old the report was issued in 2004 and settled four years later in 2008. Already handled by John Armstrong.

900. Deutchman claimed that this censure "isn't any big deal," and was "really a nothing case, literally a nothing case."[1297]

The Division continues to create a side show because they never had a case and are now trying to embellish matters to justify their pathetic existence. Deutchman was in the process of registering the Firm. The client was a shell with no income or assets and Deutchman did not take any fees for the service. Also the matter is now over 15 years old the

report was issued in 2004 and settled four years later in 2008. Already handled by John Armstrong.

901. In 2014, the PCAOB barred Deutchman from association with a registered public accounting firm and ordered him to pay a civil penalty of $35,000, in connection with a scheme he participated in while employed at his prior employer, Kabani ("Kabani"),[1298] where Deutchman was a partner and was responsible for the quality control function of the firm.[1299] Specifically, Detuchman was found to have participated in a "widespread and resource-intensive effort … to alter documents in the audit files of three issuers in an attempt to deceive PCAOB inspections in an upcoming inspection about the deficiencies in the firm's audit workpapers."[1300] In addition, Deutchman's CPA license was revoked by the California Board of Accountancy at least in part as a result of the Kabani matter.[1301]

[1294] *Id.* ¶ 745.
[1295] *Id.* ¶ 746.
[1296] Ex. 183 (July 29, 2008 Commission Order, Exchange Act Rel. No. 58240).
[1297] Tr. (Vol. XIII Deutchman) 3362:24-3363:10.

LIE #901 The Supreme Court almost heard the Kabani matter. The Division continues to create a side show because they never had a case and are now trying to embellish matters to justify their pathetic existence. Deutchman was not an owner of Kabani and was only an employee. Deutchman never changed a workpaper or directed anyone eles to do so. The PCAOB determined that Deutchman did not conceive of this purported plan and did not know the extent of it and they were clear in stating they wished Deutchman had stopped Kabani from what they alleged was bad behevior even at the risk of Deutchman losing his employment with Kabani. Of course the Division left out the fact that Deutchman lost his license due to the December 4, 2017 press release, which was brought into the hearing, where the Division says “fraud” and “fraudulent” six times. Deutchman hadnt even been to trial to defend the allegations. They were mere allegations the statements in the press release and it was used by the California Board of Accountancy to deny Deutchman due process and to take his license (“property”) without compensation (**TR 3322 Lines 12-20; TR 3323 Lines 7-25; TR 3324 Lines**

1-25; TR Lines 3325 Lines 1-25; TR 3326 Lines 1-20; TR 3663 Lines 17-22; TR 3664 Lines 18-22; TR 3666 Lines 15-16 & 22-25; TR 3667 Lines 1-5; TR 3668 Lines 23-25; TR 3669 Lines 1-3 & 7-8).

902. Deutchman referred to the PCAOB matter as a "travesty."[1302]

The Supreme Court almost heard the Kabani matter. The Division continues to create a side show because they never had a case and are now trying to embellish matters to justify their pathetic existence. Already handled by John Armstrong **(TR 3322 Lines 12-20; TR 3323 Lines 7-25; TR 3324 Lines 1-25; TR Lines 3325 Lines 1-25; TR 3326 Lines 1-20)**.

2. Wahl

903. In December 2016, Wahl instructed an Anton & Chia partner, Rahul Gandhi, to create the misimpression that he had performed work that he had not performed, for a PCAOB inspection. He wrote, "if you didn't [do the work], try and say you did so it goes away."[1303]

"The **question** is if we tested all the items in the reconciliation then there is no issue. If you did then you need to add this to your answer if you didn't then try and say you did so it goes away." Wahl is asking Gandhi a question. This is not a statement of fact to do anything that is not

illegitimate. This is a further mischaracterization of Wahl's actions.

The allegations are not fact and were not part of the original order instituting procedures and should be rejected.

This subject matter related to the A&C's PCAOB Inspections was not part of the original OIP and is not relevant to this case.

B. Sincerity of Assurances against Future Violations

904. Wahl did not follow the order of this Court to return or destroy all copies of the voicemail recording and not to disclose the voicemail or its contents to any person.[1304]

Wahl wanted to ensure that he destroyed all copies of the voicemail in the electronic age destroying files and copies of electronic documents can be more challenging. Wahl noticed that he had a copy of the voice mail in the morning of trial and wanted to ensure it was returned to the rightful owners. The Division is so worried about this voicemail but there is more than enough bad, dishonest and criminal behavior in this case that it far outweighs the information on the voicemail, other than the

fact that Qualls claims "Peikin and Avakian are smoking crack", which in any other organization she would have been fired. Pennant Management, Inc. There was no violation of any order. The electronic copy was sent to the Division and parties to this case and no one else. https://mobile.reuters.com/article/amp/idUSKCN1P32J0

[1298] PCAOB File No. 105-2012-002, Order Summarily Affirming Findings (Jan. 22, 2015); *see also* Ex. 219 (same); Exchange Act Rel. No. 80101 (Mar. 10, 2017); Deutchman Answer ¶ 12.

[1299] Tr. (Vol. XIII Deutchman) 3342:13-3342:15 ("Q So you and he were responsible for the quality control function at the firm, correct? A That's correct.").

[1300] PCAOB File No. 105-2012-002, Order Summarily Affirming Findings (Jan. 22, 2015); *see also* Ex. 219 (same); Exchange Act Rel. No. 80101 (Mar. 10, 2017); Deutchman Answer ¶ 12.

[1301] Tr. (Vol. XIII Deutchman) 3322:16-3322:20 ("My license was revoked as a result of the Kabani matter and also as a result of the press release in this case, which was published and presented as evidence in the case against me by the California Board of Accountancy.").

[1302] Tr. (Vol. XIII Deutchman) 3357:19-21 ("So this thing over here, this case was a travesty in my opinion. It was an overstatement of facts.").

[1303] Ex. 309 (Dec. 27, 2016 email from Wahl) ("The question is if we tested all the items in the reconciliation then there is no issue. If you did then you need to add this to your answer if you didn't then try and say you did so it goes away.").

[1304] 11.28.2018 Protective Order at 4 (ordering that "Wahl . . . return or destroy all copies of the above-referenced voicemail and transcript; not disclose the voicemail, transcript, or their contents to any person"); Tr. (Vol. XXI Wahl Under Seal) 5065:20-5066:19 ("Q Okay. So first you say in number 1, "Georgia and I, we have destroyed all copies of the above-referenced voicemail and transcript." Do you see that? A Yes. Q That's what you told us on December 18, 2018? A Yes. Q But that wasn't true, right? You had another copy that you sent to the Court on the 1st day of

Wahl represented that he no long had access to his Anton & Chia email account, yet he used that same account nine months later to correspond with his expert witness.[1305]

That is correct. Wahl did not have access to the anton@ancsecservices.com email as of August 10, 2018 but that does not mean he did not retain copies of those emails.

The allegations are not fact and were not part of the original order instituting procedures and should be rejected. There is no violation of any order or matter here. This is more sideshow.

Wahl admitted that he sent, via an email account registered to a pseudonym, harassing messages to the Division staff alluding to the voicemail communication.[1306]

Wahl has been a strategic agitator his entire life, dealing with numerous people with low IQ and EQ that have massive egos. Wahl has an uncanny gift to get under the skin of an opponent a little bit and they become "bat shit crazy" which is from 1280 AD at the Belfry Church (https://www.urbandictionary.com/define.php?term=batshit%20crazy

The "bat shit crazy" people will begin to act irrationally, illogically, outside the confines of the law. Wahl's strategy worked. The Division acted liked crazed lunatic terrorists during this matter. However, Wahl

did not expect that they couldn't apply the law, the accounting and were simply fabricating this entire case, which includes based on our review of the Authoritative Guidance of US GAAP and GAAS used in their Proposed Finding of Fact (**Lie #15** to **Lie #110**) that the Division intentionally changed the standards in Devor's report, the OIP, the pre-trial briefs, and the post hearing briefs and proposed facts.

The Division brought the psueonym emails into trial, not Wahl and for obvious reasons would not offer them as evidence. So why would they bring them into trial? Well they never had a case against Wahl and these attorneys and accountants working for the Division are "bat shit crazy" so why not further embarrass themselves.

The Pseudonym emails are admitted as **Exhibits 1264** and **1265 (TR 5412 Lines 13-18)**.

905. Wahl never looked at the 2015 PCAOB inspection report of Anton & Chia, which found four deficiencies out of the nine engagements it reviewed.[1307] Wahl never looked at the 2016 PCAOB inspection report of Anton & Chia, which found nine deficiencies out of the ten engagements it reviewed.[1308]

Wahl reviewed each of A&C's responses to the PCAOB comments before they were provided to the PCAOB so he was fully aware of the content in the 2015 and 2016 PCAOB Inspection reports it would be inefficient for Wahl to read the report again.

Exhibit 17, Page 48, Lines 10-13:

KOCH: And then I was involved in a shared role with preparing for the PCAOB in terms of -- I think it's the Form B. But ***Greg was the quality control contact with the PCAOB, so he had the ultimate role***.

906. Wahl believes that an auditor's role is sometimes "important" and sometimes "unimportant," and that it "depends on the type of company, whether it's a real business."[1309]

LIE #906 The Division thinks only some laws are important and its ok to fabricate other laws and they would never actually try and enforce Federal laws against Chinese companies or large companies on the NASDAQ or NYSE because that would harm the constituents the Division works for not the American people, congress or the American tax payer. The Division thinks it is "important" to intentionally manipulate and change the authoritative literature in US GAAP and GAAS and it only

depends on the type of firm it is targeting but the Division would definitely never do this to KPMG or a large firm but they thought they would get away with it if they steam rolled a small firm. Wahl's opinions has nothing to do with future violations. Wahl never violated the law and never would. Everything Wahl said in the transcript below is factually correct. Wahl testified he takes roles "seriously" (**TR 5547 Lines 17-25; TR 5548 Lines 1-25; TR 5549 Lines 1-25; TR 5550 Lines 1-25; TR 5551 Lines 1-25; TR 5552 Lines 1-5**).

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this trial, right? A Well, as I said, I went through on a best basis to destroy all the copies. And then after they – the beginning of trial, I went through and destroyed every copy that I had in email. Because I did a number of searches under my email to destroy it, so."); *id.* at067:25-5-68:5 ("Q I'm sorry. I'm just referring to your email on the first day of trial to the Court, which also copied various Division personnel as well as some Court personnel. You disclosed it at that time, right? In October of 2019? A Yes.").

[1305] Ex. 874 (Dec. 18, 2018 email from Wahl) ("I no longer have access to my emails at anton@ancsecservices.com since the conversion of the Chapter 11 into a Chapter 7 for Anton & Chia, LLP. I cannot verify the completeness of the list."); Tr. (Vol. XXI Wahl) 5069:6-9 ("Q So when did you lose access to anton@ancservices – anton@ancsecservices.com? A I believe when the – when they did the 9 conversion from Chapter 11 to Chapter 7"); Tr. (Vol. XX Wahl) 4912:18-24 ("Q Anton & Chia file for bankruptcy in July 2018, correct? A We filed for Chapter 11 protection in July 2018. Q The case was converted into a Chapter 7 liquidation, right? A Sometime in early August [2018], yep."); Ex. 823 (July 15, 2019 email from Wahl to Misuraca) (Wahl uses anton@ancsecservices. com email address in July 2019).

[1306] Exs. 1264 & 1265 (Sept. 2019 emails from john_sec) (filed under seal); Tr. (Vol. XXII Wahl Under Seal) 5410:24-5411:5 ("Q But on the September 13 email that I'm asking Chris to put up, did you write this email? A I think the same thing; it was, you know, one of those things that was dictated. Q So you dictated it to her. Did you review – A I gave her, you know, some input.").

[1307] Tr. (Vol. XXI Wahl) 4977:4-4977:6 ("Well, at this time, I was not in charge of the audit group, so I did not look at this report [Ex. 83]."); Ex. 83 at 3-6 (2015 PCAOB Inspection Report of Anton & Chia).

[1308] Tr. (Vol. XXI Wahl) 4991:3-5 ("Q Is it your testimony that you haven't seen this report [Ex. 82]? A I don't think so."); Ex. 82 at 3-6 (2016 PCAOB Inspection Report of Anton & Chia).

[1309] Ex. 839.6 at 48, 51 (Prior Testimony Designations, Wahl 7/2/2019 AP Dep. Tr. 45:1-8 & 48:14-25) ("Q. Do auditors play an important role? A. Again, depends on the type of company, whether it's a real business, has real investors, and real operations. Q. Do you think that auditors play an important role when auditing the financial

statements of real businesses? A. It depends on who the users are. . . . Q. How important is the role played by auditors when auditing financial statements of public companies? A. Again, it depends on who the investors are and who the users are, and the type of business that's in there. There's a lot of factors. Q. Do you think that the role played by auditors is ever unimportant when they audit the financial statements of public companies? A. Yeah, because there's many sophisticated investors that don't even look at the financial statements.").

907. In 2017, Anton & Chia failed to pay about $900,000 in FICA (social security, Medicare) and unemployment taxes for its employees.[1310] The IRS filed a proof of claim in the Anton & Chia bankruptcy for over $1 million, which includes these taxes, interest, and penalties.[1311] Wahl also failed to pay approximately [redacted].[1312]

LIE# 907: The SEC focuses on the proof of claim filed by the IRS, which was filed December 2019, which was a proof of claim against Anton & Chia, LLP, not Wahl. The tax matters were resolved as part of the Chapter 11 Plan and was confirmed on **August 10, 2019** which proves that this number is materially overstated as the real number is $595,000 (**TR 5036 Lines 22-25**). The $595,000 is fully accrued under the Wahl Chapter 11 plan and the Division's comments and questions on this matter overstates the facts (**TR 5035 Lines 4 – 25 & TR 5036 Lines 1-4**). Again the proof of claim for Wahl's personal income taxes was materially overstated. Wahl carried back losses from 2017 to 2015 and 2014 which substantially reduced the personal income tax liability. The IRS was very slow in applying the losses, which as expected would substantially reduce Wahl's tax liability to [redacted] and penalties and interest [redacted] (**TR 5037 Lines 16-22**). Wahl paid the [redacted] in

personal income taxes (penalties and interest ([redacted])) **(TR 5037 Lines 16-22)**. The actions by the SEC against Wahl subsequent to the December 4, 2017 is nothing but intentional terrorist attacks against him and his family and creating a circus side show of items that have no relevance to the case.

This subject matter related to Wahl's Chapter 11 and tax matters was not part of the original OIP has no bearing on the facts of the case. Wahl has fully complied with the laws and regulations as instructed by his attorneys (TR 5250 Lines 2-6).

C. Recognition of Wrongful Nature of Conduct

908. Wahl believes that no mistakes were made on the audits or interim reviews Anton & Chia performed for Accelera, Premier, or CannaVEST.[1313] Chung could not recall what work she had done on the CannaVEST engagement, but she knew she had done "everything right, nothing wrong" and that she did her job "according to the U.S. GAAP and GAAS standard."[1314]

There never was any wrongful conduct by Honest Hardworking Americans.

909. Deutchman called this litigation "government at its absolute worst" and that the

SEC attorneys "should be ashamed of yourself."[1315]

Deutchman sounds like Mark Cuban. "This is a horrific example of how government does work," Cuban said. "I won't be bullied," he added, "I don't care if it's the federal government."

Cuban attacked the SEC for failing to work with companies to help them understand how to comply with securities laws. "They regulate through litigation," he said, "and that's its own problem." In Cuban's video testimony it was the SEC attorneys "**dishonesty**" that made him disgusted with the trial. The Division are nothing more than terrorists, manipulators, contemptuous, radicals and they wrote fraudulent briefs by intentionally manipulate facts and misstated the authoritative rules for US GAAP and GAAS. Based on our review of the Divisions' work in this case they wouldn't have the mental capacity to help companies comply with securities laws because the Division avoids, changes and erases laws of this country to fit their own stories.

[1310] Ex. 893 (IRS Proof of Claim) 4.

[1311] *Id.*

[1312] *See In re Gregory Anton Wahl,* Case No. 8:18-bk-12449-TA (C.D. Cal. Bankr.), ECF No. 300, Debtor's Chapter 11 Plan of Reorganization dated July 1, 2019 at 4-5.

[1313] (Vol. XXI Wahl) 5086:4-13 ("Q Okay. And you're responsible for all the mistakes in the audit or the interim review, right? A Well, you're mischaracterizing the work. But I don't believe there was any mistakes. Q Right. But if there were mistakes and you were the engagement partner, you would be responsible? A Well, again, I think you're mischaracterizing my testimony. There was no mistakes made."); Tr. (Vol. XXII Wahl) 5300:8-12 ("Q Okay. Now, you said that – a couple different times, I believe, that you believe that everything that you did on the Accelera engagements was correct; is that right? A I believe we did, yes."); Tr. (XXII Wahl) 5385:24-5386:7 ("Q Knowing everything that you know today having sat through this hearing and the facts surrounding the valuation of the promissory note for Premier, would you still have approved the value of the note at 869,000? A Based on the information in evidence that we had from January 7, 2013, through to March 4, 2014, I believe the transaction was appropriately accounted for and disclosed."); Tr. (XXII Wahl) 5386:8-5386:19 ("Q Okay. And just what about sitting here today based on everything you know today, not based on what you knew at the time? Do you still believe that [the Premier promissory note] was appropriately accounted for and disclosed? A Yeah, I do. Q Okay. And nothing's changed your view? Nothing in all the testimony that you've heard in this trial or anything else? A No. Actually, the testimony actually further confirms to me that we did the right thing."); Tr. (Vol. XVIII Wahl) 4270:17 ("And I still stand by what we did.") (CannaVEST).

[1314] Tr. (Vol. XXI Chung) at 5182:20-22, 5161:22-24, *see also* 5146:4-6, 5147:8-11.

[1315] Tr. (Vol. III Deutchman) 790:22-791:7.

910. Wahl repeatedly referred to this litigation as "bullshit."[1316] He believes the PCAOB is a joke.[1317]

The Division changed the Authoritative Guidance in US GAAP and GAAS in its OIP, Pre-Trial Briefs, During Trial; Post-Hearing Briefs; Devor's Report and Proposed Finding Facts that is worse than "bullshit" this is a fraudulent case brought by the SEC. Even worse Wahl caught the Division changing and intentionally mischaracterizing his investigative testimony on multiple occasions in this document, which demonstrates that the Division commits perjury and lies more often than not. Wire instructions already provided, times by three for treble damages.

D. Opportunities for Future Violations

1. Current Business

911. In July 2018, Chung setup MattCarl LLC, and she is the manager and 100% owner of MattCarl.[1318] In August 2018, she registered MattCarl LLC doing business as NorAsia Consulting & Advisory.[1319] Chung performs no professional services for NorAsia clients.[1320] Wahl is operating and running NorAsia, providing "consulting" work to clients.[1321]

912. Wahl does not have a title at NorAsia, and he is a "consultant that works with NorAsia." His clients hire him to act as a CEO, COO, or CFO, and he is in the business of providing accounting, tax, M&A, and financial services to public and private companies.[1322]

913. NorAsia has a website and a Linked-in profile.[1323]

There never were any violations and Respondents' would never intentionally violate any laws or rules. Respondents believe in LAW & ORDER. NorAsia has no relevance to this case and was never mentioned in the OIP. The Division only brings in Wahl and Chung's other business interests outside of Anton & Chia to further retaliate against Wahl because he fought back and will never quit until their constitutional right to prove that they were innocent has been exhausted. The Division brought a fake case against Respondents and they continue to retaliate against them in order to justify their case. Enough is enough! Wahl beat the Division like a drum time for them to pay! NorAsia is not registered, licensed or affiliated to be governed by the SEC, FINRA or the PCAOB. The SEC has no jurisdiction over NorAsia it's a consulting business focused on private companies. The questioning by the Division for Wahl is their love of Napoleonic code where they assume he is guilty and try to bully Wahl, to take his rights to work (**TR 5083 Lines 6-25 & TR 5084 Lines 1-15**). Wahl is not restricted from working on registrants in any manner. There is no decision from the judge in this matter. Wahl

has the legal and constitutional right to appeal a decision as well. The Division illegally went into Wahl's chapter eleven to stir up a hornets nest against him and obtain as much information (obtaining engagement letters, bank statements, etc.) on his new business to scare and intimidate Wahl and trying to take his civil rights and liberties. The Division acted like terrorists, the gestapo, the SS, trying to find something on Wahl, which Wahl has never done anything wrong and never will. This line of investigative questioning is nothing more than intimidation and retaliation to intentionally scare Wahl taking his rights as a member of society. Performing consulting is not illegal (**TR 5400 Lines 4-25; TR 5401 Lines 1-25; TR 5402 Lines 1-25; TR 5403 Lines 1-25; TR 5404 Lines 1-25**). Wahl caught the division lying and committing fraud in this case to get a result (See **LIE#s 15** to **LIEs 110)**.

The Division should be required to cease and desist from harming and attacking Wahl's family, friends, business associates and its nothing more than "retaliation" for Wahl challenging the fake case brought by the SEC.

The subject matter related to #911 to #913 (Mattcarl, NorAsia, etc.) was not part of the original OIP and should never be included from the record. The Division is simply trying to create a further sideshow to distract the court from the allegations in the original OIP.

2. Audit Engagements

914. Greg Halpern, a character witness called by Wahl, is the Chairman and CFO of Max Sound Corporation, a publicly traded company whose stock is traded on the OTC Bulletin Board under the symbol "MAXD."[1324] In 2018, Max Sound had no revenues and $449 in total assets.[1325]

#914: Wahl identified Mr. Halpern as a character witness to testify at trial. Halpern was immediately attacked by the Division. Mr. Halpern has been the owner of American Small Business for over 40 years. Mr. Halpern has never had any issues with the SEC or any other agency for 40 years. He testified in front of congress in 2001, the agency that determines the funding for the SEC. Michael Oxley was enamored by Halpern's ideas and suggestions. The SEC has become a "captured agency" owned and controlled by industry, the NASDAQ, the NYSE, not the US government and definitely not the US taxpayer.

Since Halpern has testified as a character witness for Wahl, the Division has attempted to retaliate against Halpern which is further evidence that anyone that attempts to harm the Division's monopoly that they must try to crush them. Calabrese threatened Halpern and this is nothing more than retaliation against Wahl and his supporters (**TR 3764 Lines 16-25** and **TR 3768 Lines 18-21**).

On the letters back and forth between Corp Fin and Halpern, it is clear that the Staff accepted Max Sound's legitimate clerical error which was explained in Halpern's letter, which both acknowledged the comment, and then amended the filing accordingly, with the staff clearly accepting the situation given the misery and chaos the misguided phony SEC case was causing, then switching focus on when the A & C License expired. When that tactic was proven to be within the correct time frame and was in the amendment to demonstrate that A & C was qualified, properly state licensed as an accounting firm and also properly PCAOB Registered, then the staff wrongly tried to force Max Sound to install notice in the amendment that A & C and Wahl had been Cease and

Desisted by the SEC, upon which Mr. Halpern promptly informed Corp Fin that he would play no part in the Clayton-Qualls-Calabrese fraud as an accessory to Enforcement's Fake Case and Crime.

Then Searles exhausted the issue in Halpern's Character Witness Testimony for Wahl. Clearly, it was a failed strategy that attempted to punish Halpern's heroics knowing that his four decades of Advocacy, Small Business Achievement and supporting the Great American Dream was at stake. Anyone who reads the transcript can see Searles was no match for Halpern or the Truth that he brought with his testimony where he literally defined Swarthogly as the disgusting criminal wasting taxpayer money to perpetuate his shameful charade. Even the Ombudsman office and the Office of the Advocate for Small Business Capital Formation are the brainchild of Halpern in his testimony before the House Oversight Subcommittee on Finance and Investigations in 2001 where Michael Oxley and Halpern became good friends and as a result several changes were made to SOX 404 and 405 to make the securities rules less onerous to small business.

Halpern is significantly involved with Trump's re-election campaign and believes that Trump hates the SEC as it is currently being operated. Thirteen days after Wahl filed his briefs Jay Clayton is stepping down.

[1316]Ex. 76 (Dec. 4, 2017 Accounting Today article); Ex. 839.6 (Prior Testimony Designations) 5 (July 12, 2019 Wahl Dep. at 14:14-15 ("this is a bullshit case…"); *id.* at 6 (July 12, 2019 Wahl Dep. at 16:7-12 ("Q. And what did you discuss with Deutchman? A. Basically that it's a bullshit case.").
[1317] Tr. (Vol. XX Wahl) 4916:5-6 ("Q You think the PCAOB is a joke, correct? A I do.").
[1318] Ex. 883 (Articles of organization for MattCarl LLC); Ex. 884 (MattCarl LLC operating agreement) at 33-35.
[1319] Ex. 885 (Fictitious business statement for MattCarl LLC).
[1320] Tr. (Vol. XXI Chung) at 5188:13-18.
[1321] *Id.* at 5191:17-18; 5195:7-17; 5198:15-20.
[1322] Tr. (Vol. XX Wahl) at 4927:1-4927:11.
[1323] Exs. 892 and 892.1 (Website capture declaration, and NorAsia website and Linked-in profile website captures).
[1324] Tr. (Vol. XV Halpern) 3711:17-21; Ex. 862 (Max Sound 2018 Form 10-K).
[1325] Ex. 862 (Max Sound 2018 Form 10-K).

915. In 2016 Max Sound engaged Anton & Chia as its independent auditor, in part, to lower costs to the company.[1326]

916. Halpern testified that Anton & Chia was Max Sound's registered public accounting firm for Max Sound's 2018 Form 10-K, and for its first, second and third quarter interim reviews in 2019, and that Wahl personally worked on each of those engagements.[1327]

917. Page 24 of 59 of Max Sound's Form 10-K filed on March 29, 2019, contained an independent report of the registered auditor, bearing the letterhead "G.A. Wahl," dated March 28, 2019.[1328]

Lie #917: Halpern used the language in the 2017 A&C audit opinion, that was provided (**TR 3769 Lines 14-25** and **TR 3770 Lines 1-2**). The PCAOB contacted Wahl 5 times in 2019 and never once mentioned or attempted to discuss Max Sound's 2018 audit opinion. Not once. Wahl communicated directly with the PCAOB staff on the phones or returned their calls and their emails, the PCAOB never mentioned Greg Halpern or G.A. Wahl whatever that is (**TR 4999 Lines 15-25 & TR 5000 Lines 1-15**). If there was such concern over Max Sound's audit opinion then the PCAOB would have discussed "G.A. Wahl" with Wahl as the responsibility of the PCAOB is oversight of auditors and audit firms. The PCAOB had no such communication by phone call, in writing or

otherwise regarding “G.A. Wahl” (**TR 4999 Lines 15-25 & TR 5000 Lines 1-15**). Halpern believed he resolved this matter with the SEC’s corporate finance group (**TR 3769 Lines 14-25** and **TR 3770 Lines 1-2)**. This is nothing more than pure retaliation by the Division and Calabrese (**TR 3764 Lines 16-25** and **TR 3768 Lines 18-21)** that were caught lying and committing fraud in this case by changing the Authoritative Guidance of US GAAP and GAAS (See **LIEs #15** to **LIEs #110**).

> 918. In creating that letterhead, Greg Halpern took a letter provided by Wahl, that Wahl had authorized for inclusion in Max Sound’s 2018 Form 10-K, and changed the letterhead to “G.A. Wahl,” based on the belief that Wahl was changing the name of his firm from Anton & Chia to “G.A. Wahl.”[1329]

Lie #918: Halpern used the language in the 2017 A&C audit opinion, that was provided (**TR 3769 Lines 14-25** and **TR 3770 Lines 1-2**). The PCAOB contacted Wahl 5 times in 2019 and never once mentioned or attempted to discuss Max Sound’s 2018 audit opinion; the PCAOB never mentioned Greg Halpern or G.A. Wahl whatever that is. Not once. Wahl communicated directly with the PCAOB staff on the phones or returned their calls and their emails (**TR 4999 Lines 15-25 & TR 5000 Lines 1-15**).

If there was such concern over Max Sound's audit opinion then the PCAOB would have discussed "G.A. Wahl" with Wahl as the responsibility of the PCAOB is oversight of auditors and audit firms. The PCAOB had no such communication by phone call, in writing or otherwise regarding "G.A. Wahl" (**TR 4999 Lines 15-25 & TR 5000 Lines 1-15**). Halpern believed he resolved this matter with the SEC's corporate finance group (**TR 3769 Lines 14-25** and **TR 3770 Lines 1-2)**. This is nothing more than pure retaliation by the Division and Calabrese (**TR 3764 Lines 16-25** and **TR 3768 Lines 18-21)** that were caught lying and committing fraud in this case by changing the Authoritative Guidance of US GAAP and GAAS (See **LIEs #15** to **LIEs #110**).

919. Wahl reviewed Max Sound's 2018 Form 10-K before it was filed with the Commission and made no comment to Halpern about the audit opinion letter that was affixed to the Form 10-K under the "G.A. Wahl" letterhead.[1330]

Lie #919a: Wahl had no knowledge of the "G.A Wahl" letterhead until he was deposed. Halpern resolved this matter with the

SEC's Corporate Finance Group independently of Wahl. (**TR 3769 Lines 14-25** and **TR 3770 Lines 1-2**)

Halpern used the language in the 2017 A&C audit opinion, that was provided (**TR 3769 Lines 14-25** and **TR 3770 Lines 1-2**). The PCAOB contacted Wahl 5 times in 2019 and never once mentioned or attempted to discuss Max Sound's 2018 audit opinion. Not once. Wahl communicated directly with the PCAOB staff on the phones or returned their calls and their emails (**TR 4999 Lines 15-25 & TR 5000 Lines 1-15**). If there was such concern over Max Sound's audit opinion then the PCAOB would have discussed "G.A. Wahl" with Wahl. The PCAOB had no such communication by phone call, in writing or otherwise regarding "G.A. Wahl" (**TR 4999 Lines 15-25 & TR 5000 Lines 1-15**). This is nothing more than pure retaliation by the Division and Calabrese (**TR 3764 Lines 16-25** and **TR 3768 Lines 18-21)** that were caught lying and committing fraud in this case by changing the Authoritative Guidance of US GAAP and GAAS (See **LIEs #15** to **LIEs #110**).

Wahl had previously falsely represented to Judge Carol Foelak, on March 15, 2019, that both he and Chung "have no interest in being involved with attestation engagements (audit and reviews) for public companies."[1331]

Lie #919b: Wahl's representations to Judge Carol Foelak are correct he no longer is in the assurance business. However, Wahl based on his performance and experience constitutionally should have the right to decide if he wants to work in attestation engagements. Wahl, Chung and Deutchman did nothing wrong. Wahl has significant experience in running a succesful organization. Wahl's new businesses have nothing to do with attestation engagements as he has other interests. No one would hire Wahl or Chung for attestation work simply because of the risk that the SEC would retaliate against the new firm that Wahl and Chung worked for. The SEC has a proven track record or retaliating againgst Wahl and Chung see Respondents' Proposed Facts and Conclusions of Law.

920. On August 5, 2019, the Division of Corporate Finance advised Max Sound that "G.A. Wahl" was not registered with the PCAOB. In response, Max Sound filed an amended

[1326] Tr. (Vol. XV Halpern) 3707:16-3708:6.
[1327] *Id.* at 710:15-3711:3, 3730:4-7, 3754:18-22, 3757:7-11, 3758:8-20, 3776:11-22.
[1328] Ex. 862 (Max Sound 2018 Form 10-K) at 24 of 59.
[1329] Tr. (Vol. XV Halpern) 3735:13-3739:1, 3741:25-3742:23, 3744:8-15, 3750:9-21.
[1330] *Id.* at 748:8-14.
[1331] Motion to dismiss filed by Wahl and Chung (March 15, 2019) at 1.

Form 10-K/A, with an audit opinion letter under the Anton & Chia letterhead. Halpern explained the situation to Wahl and obtained that letter from Wahl.[1332]

Lie #920: Wahl had no knowledge of the "G.A Wahl" letterhead until he was deposed. Halpern resolved this matter with the SEC's Corporate Finance Group independently of Wahl. (**TR 3769 Lines 14-25** and **TR 3770 Lines 1-2**)

Halpern used the language in the 2017 A&C audit opinion, that was provided (**TR 3769 Lines 14-25** and **TR 3770 Lines 1-2**). The PCAOB contacted Wahl 5 times in 2019 and never once mentioned or attempted to discuss Max Sound's 2018 audit opinion. Not once. Wahl communicated directly with the PCAOB staff on the phones or returned their calls and their emails (**TR 4999 Lines 15-25 & TR 5000 Lines 1-15**). If there was such concern over Max Sound's audit opinion then the PCAOB would have discussed "G.A. Wahl" with Wahl. The PCAOB had no such communication by phone call, in writing or otherwise regarding "G.A. Wahl" (**TR 4999 Lines 15-25 & TR 5000 Lines 1-15**). This is nothing more than pure retaliation by the Division and Calabrese (**TR 3764 Lines 16-25**

and **TR 3768 Lines 18-21)** that were caught lying and committing fraud in this case by changing the Authoritative Guidance of US GAAP and GAAS (See **LIEs #15** to **LIEs #110**).

921. In subsequent correspondence with Max Sound, the Division of Corporate Finance advised the company that Anton & Chia was not licensed in the State of California as of March 28, 2013, the date of Anton & Chia's audit opinion letter. In response, Halpern submitted a revised audit opinion letter from Anton & Chia dated February 22, 2019.[1333] Halpern testified that he explained Corp. Fin's concerns and asked Wahl to check his records as to when Anton & Chia had completed its audit. Wahl reported back to Halpern that he had completed the work on February 22, 2019, and authorized Halpern to re-date Anton & Chia's audit letter.[1334]

LIE #921 Wahl was never intricately involved in the Corporate Finance Letters for Max Sound. Wahl was aware of the communication but was never provided these communications and was never involved in the actual response. If there was such concern over Max Sound's audit opinion then the PCAOB would have discussed "G.A. Wahl" with Wahl. The PCAOB had no such communication by phone call, in writing or otherwise regarding "G.A. Wahl" (**TR 4999 Lines 15-25 & TR 5000 Lines 1-15**). This is nothing more than pure retaliation by the Division and

Calabrese (**TR 3764 Lines 16-25** and **TR 3768 Lines 18-21)** that were caught lying and committing fraud in this case by changing the Authoritative Guidance of US GAAP and GAAS (See **LIEs #15** to **LIEs #110**).

922. In his July 2, 2019 deposition, Wahl testified that the last time he performed any work for Max Sound was in the first or second quarter of 2018, and that he performed no work for Max Sound in 2019, and did not issue any audit opinion for Max Sound for fiscal year-end 2018. As Wahl explained, any work in Q3 2018 or after "would be impossible since the firm was in bankruptcy." In his deposition, Wahl also disavowed any knowledge of the "G.A. Wahl" audit opinion letter attached to Max Sound's 2018 Form 10-K and denied being paid any compensation by Max Sound for work performed in 2019.[1335]

#922: Wahl never knew about "G.A. Wahl" until he was deposed. Wahl thought it was kind of funny but was totally unaware of "G.A. Wahl" as he never went by that acronymn. (**TR 3769 Lines 14-25** and **TR 3770 Lines 1-2**)

923. At the hearing in this matter, Wahl finally admitted doing work for Max Sound in 2019, reviewing Max Sounds' financial statements for "material differences," and being personally paid for it, but claimed that he was merely a "consultant" assisting with the 2018 year-end audit that was performed by some other, unidentified, accounting firm.[1336]

LIE #923: Wahl admitted to only reviewing the financial statements (not the Form 10-K) for Max Sound for 2018 as a **consultant** (**TR 5573 Lines 22-25; TR 5574 Lines 1-14**) Wahl was under the impression that Halpern had worked out terms with the Anton & Chia, LLP Trustee to have his audit opinion issued for 2018 (**TR 4998 Lines 14-21; TR 5585 Lines 14-25; TR 5586 Line 1**). It's obvious that Anton & Chia, LLP was licensed up until February 28, 2018.

The subject matter related to #914 to #922 (MaxSound, Halpern, etc.) was not part of the original OIP and has no relevance to any law being broken or anything that Wahl did incorrectly. This is nothing more than retaliation against Wahl for defending his innocence under the US constitution. The Division is simply trying to create a further sideshow to distract the court from the fake allegations that they have no support for in the original OIP.

[1332] *Id.* at 760:13-3761:2, 3761:24-3762:16, 3763:18-3764:5; Ex. 864 (Nov. 1, 2019 letter from Max Sound to Corp. Fin.); Ex. 865 (Max Sound 2018 Form 10-K/A filed on Nov. 1, 2019).
[1333] Tr. (Vol. XV Halpern) 3766:1-14; Ex. 866 (Max Sound 2018 Form 10-K/A filed on Nov. 19, 2019).
[1334] Tr. (Vol. XV Halpern) 3766:25-3768:8.

[1335] Ex. 839.8 (Addendum to the Prior Testimony Designations) 4-9 (July 2, 2019 Wahl AP Dep. Tr. at 311:6-316:19); *see also* Tr. (Vol. XV Halpern) 3774:9-3776:21.
[1336] Tr. (Vol. XX Wahl) 4947:2-4953:7.

E. Wahl Deceived His Expert John Misuraca

924. In July 2019, Wahl retained John Misuraca, a purported specialist in business valuations, to prepare two reports: one relating to Premier, the other to CannaVEST.[1337]

LIE# 924: Misuraca is not a "purported" specialist in business valuation. Misuraca is a very successful valuation expert and his honest. Wahl has been business associates with Misuraca for over 12 years. Wahl never deceived his expert as Misuraca never rescinded his expert report. Wahl and Misuraca are still business associates.

Misuraca calculated a reasonable ROI that would imply that the Phytopshere purchase price at the time of the interim review was plausible, which is the standard for an interim review. This is not an audit.

925. In his CannaVEST report (which Wahl has not sought to introduce into evidence), Misuraca states that he took a management forecast provided by Wahl from an email Wahl had sent to Shek and Koch on November 8, 2013 and used it to create a spreadsheet in a discounted future cash flow format.[1338] He then applied an estimated provision for taxes of 20% to the net income reflected in the forecast, an estimated cash flow growth rate of 4%, and then "input[ted] various discount rates into [his] spreadsheet until [he] ended up with an equity value [of CannaVEST] just above the purchase price of $35,000,000.[1339]

Misuraca calculated a reasonable ROI that would imply that the Phytopshere purchase price at the time of the interim review was plausible, which is the standard for an interim review. This is not an audit.

926. Based on his work, he calculated an internal rate of return for CannaVEST enterprise of 20.48%, which he considered "reasonable."[1340] He also stated that "[i]f the subject entity is achieving or exceeding the cash flows shown in the forecast after the internal rate of return has been considered reasonable, it is also reasonable that there is no likely impairment to the goodwill of the company.[1341]

Misuraca calculated a reasonable ROI (discount rate) that would imply that the Phytopshere purchase price at the time of the interim review was plausible, which is the standard for an interim review. This is not an audit.

The objective of the analysis was to determine that the goodwill of the company was plausible which Misuraca determined to be plausible.

927. At the hearing in this matter, Misuraca testified that he was offering only ***one***

opinion concerning CannaVEST: that the discount rate that he derived from using a $35 million purchase price for the PhytoSphere transaction, that forecast that Wahl had provided to him was "in the realm of reason."[1342] Misuraca candidly admitted that he would not consider the work that

[1337] Tr. (Vol. XIV Misuraca) 3468:17-19; Ex. 1122 (Misuraca Premier report); Ex. 1036 (Misuraca CannaVEST report).
[1338] Ex. 1036 (Misuraca CannaVEST report) ¶¶ 19, 26-26, Ex. II.
[1339] *Id*. ¶¶ 28-29.
[1340] *Id*. ¶¶ 40-41.
[1341] *Id*. ¶ 43.
[1342] Tr. (Vol XIV Misuraca) 3477:17-24, 3507:3-7, 3529:6-15.

he had done on the CannaVEST matter to be a valuation.[1343] Rather, his work was simply a results-oriented and highly unorthodox analysis to determine what discount rate would result in a business enterprise value for CannaVEST in excess of $35 million based on the forecast that Wahl had provided to him.[1344] He also conceded that he had not made any conclusions or formulated any opinions as to whether the $35 million was reasonable, what the fair value of the PhytoSphere assets were, or whether CannaVEST should have recorded an impairment to goodwill in either the first or second quarters of 2013, as he did not have enough information to make that decision.[1345]

Misuraca calculated a reasonable ROI (discount rate) that would imply that the Phytopshere purchase price at the time of the interim review was plausible, which is the standard for an interim review. This is not an audit.

The objective of the analysis was to determine that the goodwill of the company was reasonable which Misuraca determined to be exactly so.

928. Misuraca explained that the ***only*** document he relied on to conduct his analysis was a five-year financial forecast that Wahl had provided to him, which Wahl represented was effective as of the date of the [PhytoSphere] transaction in January 2013."[1346] In conducting his work, Wahl had provided Misuraca with electronic access, via DropBox, to Anton & Chia's work papers and various other documents.[1347] Misuraca testified that he found nothing helpful in those documents to be able to conduct any analysis.[1348] He told Wahl that he would have expected CannaVEST to have had a financial

[1350] *Id*

forecast at the time it acquired PhytoSphere to ensure the price it was paying was reasonable.[1349] Wahl told Misuraca he would look for the forecast and would get back to him.[1350]

929. Wahl later provided Misuraca a copy of an email, dated November 8, 2013, that Wahl had purportedly sent to two of his subordinates at Anton & Chia, which included a

[1343] *Id.* at 478:24-3479:6, 3482:1-3, 3503:21-3504:3.
[1344] *Id.* at 502:10-13, 20-22.
[1345] *Id.* at 527:16-3528:12, 3529:16-23, 3520:22-25.
[1346] *Id.* at 471:20-3472:6, 3483:15-19, 3524:20-25.
[1347] *Id.* at 470:8-13.
[1348] *Id.* at 33:1-134:11; 183:6-17.
[1349] *Id.* at 474:5-3475:15.

[1350] *Id.*

financial forecast.[1351] Based on his conversations with Wahl, as well as the substance of the email and the nature of the financial forecast (which provided actual results for the first quarter of 2013, and forecasted results for subsequent periods), Misuraca believed that the forecast had been made available by CannaVEST's management to Wahl during Anton & Chia's interim first quarter review.[1352]

Misuraca calculated a reasonable ROI (discount rate) that would imply that the Phytopshere purchase price at the time of the interim review was plausible, which is the standard for an interim review. This is not an audit.

The objective of the analysis was to determine that the goodwill of the company was plausible (review standard) not reasonable (audit standard) which Misuraca fairly determined.

930. Unbeknownst to Misuraca, his analysis was based on a materially altered document that Wahl had recently created.[1353] Wahl doctored a November 8, 2013 email, which Anton & Chia had previously produced to the Division (*see* Ex. 824 (original email)), by adding certain language and inserting a fictitious financial forecast, to suggest to his expert that the forecast had been available to Wahl during Wahl's first quarter interim review (*see* Ex. 823 (doctored email).

LIE #930: Wahl never represented he "doctored" the email. The Division again falsly alleged that he "doctored" the email. Wahl fully contested he made a harmless error in copying and pasting the numbers from the

valuation and reduced them by approximately 50% which would reduce the discount rate by 50% (**TR 5515 Lines 9-12 & Lines 14-16**; **Lines 6-9**). **The Division is so used to lying and getting their own way that they just assumed that Wahl was intentionally doing something wrong but Wahl did nothing wrong**. **In fact, it's the Division that has been caught lying and fraudulently changing the Authoritative Guidance in US GAAP and GAAS, see LIE #15 and LIE #110. The Division even went to far to change Wahl's investigative transcript so they could get their result.**

931. In the image below, the text that Wahl added to the original email is highlighted in yellow.

[1350] *Id*

[1351] *Id.* at 483:1-14; Ex. 823 (July 15, 2019 email from Wahl).
[1352] *Id.* at 485:11-14, 3486:8-14, 3490:9-1, 3518:21-25.
[1353] *Id.* at 491:7-15.

[1350] *Id.*

Original Email (Ex. 824)

To: Tommy Shek[tshek@ancsecservices.com]; Richard Koch[rkoch@ancsecservices.com]
Cc: windy@ancsecservices.com[294095.windy@d59461-0701201115044559.exhost1.secureserver.net]
From: Greg Wahl
Sent: Fri 11/8/2013 8:32:20 AM
Importance: Normal
Subject: FW: CannaVEST - Documentation Requests

Tommy and Richard,

I think as stated the valuation of $0.68 makes sense for the stock transactions. I know this firm they are pretty good.

Plus, Phytosphere valuation implies an impairment so we need to take the hit.

Gregory Anton Wahl, C.P.A
Managing Partner
ANTON & CHIA, LLP
Office: 949.769.8905
Direct: 949.612.6329
Mobile: 949-300-6928
Fax: 949.623.9885
Email: anton@ancsecservices.com
Website: www.ancsecservices.com
Skype: antonchiallp
Twitter: @IAMTHEWAHL

Doctored Email (Highlighted) (Ex. 823)

From: Greg Wahl <anton@ancsec.com>
Sent: Monday, July 15, 2019 2:49 PM
To: John Misuraca
Cc: Barry Cohen
Subject: FW: CannaVEST - Documentation Requests
Attachments: CannaVEST - PhytoSPHERE - BEV - 1.29.2013_29Oct2013.pdf; ATT00001.htm; CannaVEST 8.21.2013 - ASC 718 IRC 409A Report.pdf; ATT00002.htm

Importance: High

John, I think below is an email with a the projections that I originally received. I will keep looking. I think we used this but I forget the discount factor to assess the fair value.

From: Greg Wahl <anton@ancsecservices.com>
Sent: Friday, November 8, 2013 5:32 AM
To: Tommy Shek <tshek@ancsecservices.com>; Richard Koch <rkoch@ancsecservices.com>
Cc: windy@ancsecservices.com <294095.windy@d59461-0701201115044559.exhost1.secureserver.net>
Subject: FW: CannaVEST - Documentation Requests

Tommy and Richard,

I think as stated the valuation of $0.68 makes sense for the stock transactions. I know this firm they are pretty good.

Plus, Phytosphere valuation implies an impairment so we need to take the hit. Below is what we had for original projections, etc.

	2013					2014	2015
	Actual	Projected					Proj
	Q1	Q2	Q3	Q4	Total		
Revenues	$ 1,275,000	$ 525,000	$ 1,100,000	$ 675,000	$ 3,575,000	$10,029,798	$19,725,617
Cost of Goods	$ 501,500	$ 315,000	$ 660,000	$ 405,000	$ 1,881,500	$ 2,156,407	$ 4,241,008
Gross Profit	$ 773,500	$ 210,000	$ 440,000	$ 270,000	$ 1,693,500	$ 7,873,391	$15,484,609
G&A	$ 435,559	$ 105,000	$ 225,000	$ 250,000	$ 1,015,559	$ 5,794,345	$10,638,455
Net Income	$ 337,941	$ 105,000	$ 215,000	$ 20,000	$ 677,941	$ 2,079,046	$ 4,846,154

LIE #931: Wahl never represented he "doctored" the email (**TR 5515 Lines 9-12 & Lines 14-16**; **Lines 6-9**). The Division again falsly alleged that he "doctored" the email. Wahl fully contested he made a harmless error in copying and pasting the numbers from the valuation and reduced them by approximately 50% which would reduce the discount rate by 50%. Not increase it making it less likely that there would be impairment.

[1355] *Id*

The Division is so used to lying and getting their own way that they just assumed that Wahl was intentionally doing something wrong but Wahl did nothing wrong. In fact, it's the Division that has been caught lying and fraudulently changing the Authoritative Guidance in US GAAP and GAAS, see LIE #15 and LIE #110. The Division even went to far to change Wahl's investigative transcript so they could get their result.

932. In the email Wahl sent to his expert on July 15, 2019, which Wahl forwarded the doctored November 8, 2013 email, he begins with the salutation: "John, I think below is an email with the projections I originally received. I will keep looking. I think we used this but I forget the discount factor to assess the fair value."[1354]

LIE #932: Wahl never represented he "doctored" the email. The Division again falsly alleged that he "doctored" the email (**TR 5515 Lines 9-12 & Lines 14-16**; **Lines 6-9**). Wahl fully contested he made a harmless error in copying and pasting the numbers from the valuation and reduced them by approximately 50% which would reduce the discount rate by 50%. Not increase it making it less likely that there would be impairment.

[1355] *Id*

The Division is so used to lying and getting their own way that they just assumed that Wahl was intentionally doing something wrong but Wahl did nothing wrong. In fact, it's the Division that has been caught lying and fraudulently changing the Authoritative Guidance in US GAAP and GAAS, see LIE #15 and LIE #110. The Division even went to far to change Wahl's investigative transcript so they could get their result.

933. Then, in the purported November 8, 2013 email from Wahl to Shek and Koch, Wahl added additional language that was not present in the original. The second sentence of the original email stated: "Plus PhytoSphere valuation implies an impairment so we need to take the hit." In the doctored email, Wahl added the language immediately following that sentence: "Below is what we had for original projections, etc."[1355] Based on that language, Misuraca

[1354] Ex. 823 (July 15, 2019 email from Wahl).

[1355] *Id*

believed that the forecast included beneath that language was information that Wahl had available to him during Anton & Chia's first quarter interim review in 2013.[1356]

LIE #933: Wahl never represented he "doctored" the email. The Division again falsly alleged that he "doctored" the email. Wahl fully contested he made a harmless error in copying and pasting the numbers from the valuation and reduced them by approximately 50% which would reduce the discount rate by 50% (**TR 5515 Lines 9-12 & Lines 14-16**; **Lines 6-9**). Not increase it making it less likely that there would be impairment. **The Division is so used to lying and getting their own way that they just assumed that Wahl was intentionally doing something wrong but Wahl did nothing wrong**. **In fact, it's the Division that has been caught lying and fraudulently changing the Authoritative Guidance in US GAAP and GAAS, see LIE #15 and LIE #110. The Division even went to far to change Wahl's investigative transcript so they could get their result.**

934. Beneath that new language Wahl then inserted a financial forecast, purportedly reflecting actual results for the first quarter of 2013, and projected results for the subsequent three quarters in 2013, and annual results for 2014, 2015, 2016, 2017 and thereafter.[1357]

[1355] *Id*

LIE #934: Wahl never represented he "doctored" the email. The Division again falsly alleged that he "doctored" the email. Wahl fully contested he made a harmless error in copying and pasting the numbers from the valuation and reduced them by approximately 50% which would reduce the discount rate by 50% (**TR 5515 Lines 9-12 & Lines 14-16**; **Lines 6-9**). Not increase it making it less likely that there would be impairment. **The Division is so used to lying and getting their own way that they just assumed that Wahl was intentionally doing something wrong but Wahl did nothing wrong**. **In fact, it's the Division that has been caught lying and fraudulently changing the Authoritative Guidance in US GAAP and GAAS, see LIE #15 and LIE #110. The Division even went to far to change Wahl's investigative transcript so they could get their result.**

935. No such forecast was included in the original version of the November 8th email, and it appears to have been entirely fabricated by Wahl for purposes of enabling Misuraca's analysis.[1358]

LIE #935: Wahl never represented he "doctored" the email. The Division again falsly alleged that he "doctored" the email. Wahl fully contested he made a harmless error in copying and pasting the numbers from the

[1355] *Id*

valuation and reduced them by approximately 50% which would reduce the discount rate by 50%(**TR 5515 Lines 9-12 & Lines 14-16**; **Lines 6-9**). Not increase it making it less likely that there would be impairment. Yes the projections were included in the valuation reports.

The Division is so used to lying and getting their own way that they just assumed that Wahl was intentionally doing something wrong but Wahl did nothing wrong. **In fact, it's the Division that has been caught lying and fraudulently changing the Authoritative Guidance in US GAAP and GAAS, see LIE #15 and LIE #110. The Division even went to far to change Wahl's investigative transcript so they could get their result.**

936. The Division moved, *in limine*, to exclude Misuraca's CannaVEST report based, in part, of Wahl's alternation of the November 8, 2013 email.

LIE #936: Wahl never represented he "doctored" the email. The Division again falsly alleged that he "doctored" the email. Wahl fully contested he made a harmless error in copying and pasting the numbers from the valuation and reduced them by approximately 50% which would reduce

[1355] *Id*

the discount rate by 50%(**TR 5515 Lines 9-12 & Lines 14-16**; **Lines 6-9**). Not increase it making it less likely that there would be impairment.

Yes the projections were included in the valuation reports.

The Division is so used to lying and getting their own way that they just assumed that Wahl was intentionally doing something wrong but Wahl did nothing wrong. **In fact, it's the Division that has been caught lying and fraudulently changing the Authoritative Guidance in US GAAP and GAAS, see LIE #15 and LIE #110. The Division even went to far to change Wahl's investigative transcript so they could get their result.**

937. In his opposition to the Division's motion *in limine* to exclude Misuraca's CannaVEST report, Wahl submitted a declaration to the administrative law judge, signed under the penalty of perjury, dated September 27, 2019, in which he declared: "The projection 'pasted' into the November 8, 2013 email in one of the attachment from the actual email. It is page 36 of the projections that were prepared by Vantage Point, which I reviewed prior to completing the review in question. Copies of the pertinent projection were pasted in to the email sent to Misuraca…"

#937: That is a correct statement that Wahl signed under perjury(**TR 5515 Lines 9-12 & Lines 14-16**; **Lines 6-9**). The projections were from the page 36 of the Vantage Report similar that the Division cant figure out

[1355] *Id*

the US GAAP and GAAS standards applicable to the case and they want to get back to us with the law. The Exhibit wasn't even admitted into evidence and they waste everyone's time and money over nothing, as usual.

The Division is so used to lying and getting their own way that they just assumed that Wahl was intentionally doing something wrong but Wahl did nothing wrong. In fact, it's the Division that has been caught lying and fraudulently changing the Authoritative Guidance in US GAAP and GAAS, see LIE #15 and LIE #110. The Division even went to far to change Wahl's investigative transcript so they could get their result.

938. At the hearing in this matter, Wahl elected not to address his fabricated email in his direct examination by his counsel, electing instead to delay addressing the issue until his cross-examination by Division counsel.[1359]

LIE #938: Wahl never represented he "fabricated" the email. The Division again falsly alleged that Wahl "fabricated" the email. Wahl fully contested he made a harmless error in copying and pasting the numbers from the valuation and reduced them by approximately 50% which

[1355] *Id*

would reduce the discount rate by 50% (**TR 5515 Lines 9-12 & Lines 14-16**; **Lines 6-9**). Not increase it making it less likely that there would be impairment.

The Division is so used to lying and getting their own way that they just assumed that Wahl was intentionally doing something wrong but Wahl did nothing wrong. **In fact, it's the Division that has been caught lying and fraudulently changing the Authoritative Guidance in US GAAP and GAAS, see LIE #15 and LIE #110. The Division even went to far to change Wahl's investigative transcript so they could get their result.**

[1356] Tr. (Vol. XIV Misuraca) 3504:4-16.
[1357] Ex. 823 (July 15, 2019 email from Wahl). The forecast in Wahl's email to Misuraca is cut off, ending in 2015; the full table is reflected in Ex. II to Misuraca's CannaVEST report.
[1358] Tr. (Vol. XIV Misuraca) 3504:22-3505:9; *compare* Ex. 823 (doctored email) *with* Ex. 824 (original email).
[1359] Tr. (Vol. XVIII Wahl) 4286:20-4288:1.

[1355] *Id*

939. On cross-examination, it became apparent that Wahl's September 27, 2019 declaration was perjurious. The projections included in Misuraca's report were not copied from page 36 of either Vantage Point valuation report, or from any other portion of those reports.[1360] When Wahl was confronted with those facts, he changed his story, and testified that he took the numbers from page 36 of the CannaVEST stock valuation report and cut them by 50%, wanting to be "conservative." When confronted with the fact that the numbers were not 50% of page 36 of the CannaVEST stock valuation report, Wahl could not explain what he had done.[1361]

Lie# 939: the allegations in the OIP and the Press Release are false and so is this entire paragraph. The numbers could have been lower than 50% which is even more "conservative" which further proves based on the interim review standard there was no impairment of goodwill. Discredit, retaliate, the Division is a "Captured Agency" its owned and controlled by industry, the Nasdaq, NYSE and not the American taxpayer or the US government.

The Division is so used to lying and getting their own way that they just assumed that Wahl was intentionally doing something wrong but Wahl did nothing wrong. In fact, it's the Division that has been caught lying and fraudulently changing the Authoritative Guidance in US GAAP and GAAS, see LIE #15 and LIE #110. The Division even went to

[1355] *Id*

far to change Wahl's investigative transcript so they could get their result.

The subject matter related to #914 to #939 (Misuraca, Emails, etc.) was not part of the original OIP and should be stricken from the record. This is nothing more than retaliation against Wahl for defending his innocence under the US constitution. The Division is simply trying to create a further sideshow to distract the court from the fake allegations that they have no support for in the original OIP.

F. Wahl's Draws from Anton & Chia

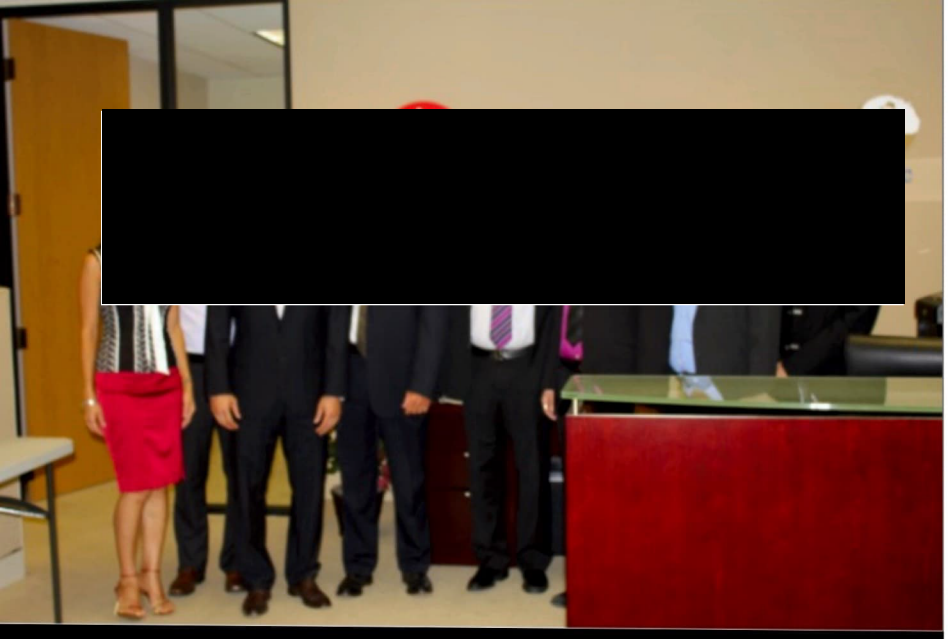
940. In 2014, Wahl drew $[redacted] in income from Anton & Chia. In 2015, Wahl drew $[redacted] in income from Anton & Chia.[1362]

The Divison put A&C into bankruptcy in August 10, 2018 with the December 4, 2017 press release. The draws generated by Wahl had nothing to do with the Cannavest, Premier or Accelera engagements. Publicly disclosing Wahl's draw's in those years has no relevance to

[1355] *Id*

this matter in which the Division intentionally brought a fake case against Honest Hardworking Americans. This is further retaliation by these terrorists. **The subject matter related to #940 (Wahl's draws, etc.) was not part of the original OIP. This is nothing more than retaliation against Wahl for defending his innocence under the US constitution. The Division is simply trying to create a further sideshow to distract the court from the fake allegations that they have no support for in the original OIP.**

[1355] *Id*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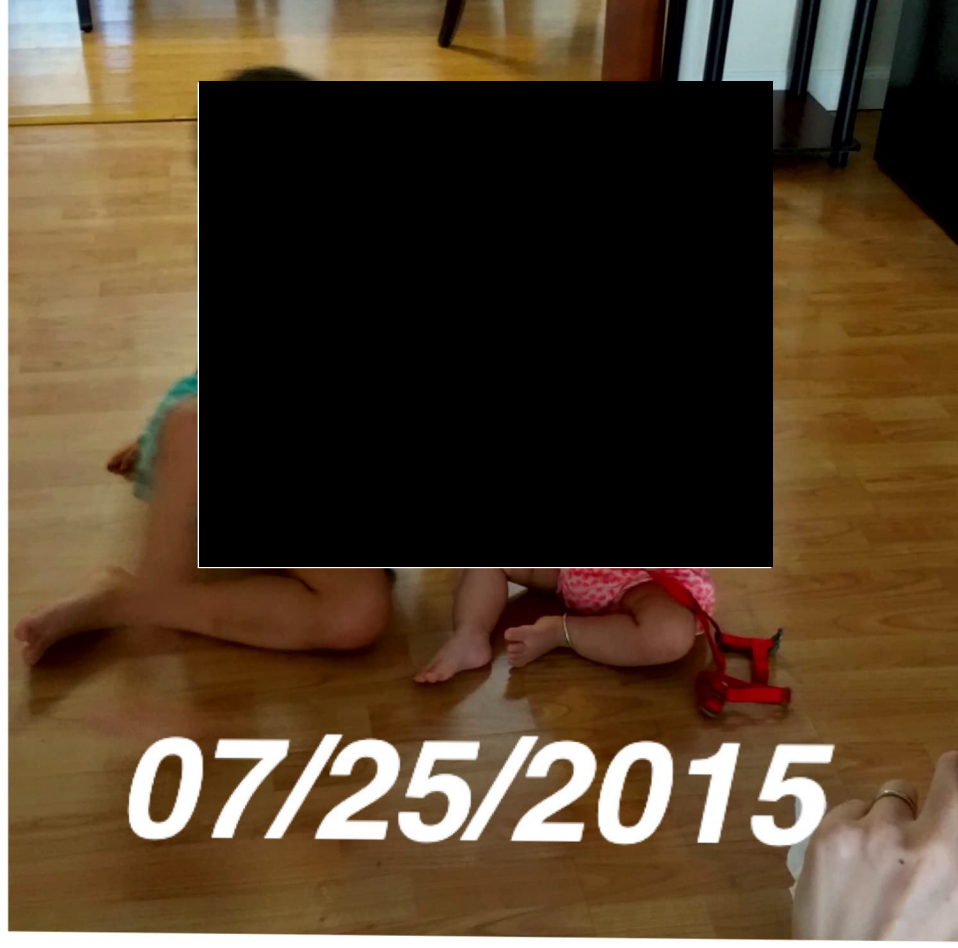
09/04/2012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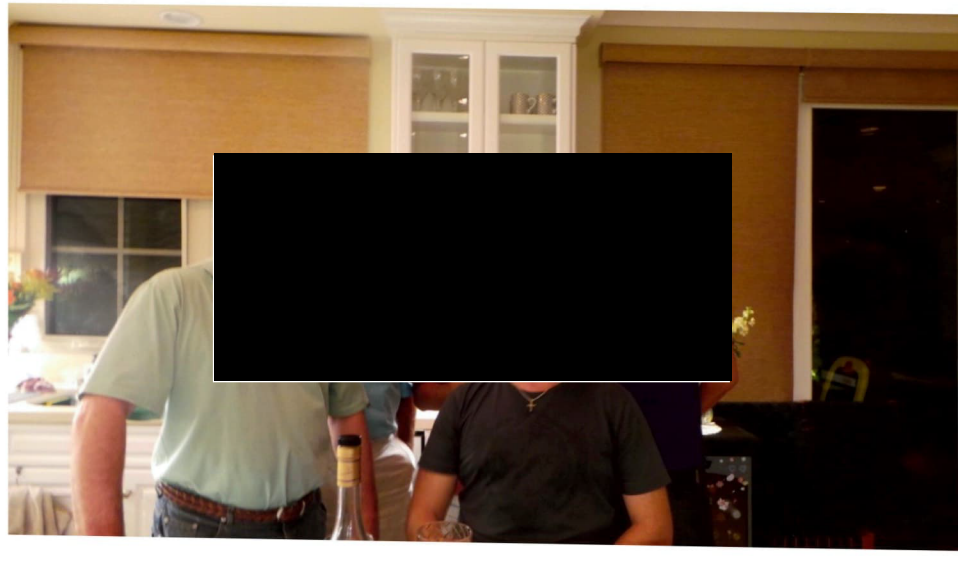
07/25/2015


[redacted]

09/01/2013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09/01/2013