

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

In the Matter of

DAVID S. HALL, P.C.
d/b/a THE HALL GROUP CPAs,
DAVID S. HALL, CPA,
MICHELLE L. HELTERBRAN COCHRAN, CPA,
and SUSAN A. CISNEROS

INITIAL DECISION
AS TO MICHELLE L.
HELTERBRAN COCHRAN, CPA,
AND SUSAN A. CISNEROS
March 7, 2017

APPEARANCES: Timothy L. Evans, David D. Whipple, and Jessica B. Magee for the
Division of Enforcement, Securities and Exchange Commission

Michelle L. Helterbran Cochran, pro se

Susan A. Cisneros, pro se

BEFORE: Cameron Elliot, Administrative Law Judge

SUMMARY

Respondents Michelle L. Helterbran Cochran, CPA, and Susan A. Cisneros were, respectively, the engagement partner and the engagement quality reviewer on multiple public company audits and interim reviews between 2011 and 2013. Because the engagement quality reviews for these engagements violated professional standards, Respondents caused violations of Rule 2-02(b)(1) of Regulation S-X and Section 13(a) of the Securities Exchange Act of 1934 and Rules 13a-1 and 13a-13 thereunder, and Helterbran aided and abetted the Rule 2-02(b)(1) violations.

This initial decision: (1) denies Helterbran the privilege of appearing or practicing before the Commission as an accountant, with the right to reapply after five years; (2) denies Cisneros the privilege of appearing or practicing before the Commission as an accountant for one year; (3) orders both Respondents to cease and desist from causing violations of Rule 2-02(b)(1) of Regulation S-X and Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder; (4) orders Helterbran to pay a civil penalty of \$22,500; and (5) orders Cisneros to pay a civil penalty of \$10,000.

I. INTRODUCTION

The Securities and Exchange Commission began this proceeding on April 26, 2016, by issuing an order instituting proceedings under Sections 4C and 21C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission's Rules of Practice against David S. Hall, P.C. (doing business as The Hall Group CPAs); David S. Hall, CPA; Michelle L. Helterbran Cochran,¹ CPA; and Susan A. Cisneros. The OIP alleges that Helterbran and Cisneros failed to adhere to standards established by the Public Company Accounting Oversight Board (PCAOB) in conducting audit and review engagements of public companies. *See* OIP at 3. The allegations against Helterbran and Cisneros center on The Hall Group's engagement quality reviews, a required step in audit and review engagements. Cisneros allegedly violated PCAOB standards when she performed engagement quality reviews because she was not a partner in The Hall Group or in an equivalent position, and she was not competent to perform the reviews. *See id.* at 3-6. Helterbran was also allegedly culpable for these violations as a result of her position as engagement partner because she signed off on some but not all of the audits and reviews at issue in which Cisneros improperly acted as the engagement quality reviewer, and in instances where the underlying work was not properly documented or completed in accordance with PCAOB standards. *See id.* In addition, Helterbran allegedly approved audits and reviews when there was no evidence any engagement quality review had been performed. *See id.* at 5.

The Hall Group and David S. Hall, P.C. (collectively, the Hall Respondents), and the Division of Enforcement each filed motions for summary disposition. The Hall Respondents' motion was denied and the Division's motion was granted in part and denied in part. *David S. Hall, P.C.*, Admin. Proc. Ruling Release No. 4122, 2016 SEC LEXIS 3304 (ALJ Sept. 2, 2016). Helterbran separately moved for summary disposition, which was denied. *David S. Hall, P.C.*, Admin. Proc. Ruling Release No. 4058, 2016 SEC LEXIS 2777 (ALJ Aug. 12, 2016). The Hall Respondents settled with the Commission prior to the hearing. *David S. Hall, P.C.*, Exchange Act Release No. 79147, 2016 SEC LEXIS 3987 (Oct. 24, 2016).

A hearing on the allegations against nonsettling respondents Helterbran and Cisneros was held on October 24 and 26, 2016, in Dallas, Texas. Hall, Helterbran, and Cisneros testified at the hearing. This initial decision refers to the Division's exhibits as "DX ___" and Helterbran's exhibits as "RX ___"; Cisneros offered no exhibits. The Division and Helterbran filed post-hearing briefs, and the post-hearing briefing was completed on December 16, 2016. Although Cisneros participated in the hearing, she did not file a post-hearing brief. I informed both Helterbran and Cisneros that they could submit evidence of inability to pay disgorgement or civil penalties, but neither Respondent did so. *See David S. Hall, P.C.*, Admin. Proc. Ruling Release No. 4315, 2016 SEC LEXIS 4070 (Oct. 31, 2016).

II. FINDINGS OF FACT

My findings of fact are based on a review of the entire record and have been determined based on the preponderance of the evidence. *See Steadman v. SEC*, 450 U.S. 91, 96 (1981)

¹ At the time of the alleged violations, her name was Michelle L. Helterbran. Subsequently her last name changed to Cochran due to marriage. Based on the practice of the parties, I refer to her as "Helterbran" in this initial decision. *See* Tr. 457.

(concluding that preponderance-of-the-evidence standard applies to Commission disciplinary proceedings under the antifraud provisions of the Investment Company Act of 1940); *William R. Carter*, Exchange Act Release No. 17597, 1981 SEC LEXIS 1940, at *3 n.3 (Feb. 28, 1981) (concluding that the preponderance-of-the-evidence standard announced in *Steadman* applies to disciplinary proceedings under Rule 2(e), predecessor to current Rule 102(e)). I have resolved conflicting testimony based on the credibility of the witnesses and the supporting documentary and testimonial evidence. To the extent that any testimony conflicts with these findings, I have considered and rejected that testimony. All arguments and proposed findings and conclusions that are inconsistent with this initial decision have also been considered and rejected.

A. The Hall Group CPAs

David Hall is a licensed CPA in Texas. Tr. 60. In 1991, he started his own accounting practice, David S. Hall, P.C., which did business as “The Hall Group CPAs.” Tr. 60-61. Hall was the sole owner of The Hall Group. Tr. 67. Early on, the firm did mostly tax and bookkeeping work. Tr. 61. Later, Hall sold the tax and bookkeeping practice and began to focus on auditing. Tr. 62. In 2003, The Hall Group acquired its first publicly traded audit client and registered with the PCAOB. Tr. 61. From 2003 forward, the firm had on average three to five employees, although that number fluctuated and was as many as twelve at one point. Tr. 62, 550. The Hall Group was eventually sold and renamed Thakkar CPA PLLC. DX 127; DX 128 at 10 (of 19 pdf pages). The PCAOB inspected The Hall Group in 2010 and again in July 2013. *See* DX 114; RX 29 at 1-2.

1. Susan Cisneros

In 2005, Cisneros joined The Hall Group. Tr. 221. Cisneros received a bachelor’s and a master’s of science in accounting from the University of North Texas. Tr. 216-17. She never sat for the CPA examination and is not a licensed CPA. *Id.* Prior to joining The Hall Group, she worked as a bank auditor doing loan review, a payroll supervisor, a mortgage investment manager, and a financial analyst at Coca-Cola. Tr. 219-21.

At The Hall Group, Cisneros primarily did audits of nonprofits, particularly after Helterbran joined the firm. Tr. 223. Cisneros occasionally worked on small public company audits, and she would, at times, serve as an audit senior, supervising another auditor on small public company audits. Tr. 223, 228. She did not have a supervisory role when it came to large public company audits. Tr. 231.

Hall classified Cisneros as a “contractor” rather than “employee.” Tr. 112. She was paid on an hourly basis—at \$40 and later \$42 per hour—and her income was reported to the IRS on Form 1099. Tr. 252; RX 6. The Hall Group did not withhold any taxes from her pay and did not pay the employer’s portion of payroll taxes. Tr. 261. Cisneros did not receive paid vacation, holidays, or sick days. Tr. 354. Nevertheless, Cisneros considered herself Hall’s employee and not a contractor. Tr. 255, 262, 304. Hall required her to complete a certain amount of continuing education and report it to him. Tr. 355. She went to work at The Hall Group’s offices every day, where she had an assigned office or cubicle. Tr. 450. She supervised employees and attended off-site and on-site training with The Hall Group. Tr. 354-55. In a general sense, she was under Hall’s supervision. Tr. 450.

Cisneros left The Hall Group in January 2012. Tr. 394. Cisneros initially gave uncertain testimony about whether she worked for other entities concurrently with The Hall Group before she left in January 2012. When asked whether she worked for other companies “during the 2010 through 2012 timeframe,” she stated that she has “a really hard time” remembering specific dates. Tr. 356. She did, however, remember working for a company called Cerion. *Id.* Later, her memory was refreshed by looking at her resume, and she testified that she did not work for anyone but The Hall Group from January 2005 to January 2012. Tr. 394; DX 119.

After her departure from The Hall Group in January 2012, she worked as an accounting manager at Cerion and an auditor at an accounting firm, although she continued to do some piecemeal work for The Hall Group on a part-time basis. Tr. 450-51; DX 119. This part-time work included engagement quality reviews mixed with other auditing work. Tr. 451. In 2010, her 1099 compensation from The Hall Group was \$67,340. Tr. 253. Her compensation in 2011 was approximately the same amount. Tr. 255. In 2012, however, she received only \$2,104. Tr. 253-54; *see* RX 4, 6.

Cisneros returned to The Hall Group as a “Sr. Auditor” in February 2014, after the firm was sold. DX 127; DX 128 at 10 (of 19 PDF pages). She was fired from Thakkar in June 2014, shortly after her first ninety-day performance review, which noted that she “does not have the skills to perform a quality audit” and that her “work quality is considered poor.” DX 128 at 7 (of 19 PDF pages); Tr. 258.

2. *Michelle Helterbran*

Helterbran joined The Hall Group in 2007. RX 35. She earned a bachelor’s degree in accounting and finance from Baylor University and is a licensed CPA in Texas. Tr. 524. Before joining The Hall Group, Helterbran worked for Ernst & Young and PricewaterhouseCoopers doing audit work. Tr. 525; RX 35. When Helterbran first joined The Hall Group, she worked about ten to fifteen hours per week, but Hall considered her a manager from the beginning of her tenure. Tr. 64, 526.

In 2005 or 2006, the Texas State Board of Public Accountancy notified Hall that it would not approve a firm name like “The Hall Group CPAs” unless there were at least two CPAs on the firm license. Tr. 135-36. For that reason, when Helterbran joined the firm in 2007, Hall asked her to put her name on the firm license. Tr. 134-36. Helterbran was unwilling to do so because she was only working ten to fifteen hours a week and did not want to be exposed to any liability. Tr. 529. In 2008 or 2009, a little more than a year after joining The Hall Group, Helterbran found out that Hall had put her name on the license without permission, which caused strife between them. *Id.* In 2010, Hall made it a condition of her employment to be on the license. Tr. 530; DX 125.

Contrary to Helterbran’s testimony, Hall testified that Helterbran was never unwilling to be on the firm license, although he stated that he could not remember the exact time he added her to the license. Tr. 134-35. A “roles and responsibilities” form dated August 30, 2010, listed being on the firm license as a condition of Helterbran’s employment, but Hall speculated that she might have already been on the license when that document was created, and stated, unhelpfully,

that “she was on the license when she was on the license.” Tr. 136; DX 125. In light of Hall’s professed uncertainty, I find Helterbran’s testimony about this issue more credible.

Helterbran helped draft The Hall Group’s response to the PCAOB’s 2010 inspection report. RX 27, 29. She also responded to some requests from the PCAOB during its 2013 inspection. DX 120, 122.

B. The Audit and Review Process

The Hall Group performed two types of engagements for its public company clients—audits and reviews. According to the testimony, an audit engagement is a detailed examination of the company’s finances for a year. Tr. 76. Audited financial statements are a key part of a company’s annual Form 10-K filing with the Commission. *See* Tr. 76-77. A review engagement is a less detailed financial assessment performed quarterly. *Id.* The reviewed, but unaudited, interim financial statements are included in a company’s quarterly reports on Form 10-Q. Tr. 77.

A fully staffed audit or review at The Hall Group was worked on by a partner, manager, audit senior, and audit staff. Tr. 63. Audit staff were responsible for less complicated issues that were fairly easy to audit, such as cash, receivables, and accounts payable. *Id.* An audit senior was a more experienced auditor who was responsible for a “detailed review.” Tr. 85. The manager supervised the audit senior and staff and was responsible for the overall audit process except for signing the report. Tr. 62-63. The engagement partner was ultimately responsible for a particular audit or review engagement and signed off on the audit report. Tr. 65. Because The Hall Group was a small firm, roles were often combined. Tr. 63. Sometimes the manager also performed the detailed review. *Id.* The partner and manager roles could also be combined.

Hall was the only engagement partner at the firm until 2010. Tr. 63-64. At that point, he had been the engagement partner for several public company clients for five years and was required to rotate off those clients under auditor independence rules. Tr. 64; *see* 15 U.S.C. § 78j-1(j). Helterbran then became the engagement partner for those clients. Tr. 64. As engagement partner, Helterbran had the authority to set the budget for an audit and sign off on completed audits. Tr. 66. She was not, however, an equity partner or shareholder at The Hall Group, which remained totally owned by Hall. Tr. 65. According to Cisneros’ resume, Cisneros’ title when at The Hall Group was audit senior. DX 119.

C. Engagement Quality Review

Before an audit or review could be completed, an additional level of review—the “engagement quality review”—was required. Tr. 74-77. PCAOB auditing standards require an engagement quality review and the “concurring approval” of the engagement quality reviewer for each audit engagement and review engagement for fiscal years beginning on or after December 15, 2009. Auditing Standard No. 7, PCAOB Release No. 2009-004, ¶ 1.² The engagement quality reviewer performs “an evaluation of the significant judgments made by the

² I have taken official notice of the PCAOB’s Auditing Standards. Tr. 78-79.

engagement team and the related conclusions reached in forming the overall conclusion on the engagement and in preparing the engagement report.” *Id.* ¶ 2.

To be qualified to perform an engagement quality review, the reviewer “must be an associated person of a registered public accounting firm.” Auditing Standard No. 7, ¶ 3. The engagement quality reviewer may be from the firm that is issuing the audit report, or may be from outside the firm. *See id.* An engagement quality reviewer that is from the firm must be “a partner or another individual in an equivalent position.” *Id.* Whether from inside the firm or not, an 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.” *Id.* ¶ 5. The engagement quality reviewer must “maintain objectivity,” and for that reason “should not make decisions on behalf of the engagement team or assume any of the responsibilities of the engagement team.” *Id.* ¶ 7.

Cisneros served as The Hall Group’s engagement quality reviewer on multiple engagements. In testimony during the Commission’s investigation, Cisneros apparently admitted that she did not have the knowledge and competence to be an engagement quality reviewer. Tr. 245. She explained during the hearing, however, that because she was not a CPA, she was not eligible to serve as an engagement partner, which is why she said she could not be an engagement quality reviewer. Tr. 352-54. She did, however, feel that she was qualified in terms of knowledge and competence to be an engagement quality reviewer. Tr. 353. That is, based on her experience and training, she felt she had a level of knowledge and competence equivalent to an engagement partner in terms of auditing small public companies. Tr. 453.

Cisneros did not, however, possess that same level of competence when an audit or review involved complicated equity matters such as options, derivatives, or stock for services. Tr. 225, 453. She specifically acknowledged being uncomfortable with the Black-Scholes model, a formula for estimating the price of options. Tr. 226. In auditing or reviewing financial statements with those issues, she needed assistance. Tr. 453.

Cisneros did not read Auditing Standard No. 7 before acting as the engagement quality reviewer. Tr. 239. She was unaware that engagement quality reviews had to be done immediately after every public company audit and review. Tr. 237-38. She was also unaware that she had to be “a partner level person” to conduct engagement quality reviews. Tr. 282.

Cisneros was the engagement quality reviewer on seven audits and twelve reviews for The Hall Group. Stip. ¶ 10. Helterbran was the engagement partner for three of these audits and eleven of the reviews. Stip. ¶ 9. These engagements were with six public company clients: Kingdom Koncrete, Inc., Surface Coatings, Inc., DynaResource, Inc., Freestone Resources, Inc., 360 Global Investments, Inc., and Seven Arts Entertainment, Inc. Stip. ¶ 10.

Kingdom Koncrete was a small concrete supply company and was easy to audit. Tr. 223, 395. Cisneros felt comfortable with that audit and had previously supervised the detailed review as audit senior for between fifteen and twenty engagements for the company over five years. Tr. 307-08.

Surface Coatings was another small company. Tr. 301. Cisneros was familiar with the company and its industry. Tr. 286. Although the audits for Surface Coatings were more complicated than for Kingdom Concrete, there were no complex transactions. Tr. 301. Cisneros felt she was competent to serve as a practitioner-in-charge of the Surface Coatings engagement—in other words, at a level equivalent to engagement partner. Tr. 301-02.

DynaResource was a gold mining company. Tr. 395. When Cisneros performed the engagement quality review for DynaResource she was very familiar with the company, having previously worked on close to twenty audit or review engagements. Tr. 361-62. It had few assets, no revenue, and its balance sheet was simple. Tr. 360. From a financial perspective, it was easy to audit, although some of its documents were in Spanish and required translation. Tr. 361. The audits also covered some more complex equity issues, however. DynaResource's Form 10-K for the period ending December 31, 2010, an audit on which Cisneros served as engagement quality reviewer, contained a variety of equity transactions, including shares for services, purchase of treasury stock, and sale of treasury stock. Tr. 400. Quarterly financial statements reviewed by Cisneros included derivatives priced according to the Black-Scholes model—a model Cisneros was not comfortable with. Tr. 404.

According to its Form 10-K for the fiscal year ended June 30, 2012, Freestone Resources was an oil and gas technology development company. *See* Freestone Res., Inc., Annual Report (Form 10-K), at 3 (Sep. 24, 2012). It engaged in several equity transactions in that period, including the payment of substantial stock-based compensation, but its revenues were negligible. *See id.* at 7, 21-22.

360 Global Investments was an investment holding company. *See* 360 Global Investments, Annual Report (Form 10-K), at 4 (Feb 7, 2013). In 2007, its precursor entity declared bankruptcy, and in 2008 its plan of reorganization was confirmed by the bankruptcy court. *Id.* The newly reorganized company's business plan was to prepare and file overdue reports with the Commission in order to reestablish itself as a reporting public company and become listed on a stock exchange or market quotation system. *Id.* Then it planned to acquire or merge with an operating business. *Id.* at 5. The Hall Group was engaged to audit the backlog of periodic reports. *See* Tr. 97. From December 2012 to March 2013, The Hall Group completed fourteen engagements for 360 Global, covering the fiscal periods ending December 31, 2008, through September 30, 2012. DX 1, 3, 5, 7, 9, 11, 13, 15, 16, 18, 20, 24, 27, 28.

Seven Arts Entertainment was a motion picture production company. *See* Seven Arts Entertainment, Inc., Annual Report (Form 10-K), at 4 (October 15, 2012). It was a “large, complex” client of The Hall Group. Tr. 411. Its Form 10-K for the fiscal year ending June 30, 2012, an audit on which Cisneros signed off as engagement quality reviewer, reported eleven equity transactions, including several multimillion-dollar stock-for-debt transactions and stock and options for services. Tr. 412-17.

The Hall Group used Paul Babb as an engagement quality reviewer for one audit engagement listed in the OIP. Tr. 505. Babb was not a licensed CPA in Texas, but he was licensed in Oklahoma. Tr. 201, 511. Babb was a “senior staff auditor” at The Hall Group and performed detailed reviews for public company audits and reviews. Tr. 212. In the twelve-month period of December 2012 through November 2013, Babb signed off as the detailed

reviewer on at least twenty-four engagements. DX 1, 3, 5, 7, 9, 11, 13, 15, 16, 18, 20, 24, 27, 28, 32, 34, 36, 49, 53, 77, 78, 87, 94, 108. He was not a partner of The Hall Group and had never been a partner of any other PCAOB registered firm. Tr. 511. While working at The Hall Group, Babb's e-mail address was pbabb@thehallgroupecpas.com. DX 127. Babb did not testify at the hearing, and little evidence was presented about whether Babb was paid or classified as an employee or independent contractor.

The engagement partner was responsible for assigning audit work. Tr. 511. According to Hall, however, in assigning the engagement quality reviewer to a particular engagement, he and Helterbran would discuss who was available and come to an agreement about who should do it. Tr. 211. According to Hall, they both believed that Cisneros was qualified, based on her technical ability, to perform engagement quality reviews. *Id.* Helterbran testified that Cisneros "did a very good job," agreed that Cisneros was "competent and knowledgeable in the audit process," and "assum[ed]" that Cisneros was aware of the engagement quality review requirements. Tr. 516-17, 549.

D. Audit Documentation

The PCAOB requires that an audit or review be documented. Auditing Standard No. 3, PCAOB Release No. 2004-006, ¶ 4. Audit documentation, also called "work papers," includes "records of the planning and performance of the work, the procedures performed, evidence obtained, and conclusions reached by the auditor." *Id.* ¶ 2. Audit documentation can be in paper hard copy, electronic files, or other media and must be "prepared in sufficient detail to provide a clear understanding of its purpose, source, and the conclusions reached." *Id.* ¶ 4. An experienced auditor with no prior connection with the engagement should be able to determine from the audit documentation "the nature, timing, extent, and results of the procedures performed, evidence obtained, and conclusions reached" and when and by whom the work was completed. *Id.* ¶ 6.

The Hall Group used several forms in documenting its audits and reviews. The Hall Group used a form called "PCA-CX-14.1: Supervision, Review and Approval Form" to assist with documenting its audit engagements. Stip. ¶ 3. This form contains, in a check-list format, procedures that are generally performed in an audit. *See* DX 1. The form is intended to document, among other things, the name of the detailed reviewer and the date of the detailed review, the name of the engagement partner and the date of the engagement partner's review, the engagement partner's confirmation that the audit was conducted in accordance with PCAOB standards and approval to issue the audit report, the name of the engagement quality reviewer and date of the engagement quality review, and the engagement quality reviewer's approval of the report. Stip. ¶ 5. A similar supervision, review, and approval form, Form PCA-IR-4, was used to assist in documenting review engagements. *Id.* ¶¶ 6, 7. Form "PCA-CX-14.3: Engagement Completion Document" was a checklist to help document significant findings or issues as required by Auditing Standard No. 3. Tr. 81. Occasionally, The Hall Group used the audit engagement form for review engagements. *See, e.g.,* DX 84, 85, 103; Tr. 482, 486, 497. According to Helterbran, this was an error by administrative staff and did not affect the review since the audit form was more detailed. Helterbran Br. at 7. At least once, however, the review engagement form was used to document an audit engagement for which Helterbran was the engagement partner. DX 101.

Use of these particular supervision, review, and approval forms is not mandated by the PCAOB, and the forms themselves were created by a private firm. *See* Tr. 81; Form PCA-CX-14.1, DX 1 (“This form . . . is intended to assist in performing and documenting the review.”); Form PCA-CX-14.3, DX2 (“This optional form allows you a place to document . . . findings or issues and comply with the requirements of [Auditing Standard No. 3].”). Some form of documentation, however, is required under Auditing Standard No. 3. Auditing Standard No. 3, PCAOB Release No. 2004-006, ¶ 4.

There is conflicting testimony about whether the supervision, review, and approval forms and checklists were the sole method The Hall Group used to document the completion of its audits and reviews in compliance with Auditing Standard No. 3. Hall was questioned about a supervision, review, and approval form used to document a specific audit in 2012. He was asked whether the form was “the document The Hall Group used to document its detailed review, its engagement partner review, and its engagement quality review,” and he agreed that it was. Tr. 96 (referring to DX 63). Hall was later asked whether “an audit report [should] be issued . . . if the engagement quality reviewer has not yet signed the supervision, review, and approval form,” and he answered that it should not be. Tr. 199. Helterbran answered affirmatively when asked whether the supervision, review, and approval form was the “form that The Hall Group used to document the [engagement quality reviewer’s] approval to issue the report.” Tr. 505 (referring to DX 76).

Nonetheless, Helterbran testified that the supervision, review, and approval form was “just a checklist,” and was not mandatory. Tr. 480. Cisneros testified that even if the checklists were blank or incomplete, the individual work papers contained sufficient information to know who performed the work and when it was completed. Tr. 431. Helterbran testified that, even when the supervision, review, and approval form lacked sufficient information to satisfy Auditing Standard No. 3, the actual work papers contained sufficient detail to meet the standard. Tr. 490. The detailed work papers were not introduced into evidence in this proceeding, however.

E. Working Conditions at The Hall Group

Hall was difficult to work for. He was confrontational during weekly Monday morning staff meetings. Tr. 270-71. He would raise his voice and berate his employees. Tr. 130, 274. It was a very stressful work environment. Tr. 271. Some staff would get nervous on Sunday due to the stress of the upcoming Monday meeting. Tr. 270.

Because of Hall’s behavior, there was high turnover and low morale at The Hall Group. *See* Tr. 102 (Hall: “We were challenged peoplewise.”); 276 (Cisneros: “[S]everal people left because they couldn’t cope with [Hall] anymore.”); 532 (Helterbran: “The other big problem that we had is we couldn’t keep people.”). Helterbran identified twelve employees who quit with one week’s notice or left without notice. Tr. 533. In one instance, an employee left for lunch and never returned. Tr. 532-33. Another employee was told by her doctor to leave the firm due to the negative effect of stress on her health. Tr. 276-77. Cisneros frequently—in up to forty percent of her engagements—underreported her hours to stay within budget and thereby avoid confrontations with Hall. Tr. 272.

Hall and Helterbran frequently clashed about the amount of time budgeted for engagements. Tr. 67, 184. The Hall Group staff was paid on an hourly basis, although Helterbran became salaried in February 2012. Tr. 546, 549; DX 124. The hours worked on an engagement cut into The Hall Group's profitability and thus Hall's personal bottom line. See Tr. 546. According to Hall, the reason for their disputes over the budget was that Helterbran "was not forthcoming" about the budgets and did not take responsibility for the people she was supervising and the number of hours that jobs would take. Tr. 129. Hall threatened to fire Helterbran "every time that [she] would try to tell him that we needed to do something differently." Tr. 531.

Hall and Helterbran also clashed over the engagement quality reviews. Hall considered using an outside firm to perform engagement quality reviews and spoke to several outside firms, but such an arrangement was "not tenable" because the outside firms wanted half of the total billing of the engagement. Tr. 212. According to Helterbran, Hall told her that it "was not that big a deal" if The Hall Group did not have engagement quality reviews. Tr. 514. Helterbran testified that she told Hall she did not feel good about that, and the issue became a "point of huge contention" between them. *Id.* According to Cisneros, Helterbran was "the voice of reason" at the firm and wanted to do things correctly, although in the end Helterbran "went along with it." Tr. 388, 514.

F. Helterbran Leaves The Hall Group

Helterbran tendered her resignation to Hall on May 8, 2013. Tr. 527. She resigned from The Hall Group, without first securing another position, to remove herself from the firm's environment. Tr. 528. Hall then placed Helterbran on probation via a letter dated May 13, 2013 due to what he described as "many items missing or incomplete" in audit documentation inspected by the PCAOB. Tr. 196; RX 16. At the time, Helterbran was the engagement partner on four reviews for the quarter ended March 31, 2013. See Tr. 487-88, 507-08; DX 32 (360 Global); DX 49 (DynaResource); DX 77 (Kingdom Koncrete); DX 108 (Surface Coatings). Helterbran approved all four pending reviews by no later than May 20, 2013, even though all four lacked documentation of any engagement quality review. See DX 32, 49, 77, 108. She left The Hall Group on July 1, 2013. Tr. 536.

Much of Helterbran's testimony in her own case centers on the circumstances of her departure from The Hall Group and subsequent events. See generally Tr. 524-56. Although I have considered some of this evidence as it reflects on the three witnesses' credibility and on the need for sanctions in the public interest, it is otherwise generally immaterial.

III. CONCLUSIONS OF LAW

The Division asserts that Helterbran and Cisneros violated PCAOB standards; aided and abetted and caused The Hall Group's violations of Rule 2-02(b)(1) of Regulation S-X; and caused issuers to violate Exchange Act Section 13(a) and Rules 13a-1 and 13a-13.³

³ The OIP alleges that Helterbran and Cisneros aided and abetted and caused violations of Exchange Act Section 13(a) and Rules 13a-1 and 13a-13, but the Division asserts only that they caused those violations. See Div. Br. at 15. I therefore do not find that Helterbran and Cisneros aided and abetted those violations.

A. Legal Framework

Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder require public companies to file annual reports “certified if required by the rules and regulations of the Commission by independent public accountants” and quarterly reports “as the Commission may prescribe.” 15 U.S.C. § 78m(a)(2); 17 C.F.R. §§ 240.13a-1, .13a-13. Commission rules set out the forms to be used for annual (Form 10-K) and quarterly (Form 10-Q) reports. 17 C.F.R. §§ 249.308a, .310. These forms, in turn, require companies to provide in their annual report audited financial statements that comply with the requirements of Regulation S-X, and to provide in quarterly reports the information required by Rule 10-01 of Regulation S-X. *See* 17 C.F.R. §§ 210.3-01(a), .10-01.

Regulation S-X sets forth requirements for accountants’ audit reports and, in relevant part, requires reports to “state whether the audit was made in accordance with generally accepted auditing standards.” 17 C.F.R. § 210.2-02(b)(1). The interim financial statements in quarterly reports “must be reviewed by an independent public accountant using professional standards and procedures for conducting such reviews, as established by generally accepted auditing standards, as may be modified or supplemented by the Commission.” 17 C.F.R. § 210.10-01(d); *see also* 17 C.F.R. § 210.8-03. The “generally accepted auditing standards” referenced in each of these rules are the PCAOB’s rules and standards and any applicable rules of the Commission. *See* Commission Guidance Regarding the Public Company Accounting Oversight Board’s Auditing and Related Professional Practice Standard No. 1, 69 Fed. Reg. 29,064, 29,065 (May 20, 2004) (“Effective immediately, references in Commission rules and staff guidance and in the federal securities laws to [generally accepted auditing standards] or to specific standards under [generally accepted auditing standards], as they relate to issuers, should be understood to mean the standards of the PCAOB plus any applicable rules of the Commission.”). Therefore, the standards and procedures for conducting reviews are “established” by the PCAOB’s rules and standards and any applicable rules of the Commission.

Because The Hall Group’s public audit clients were issuers, any failure to conduct those clients’ audits in accordance with PCAOB auditing standards constituted a violation of Rule 2-02(b)(1) of Regulation S-X. And an issuer violates Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 if it files reports that contain materially false or misleading information. *SEC v. Kalvex, Inc.*, 425 F. Supp. 310, 315-16 (S.D.N.Y. 1975); *Russell Ponce*, 54 S.E.C. 804, 812 n.23 (2000), *pet. denied*, 345 F.3d 722 (9th Cir. 2003). The Hall Group’s issuer clients thus violated these provisions if they filed annual and quarterly reports that had not been audited or reviewed in accordance with PCAOB rules and standards.

Helterbran and Cisneros are charged with aiding and abetting and causing liability. Causing liability requires proof that: (1) there was a primary violation; (2) an act or omission by the respondent was a cause of the violation; and (3) the respondent knew, or should have known, that her conduct would contribute to the violation, i.e., the respondent was negligent. *Robert M. Fuller*, 56 S.E.C. 976, 984 (2003), *pet. denied*, 95 F. App’x 361 (D.C. Cir. 2004); *KPMG Peat Marwick LLP*, 54 S.E.C. 1135, 1175 & n.100 (2001), *pet. denied*, 289 F.3d 109 (D.C. Cir. 2002). Aiding and abetting liability requires proof that: (1) there was a primary violation; (2) the alleged aider and abettor provided substantial assistance to the primary violator; and (3) the alleged aider and abettor did so at least recklessly. *Graham v. SEC*, 222 F.3d 994, 1000 (D.C. Cir. 2000); *Phlo*

Corp., Exchange Act Release No. 55562, 2007 SEC LEXIS 604, at *35 (Mar. 30, 2007). Recklessness is defined as “an extreme departure from the standards of ordinary care . . . to the extent that the danger was either known to the [respondent] or so obvious that the [respondent] must have been aware of it.” *Toby G. Scammell*, Investment Advisers Act of 1940 Release No. 3961, 2014 SEC LEXIS 4193, at *26 n.41 (Oct. 29, 2014) (ellipses and alterations in original). The substantial assistance prong is satisfied by a respondent’s failure to act where she “has a clear duty to act and the failure to act itself constitutes the underlying primary violation.” *vFinance Invs., Inc.*, Exchange Act Release No. 62448, 2010 SEC LEXIS 2216, at *44-45 (July 2, 2010); see *Armstrong v. McAlpin*, 699 F.2d 79, 91 (2d Cir. 1983) (recognizing that inaction may be treated as substantial assistance when “it was in conscious and reckless violation of a duty to act”). “One who aids and abets a primary violation is necessarily a ‘cause’ of the violation.” *Ronald S. Bloomfield*, Exchange Act Release No. 71632, 2014 SEC LEXIS 698, at *63 (Feb. 27, 2014), *pet. denied*, 649 F. App’x 546 (9th Cir. 2016).

B. Violations of PCAOB Standards

The Division alleges that Helterbran participated in six audits and nineteen reviews and Cisneros participated in seven audits and twelve reviews that did not follow PCAOB standards. The Division divided the alleged violations into four categories: (1) no engagement quality review was performed; (2) the engagement quality review was performed before the detailed review or engagement partner review; (3) the engagement quality reviewer was from the firm but not a partner; and (4) the engagement quality reviewer was not competent.

1. No Engagement Quality Review Performed

The Division asserts that the following engagements, on which Helterbran signed off as engagement partner, either violated Auditing Standard No. 7 because no engagement quality review was performed or violated Auditing Standard No. 3 because the engagement quality review was not documented.

Issuer	Type	Fiscal Period Ended	DX	Nature of Alleged Violation
Surface Coatings, Inc.	Audit	12/31/2011	101	Engagement quality review section of the supervision, review, and approval form is blank.
Premier Oil Field Services, Inc.	Review	3/31/2012	83	Engagement quality review section of the supervision, review, and approval form is blank.
Premier Oil Field Services, Inc.	Review	6/30/2012	84	Engagement quality review section of the supervision, review, and approval form is blank.
Premier Oil Field Services, Inc.	Review	9/30/2012	85	Engagement quality review section of the supervision, review, and approval form has a sticky note saying “get sig & sign-off’s” and the signature section says “OK per SC (over phone).”

Premier Oil Field Services, Inc.	Audit	12/31/2012	87	Engagement quality review section of the supervision, review, and approval form is blank except for a comment stating “need s/o.” “S/O” means “sign off.” Tr. 481.
360 Global Investments	Review	3/31/2013	32	Engagement quality review section of the supervision, review, and approval form is blank.
DynaResource, Inc.	Review	3/31/2013	49	Engagement quality review section of the supervision, review, and approval form is blank.
Kingdom Koncrete, Inc.	Review	3/31/2013	77	Engagement quality review section of the supervision, review, and approval form is blank.
Surface Coatings, Inc.	Review	3/31/2013	108	Engagement quality review section of the supervision, review, and approval form is blank except for a comment stating “SC to s/o.”

Helterbran argues that the supervision, review, and approval forms were not mandatory and that the audit work papers, which are not in evidence, complied with the documentation requirements of Auditing Standard No. 3 and showed that an engagement quality review was performed in compliance with Auditing Standard No. 7. But this argument ignores the testimony, including Helterbran’s own testimony, that the supervision, review, and approval form was the method The Hall Group used to document the engagement quality reviewer’s concurring approval. *See* Tr. 505 (Q: “And it’s this [supervision, review, and approval] form that The Hall Group used to document the EQR’s approval to issue the report; isn’t that true?” A [Helterbran]: “Yes.”); Tr. 96 (Q: “This [supervision, review, and approval form], again, is the document The Hall Group used to document its detailed review, its engagement partner review, and its engagement quality review, correct?” A [Hall]: “That’s correct.”); Tr. 199 (Q: “Should an audit report be issued if the EQR—if the engagement quality reviewer has not yet signed the supervision, review, and approval form that we were looking at?” A [Hall]: “It should not.”).

Helterbran argues the Division failed to prove that the engagement quality reviews were not completed because it “chose to ignore the detailed workpapers in presenting [its] case.” Helterbran Br. at 6. While the Division bears the burden of proof, it is not required to call every possible witness or introduce every piece of possible evidence at the hearing. *See United States v. Llamas*, 280 F.2d 392, 393 (2d Cir. 1960) (holding, in a criminal case, that it was not error to instruct the jury that there is “no rule requiring either side in every case to call every possible witness”). And the evidence in the record sufficiently demonstrates that the supervision, review, and approval form was the primary, if not sole, method of documenting engagement quality reviews at The Hall Group. If the audit work papers proved that the engagement quality reviews for these audits and reviews were completed and documented, Helterbran could have offered the work papers in evidence. There is no indication that she attempted to do so or that the work papers were unavailable by subpoena. Indeed, the audit documentation must be retained for seven years after an engagement. Auditing Standard No. 3, ¶ 14. The detailed audit work papers are not before me, and I reject Helterbran’s otherwise unsupported assertion that the work papers would show that the engagement quality reviews were performed correctly.

In light of the testimony that The Hall Group used the supervision, review, and approval form to document the completion of engagement quality reviews, I find that no engagement quality review was completed or documented for the two audits and seven reviews listed above. These engagements therefore did not comply with Auditing Standards No. 3 and No. 7.

2. Engagement Quality Review Performed Out of Order

The Division alleges that in five engagements, the engagement quality review was improper because the engagement quality reviewer signed off before the detailed review and engagement partner review were completed.

Issuer	Type	Fiscal Period Ended	DX	Detailed Reviewer (Date Signed)	Engagement Partner (Date Signed)	Engagement Quality Reviewer (Date Signed)
Freestone Resources, Inc.	Audit	6/30/2012	63	Helterbran (9/24/2012 & 10/12/2012)	Hall (10/4/2012)	Cisneros (9/23/2012)
Seven Arts Entertainment, Inc.	Audit	6/30/2012	92	Helterbran (11/10/2012)	Hall (11/15/2012)	Cisneros (10/16/2012)
Surface Coatings, Inc.	Review	6/30/2012	103	Initialed "PB" with no date	Helterbran (8/20/2012)	Cisneros (8/20/2012)
DynaResource, Inc.	Review	9/30/2012	45	Helterbran (11/26/2012)	Helterbran (11/26/2012)	Cisneros (11/15/2012)
Kingdom Concrete, Inc.	Review	9/30/2012	74	Helterbran (10/24/2012 & 11/24/2012)	Helterbran (10/24/2012)	Cisneros (10/25/2012)

Helterbran argues that the underlying work papers accurately contained the date each work paper was reviewed. The supervision, review, and approval forms “do not indicate a specific date that the form should be signed.” Helterbran Reply at 3. Helterbran also points out that Auditing Standard No. 3 permits forty-five days after the report release date to assemble a “complete and final set of audit documentation . . . for retention.” Auditing Standard No. 3, ¶ 15. Helterbran suggests that some dates document when the file was completed, and some document when she granted approval to issue the report. Helterbran Reply at 3.

Helterbran’s arguments miss the point. The audit work papers must be sufficiently clear and complete to permit an experienced auditor with no previous connection with the engagement to determine the date the pertinent work, in this case the engagement quality review, was performed, and whether it was performed after the substantive audit or review was performed. *See* Auditing Standard No. 3, ¶ 6. As the engagement partner on three of these engagements, it was Helterbran’s responsibility to ensure that the audit work papers met this requirement. *See* Auditing Standard No. 10, PCAOB Release No. 2010-004, ¶ 3 (“The engagement partner is responsible for the engagement and its performance,” which includes responsibility “for proper supervision of the work of engagement team members and for compliance with PCAOB standards.”). Although Helterbran was the detailed reviewer on the other two engagements, the OIP alleges violations against Helterbran solely in her capacity as engagement partner.

For three of the five engagements (Freestone, Seven Arts, and DynaResource), Cisneros' engagement quality review was unambiguously completed before Helterbran signed off as engagement partner. DX 45, 63, 92. For Surface Coatings, Helterbran and Cisneros signed on the same date, but the supervision, review, and approval form does not indicate when the detailed review was completed. See DX 103. The work papers for these four engagements therefore violated Auditing Standard No. 3.

For Kingdom Koncrete there are two dates given for the detailed review, October 24, 2012, and November 24, 2012. DX 74. Helterbran conceded during her testimony that she could not tell which steps she had checked off on which dates in the detailed review section of the supervision, review, and approval form. Tr. 502. However, the company filed its Form 10-Q quarterly report on November 14, 2012, and Helterbran's engagement partner review was dated October 24, 2012, one day before Cisneros dated her engagement quality review. DX 74; Kingdom Koncrete, Inc., Quarterly Report (Form 10-Q) (Nov. 14, 2012). An experienced auditor could reasonably conclude that the November 24 notation was for archival purposes, as Helterbran contends, and that Cisneros' engagement quality review was completed after Helterbran's engagement partner review.

I conclude that four of the engagements at issue violated Auditing Standard No. 3, but that the fifth did not. I also conclude, however, that only the engagement partner and not the engagement quality reviewer is responsible for violations of Auditing Standard No. 3. The PCAOB originally proposed that the engagement quality reviewer "evaluate engagement documentation for compliance with the requirements of Auditing Standard No. 3," but this was deleted from the adopted version of Auditing Standard No. 7. PCAOB Release No. 2009-004, at 14 (July 28, 2009). The engagement partner is ultimately responsible, and Hall was engagement partner for two of the four engagements. Auditing Standard No. 10, ¶ 3. In sum, of the five engagements alleged in this category, Helterbran is liable as engagement partner for the documentation deficiencies as to the Surface Coatings and DynaResource engagements; Respondents are not liable for the other three on the basis of performing work out of order.

3. Engagement Quality Reviewer Was Not a Partner or Equivalent Level

The Division alleges that in four audits performed by The Hall Group, the engagement quality reviewer was not a partner or someone of equivalent position in violation of Auditing Standard No. 7:

Issuer	Fiscal Period Ended	DX	Engagement Partner (Date Signed)	Engagement Quality Reviewer (Date Signed)
Kingdom Koncrete, Inc.	12/31/2010	68	Hall (3/15/2011)	Cisneros (3/15/2011)
Surface Coatings, Inc.	12/31/2010	99	Hall (3/29/2011)	Cisneros (3/30/2011)
DynaResource, Inc.	12/31/2010	38	Helterbran (3/31/2011)	Cisneros (3/31/2011)
Kingdom Koncrete, Inc.	12/31/2012	76	Helterbran (3/19/2013 & 3/27/2013)	Babb (3/28/2013)

Auditing Standard No. 7 requires that an engagement quality reviewer "from the firm" conducting the audit or review "must be a partner or another individual in an equivalent position." Auditing Standard No. 7, ¶ 3. This requirement does not apply to reviewers who are

“outside the firm.” *Id.* Neither the Division nor the Respondents identified any legal authority interpreting the phrase “from the firm.” This appears to be a matter of first impression.

Nevertheless, under any reasonable construction of the phrase, Cisneros was “from the firm”—and was not a partner or in an equivalent position—when she conducted the three engagement quality reviews listed above in March 2011. At that time, and until she left The Hall Group in January 2012, Cisneros considered herself to be Hall’s employee and was under Hall’s general supervision. For the portion of her work that was direct auditing and not performing engagement quality reviews, she was directly supervised by the engagement partner. Tr. 451. She was paid by the hour, and she frequently underreported her hours to Hall to avoid his wrath. She went to work each day at The Hall Group’s offices, where she had her own cubicle or office. Her income came from her work at The Hall Group, she sometimes supervised others at The Hall Group, and she participated in training as a member of The Hall Group. *See supra* Section II.A.1.

Helterbran argues that Cisneros was not from the firm because Hall classified and paid Cisneros as an independent contractor. Helterbran Br. at 3. The Division, in reply, notes that nothing in Auditing Standard No. 7 suggests that a contractor cannot be considered “from the firm” and asserts that Cisneros should be considered an employee under the general principles of agency law and the “economic realities” test. Div. Reply Br. at 3-4; *see Goldberg v. Whitaker House Coop., Inc.*, 366 U.S. 28, 33 (1961) (holding that “‘economic reality’ rather than ‘technical concepts’” is the test of employment in the context of the Fair Labor Standards Act); *Henthorn v. Dep’t of Navy*, 29 F.3d 682, 684 (D.C. Cir. 1994) (setting out the four-factor “economic reality” test). Although there is reason to doubt whether Cisneros’ treatment as an independent contractor was proper under federal labor or tax laws, there is no reason to believe the employee-independent contractor distinction controls the question of whether an engagement quality reviewer is “from the firm” in the context of Auditing Standard No. 7.

The purpose of the “from the firm” requirement, as explained by the PCAOB in its release adopting Auditing Standard No. 7, is to ensure that the engagement quality review is “an objective second look” at the engagement team’s work. PCAOB Release 2009-004, at 6 (July 28, 2009). For this reason, the engagement quality reviewer “should be able to withstand pressure from the engagement partner or other firm personnel.” *Id.* While acknowledging that partnership “is not a perfect proxy for authority,” the PCAOB reasoned that a partner, or someone in an equivalent position, is more likely than a nonpartner to have sufficient authority to conduct an engagement quality review without being subject to internal pressure to approve the audit. *Id.*

In light of this purpose, Cisneros was “from” The Hall Group in March 2011. She was subject to Hall’s control and worked for The Hall Group full time in 2011. Tr. 255. And the poor working conditions at The Hall Group undermine Helterbran’s argument: Cisneros was so pressured by Hall that she cut some of the hours she claimed to work in order to avoid Hall’s displeasure. Cisneros was not the kind of independent outsider that would be less susceptible to internal pressure.

Helterbran’s argument that Cisneros was outside of the firm is sounder for engagement quality reviews Cisneros performed after January 2012. She was then doing only piecemeal

work for The Hall Group, and most of her income came from other sources. *See* Tr. 450-51; DX 119. The Division, however, did not allege that any of the engagement quality reviews performed by Cisneros after January 2012 violated the “from the firm” requirement of Auditing Standard No. 7. *See* Div. Br. at 9.

For these reasons, I conclude that the three audits in which Cisneros conducted the engagement quality review in March 2011 did not comply with Auditing Standard No. 7.

The Division also asserts that the Kingdom Concrete audit for the period ended December 31, 2012, violated Auditing Standard No. 7 because Paul Babb was “from” The Hall Group but not a partner. It is undisputed that Babb was not a partner at The Hall Group. Helterbran argues, however, that the Division introduced insufficient evidence to demonstrate that Babb was “from” The Hall Group.

The evidence demonstrates that Babb was from the firm. Babb regularly performed detailed reviews on Hall Group audits and reviews—at least twenty-four from December 2012 to November 2013. Of these, thirteen were signed in the three months before Babb signed the engagement quality review on March 28, 2013. DX 3, 5, 7, 9, 11, 13, 15, 16, 18, 20, 24, 28, 94. Hall testified that Babb was, in addition to Cisneros, “the other senior staff auditor.” Tr. 212. Babb used an e-mail address from The Hall Group. In one e-mail exchange with Hall, Babb discussed his frustration with the firm and whether he would stay once the Thakkars acquired The Hall Group’s practice. Unlike with Cisneros, there is no evidence that Babb did piecemeal work for The Hall Group. I find, by a preponderance of the evidence, that Babb was from The Hall Group and not a partner when he conducted the engagement quality review of the Kingdom Concrete audit form in March 2013. That audit therefore violated Auditing Standard No. 7.

4. Engagement Quality Reviewer Was Not Competent

Auditing Standard No. 7 requires that the engagement quality reviewer have “competence,” which it defines as “possess[ing] 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.” Auditing Standard No. 7, ¶ 5. The competencies required by this standard are equivalent to the competencies required by PCAOB Interim Quality Control Standard QC 40. *Id.* n.3.

The Division asserts that Cisneros was not competent to act as engagement quality reviewer. The Division specifically identifies four audits and five reviews “involving options, derivatives, and complex equity transactions,” which it asserts Cisneros was not competent to review. Div. Br. at 10. The Division additionally argues that Cisneros lacked the requisite competence to perform *any* audit or review. These two categories of alleged violations are addressed individually below.

a. Engagements with Complex Equity Transactions

Cisneros admitted that she was uncomfortable with complicated equity transactions, specifically transactions involving options and other derivatives or stock for services. Tr. 225-26, 453. I therefore conclude that Cisneros did not have the competence necessary to serve as

engagement quality reviewer on audits and reviews involving options, derivatives, or stock for services. Cisneros was the engagement quality reviewer for the following engagements involving such issues, and therefore these engagements violated Auditing Standard No. 7.

Issuer	Type	Fiscal Period Ended	DX	Complicated Transactions⁴
Freestone Resources, Inc.	Audit	6/30/2012	63	Issuance of stock for services. Annual Report (Form 10-K), at 7, 22 (Sept. 24, 2012).
Seven Arts Entertainment, Inc.	Audit	6/30/2012	92	Conversion of debt to stock, sale of stock for services. Annual Report (Form 10-K), at 39-40 (Oct. 15, 2012). Use of Black-Scholes pricing model to calculate the fair value of options and warrants issued as compensation. <i>Id.</i> at 53, F-25 to F-27.
DynaResource, Inc.	Audit	12/31/2010	38	Issuance of stock for services. Annual Report (Form 10-K) at 39, 49 (Mar. 9, 2011).
Kingdom Concrete, Inc.	Audit	12/31/2011	70	Issuance of stock for services. Annual Report (Form 10-K), at F-5, F-10 (Mar. 30, 2012).
360 Global Investments	Review	6/30/2012	26	Issuance of stock for services. 360 Global Wine Co., Quarterly Report (Form 10-Q), at 5, 10 (Mar. 29, 2013).
DynaResource, Inc.	Review	3/31/2012	42	Issuance of stock for services and issuance of options priced according to the Black-Scholes model. Quarterly Report (Form 10-Q), at 5, 14 (May 11, 2012).
DynaResource, Inc.	Review	6/30/2012	43	Issuance of stock for services and issuance of options priced according to the Black-Scholes model. Quarterly Report (Form 10-Q), at 5, 13 (Aug. 20, 2012).
DynaResource, Inc.	Review	9/30/2012	45	Issuance of stock for services and issuance of options priced according to the Black-Scholes model. Quarterly Report (Form 10-Q), at 5, 13 (Nov. 19, 2012).
Surface Coatings, Inc.	Review	9/30/2012	104	Cancellation of stock due to sale of subsidiary. Stock issued for services. Quarterly Report (Form 10-Q), at 5, 8 (Nov. 19, 2012).

Except for the audits of Freestone Resources and Seven Arts Entertainment, Helterbran signed off as the engagement partner for each of these engagements.

⁴ This information is taken from the issuer's Form 10-K or Form 10-Q filed with the Commission, of which I took official notice. 17 C.F.R. § 201.323; Tr. 78-79.

b. Competence as Engagement Quality Reviewer in General

The Division also asserts that Cisneros lacked sufficient competence to perform any engagement quality reviews. It provides an extensive list of reasons why she was not competent: (1) she was not a CPA; (2) her primary experience at The Hall Group was with nonprofit entities, not public companies; (3) she never served as an engagement partner on a public company audit; (4) she relied on Helterbran and Hall if she had a question about what was required to comply with PCAOB standards; (5) she never read Auditing Standards No. 3 and No. 7 before this proceeding was instituted; (6) she did not receive training on engagement quality reviews; (7) she was unsure about whether an engagement quality review was required for a review engagement; (8) she was terminated from The Hall Group's successor for being unable to perform a quality audit; and (9) the PCAOB determined that she was not competent to act as engagement quality reviewer on the engagements at issue in this matter, *The Hall Group, CPAs*, PCAOB Release No. 105-2016-015 (Apr. 26, 2016). Div. Br. at 11-12.⁵

(1) *Not a CPA.* Although Cisneros was not a CPA, Auditing Standard No. 7 does not require an engagement quality reviewer to be a CPA, a fact acknowledged in the OIP. OIP ¶ 16 n.6. An 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.” Auditing Standard No. 7, ¶ 5. The Hall Group required its engagement partners to have a CPA license, so, as a matter of firm policy, Cisneros could not have been an engagement partner for The Hall Group. Tr. 101. The standard does not, however, require that the engagement quality reviewer actually be able to serve as the engagement partner. Instead, the standard focuses on the level of the engagement quality reviewer's knowledge and competence. I conclude, therefore, that a lack of a CPA license did not automatically disqualify Cisneros from serving as an engagement quality reviewer.

(2) *Lack of public company audit experience.* Much of Cisneros' auditing experience was with nonprofits. PCAOB Interim Quality Control Standard QC 40, which “describes the competencies required of a practitioner-in-charge of an attest engagement” and is referenced in Auditing Standard No. 7, provides guidance on what experience is required to achieve competency. See Auditing Standard No. 7, ¶ 5 n.3 (“The term ‘engagement partner’ has the same meaning as . . . ‘practitioner-in-charge of an engagement’ in PCAOB interim quality control standard QC sec. 40, *The Personnel Management Element of a Firm's System of Quality Control-Competencies Required by a Practitioner-in-Charge of an Attest Engagement*.”). This guidance provides examples of how public company auditing competency can be gained. The applicable

⁵ Testimony at the hearing revealed that Cisneros experienced a sensitive personal issue during the relevant period. After careful review of the evidence I find this issue immaterial, for three reasons. First, it is not alleged in the OIP. See *Russell Ponce*, 54 S.E.C. at 822 n.49 (refusing to consider an auditor's conduct that was not charged in the OIP). Second, although the record clearly shows that the issue affected Cisneros' work in 2014, it is less clear to what extent it affected her work during the relevant period. Third, her lack of representation may have unduly prejudiced her in presenting evidence on the topic, and I am accordingly reluctant to place significant weight on it.

example provides that someone “who did not have any experience in auditing the financial statements of a public company and only possessed recent prior experience in auditing the financial statements of nonpublic entities may develop the necessary competencies by obtaining relevant [continuing education] related to SEC rules and regulations and consulting with other practitioners who possess relevant knowledge related to SEC rules and regulations.” PCAOB Interim Quality Control Standard QC 40.05. Cisneros participated in off-site training and forty hours of annual continuing education as well as training at The Hall Group and self-study. Tr. 354-55, 577. In addition to her work on nonprofits, she assisted with quarterly reviews of public companies and was familiar with SEC requirements, particularly for review engagements and Forms 10-Q. Tr. 226, 578-79. Cisneros’ relative lack of public company auditing experience was sufficiently mitigated by her nonprofit experience and additional training that it, too, did not automatically disqualify her from serving as an engagement quality reviewer.

(3) *No engagement partner experience.* Similarly, Auditing Standard No. 7 does not require engagement partner experience—only a level of knowledge and competence equivalent to an engagement partner for the engagement at issue. For the reasons stated above, Cisneros likely gained these competencies, for audits without complicated equity transactions, through her nonprofit experience and training.

(4) *Reliance on others.* The Division argues that Cisneros relied on Helterbran and Hall “the very people whose work she was purportedly reviewing, to tell her what was required to comply with PCAOB standards.” Div. Br. at 11 (citing Tr. 226). Cisneros was asked at the hearing, “So on the few occasions that you were working on public company audits, because you weren’t familiar with PCAOB standards, you relied on David or Michelle to tell you what you needed to do to comply with PCAOB standards for auditing public companies, correct?” Tr. 226. She answered, “Well, I was familiar with PCAOB. But yes, I mean, if I had a question, I would ask, definitely. I wasn’t completely unfamiliar with PCAOB.” *Id.* In context, this line of questioning arose out of Cisneros’ lack of familiarity with equity transactions and the Black-Scholes model. Tr. 225-26. The most reasonable inference from Cisneros’ testimony on this point is that she would need to seek assistance when dealing with equity matters—not that she relied on others for more basic accounting or auditing questions. Cisneros lacked the competence to be the engagement quality reviewer on engagements involving equity, but her reliance on others in those situations did not necessarily render her incompetent to review simple audits.

(5) *Did not read the pertinent auditing standards.* Cisneros testified that she had not read Auditing Standards No. 3 and No. 7 before acting as engagement quality reviewer. Tr. 239, 251. As part of signing off on the supervision, review, and approval form, Cisneros checked “yes” to “I possess the competence, independence, integrity, and objectivity to perform the engagement quality review (EQR)” and “The documentation of my engagement quality review meets the requirements of Auditing Std. No. 3, *Audit Documentation*, and identifies the documents I reviewed.” Tr. 250-51; *see, e.g.*, DX 15. In order to determine whether she had the required competence, independence, integrity, and objectivity, Cisneros should have read and understood Auditing Standard No. 7, which defines those terms. Instead, Cisneros assumed that Hall knew the requirements to perform an engagement quality review since he was a partner and assigned the task to her. Tr. 571. Even more problematic is her signing off that the documentation met the requirements of Auditing Standard No. 3 without reading the actual standard. Put simply, it was

not possible for Cisneros to certify that the documentation complied with a particular auditing standard without reading and understanding that standard.

(6) *No specific training.* Cisneros testified that she never received specific training about engagement quality reviews. Tr. 234. Auditing Standard No. 7 does not prescribe a particular course of training. PCAOB Interim Quality Control Standard QC 40.05 provides that competency to act as the practitioner-in-charge of an engagement can be gained through experience and continuing professional education. Given the close relationship between QC 40 and Auditing Standard No. 7, the same likely applies to gaining competency as an engagement quality reviewer. Specific training about engagement quality reviews and the pertinent auditing standards could therefore mitigate the deficiency of not reading the auditing standards. There is no such mitigation in this case, however.

(7) *Unsure about whether review engagements required engagement quality review.* Cisneros knew that audit engagements required an engagement quality review but appeared to be uncertain about review engagements. Tr. 236. There is no evidence that Cisneros refused to do an engagement quality review on any review engagement because she did not believe it was required. The evidence shows, in fact, that Cisneros signed off on twelve engagement quality reviews for review engagements. DX 24, 26, 28, 42, 43, 45, 71, 73, 74, 102, 103, 104. To the extent The Hall Group completed some review engagements without the concurring approval of an engagement quality review, responsibility for that error lies with the engagement partner who signed off on the review, not Cisneros. Nevertheless, her admitted lack of understanding about engagement quality review requirements undermines the argument that she was competent to undertake them.

(8) *Termination from The Hall Group's successor.* Cisneros was fired from her position at Thakkar CPA in 2014. According to a performance review, the quality of her work was poor. DX 128 at 7 (of 19 pdf pages). There is reason to believe, however, that her work performance in 2014 was not necessarily reflective of her competence to perform the engagement quality reviews at issue in this proceeding, which took place in 2011, 2012, and early 2013, and I do not accord her termination much weight. *See supra* footnote 5.

(9) *PCAOB Determination.* Cisneros was not a respondent in the PCAOB action or mentioned by name in the PCAOB's order making findings and imposing sanctions. RX 2. The PCAOB's findings were based on offers of settlement by Hall and The Hall Group and "are not binding on any other person or entity in this or any other proceeding." *The Hall Group, CPAs*, PCAOB Release No. 105-2016-015, at 2 n.3 (Apr. 26, 2016). Moreover, the PCAOB findings dealt with only two audits for which Cisneros served as engagement quality reviewer: the audits of Freestone Resources, Inc., and Seven Arts Entertainment, Inc., for their fiscal years ending June 30, 2012. As set forth above, these audits involved complex equity transactions, and I already determined that Cisneros was not competent to act as engagement quality reviewer on these audits. The PCAOB determination has no effect, preclusive or otherwise, on whether Cisneros was competent to act as engagement quality reviewer on any other audits or reviews.

Collectively, the problems identified by the Division convince me that Cisneros was, as a general matter, not competent to perform any engagement quality review. In particular, her unfamiliarity with—and failure to even read—the very auditing standards she certified the audit

was complying with rendered her not competent. To the extent this lack of knowledge could be remedied by training, she testified she received no specific training about engagement quality reviews. Her uncertainty about when engagement quality reviews needed to be performed further supports the conclusion that she was not a competent engagement quality reviewer. For these reasons, I conclude that she was generally not competent to review the remaining, noncomplex engagements listed below (along with all other engagements previously referenced in this decision in which she served as the engagement quality reviewer).

Issuer	Type	Fiscal Period Ended	DX	Engagement Partner	Date Cisneros signed off
360 Global Investments	Audit	12/31/2010	15	Helterbran	1/24/2013
360 Global Investments	Review	3/31/2012	24	[page missing]	2/3/2013
360 Global Investments	Review	9/30/2012	28	Helterbran	3/29/2013
Kingdom Koncrete, Inc.	Audit	12/31/2010	68	Hall	3/15/2011
Kingdom Koncrete, Inc.	Review	3/31/2012	71	Helterbran	5/10/2012
Kingdom Koncrete, Inc.	Review	6/30/2012	73 & Stip. ¶ 9	Helterbran	7/25/2012
Kingdom Koncrete, Inc.	Review	9/30/2012	74	Helterbran	10/25/2012
Surface Coatings, Inc.	Audit	12/31/2010	99	Hall	3/30/2011
Surface Coatings, Inc.	Review	3/31/2012	102	Helterbran	5/15/2012
Surface Coatings, Inc.	Review	6/30/2012	103	Helterbran	8/20/2012

C. Summary of Audit and Review Deficiencies

The OIP provided a chart alleging that The Hall Group conducted sixteen audit and thirty-five review engagements in violation of PCAOB standards. Of these, three audits and sixteen reviews alleged misconduct against Hall only and were not at issue in this hearing. The Division waived any argument about three audits with blank or missing forms. Div. Br. 4-5. The findings and conclusions about the remaining ten audits and nineteen reviews are summarized in the following charts.

AUDITS

Issuer	Fiscal Period Ended	DX	Engagement Partner	Engagement Quality Reviewer	Conclusion
Freestone Resources, Inc.	6/30/2012	63	Hall	Cisneros	Cisneros not competent because engagement involved complicated equity transactions and not competent generally

Kingdom Koncrete, Inc.	12/31/2010	68	Hall	Cisneros	Engagement quality review performed by someone from the firm who was not a partner or equivalent level; Cisneros not competent generally
Seven Arts Entertainment Inc.	6/30/2012	92	Hall	Cisneros	Cisneros not competent because engagement involved complicated equity transactions and not competent generally
Surface Coatings, Inc.	12/31/2010	99	Hall	Cisneros	Engagement quality review performed by someone from the firm who was not a partner or equivalent level; Cisneros not competent generally
360 Global Investments	12/31/2010	15	Helterbran	Cisneros	Cisneros not competent generally
DynaResource, Inc.	12/31/2010	38	Helterbran	Cisneros	Engagement quality review performed by someone from the firm who was not a partner or equivalent level; Cisneros not competent because engagement involved complicated equity transactions and not competent generally
Kingdom Koncrete, Inc.	12/31/2011	70	Helterbran	Cisneros	Cisneros not competent because engagement involved complicated equity transactions and not competent generally
Premier Oil Field Services	12/31/2012	87	Helterbran	[none]	No engagement quality review was performed or documented
Kingdom Koncrete, Inc.	12/31/2012	76	Helterbran	Babb	Engagement quality review performed by someone from the firm who was not a partner or equivalent level
Surface Coatings, Inc.	12/31/2011	101	Helterbran	[none]	No engagement quality review was performed or documented

REVIEWS

Issuer	Fiscal Period Ended	DX	Engagement Partner	Engagement Quality Reviewer	Conclusion
360 Global Investments	3/31/2012	24	[page missing]	Cisneros	Cisneros not competent generally
360 Global Investments	6/30/2012	26	Helterbran	Cisneros	Cisneros not competent because engagement involved complicated equity transactions and not competent generally
360 Global Investments	9/30/2012	28	Helterbran	Cisneros	Cisneros not competent generally
360 Global Investments	3/31/2013	32	Helterbran	[none]	No engagement quality review was performed or documented
DynaResource, Inc.	3/31/2012	42	Helterbran	Cisneros	Cisneros not competent because engagement involved complicated equity transactions and not competent generally
DynaResource, Inc.	6/30/2012	43	Helterbran	Cisneros	Cisneros not competent because engagement involved complicated equity transactions and not competent generally
DynaResource, Inc.	9/30/2012	45	Helterbran	Cisneros	Cisneros not competent because engagement involved complicated equity transactions and not competent generally; documentation did not comply with Auditing Standard No. 3
DynaResource, Inc.	3/31/2013	49	Helterbran	[none]	No engagement quality review was performed or documented
Kingdom Koncrete, Inc.	3/31/2012	71	Helterbran	Cisneros	Cisneros not competent generally
Kingdom Koncrete, Inc.	6/30/2012	73 & Stip. ¶ 9	Helterbran	Cisneros	Cisneros not competent generally
Kingdom Koncrete, Inc.	9/30/2012	74	Helterbran	Cisneros	Cisneros not competent generally
Kingdom Koncrete, Inc.	3/31/2013	77	Helterbran	[none]	No engagement quality review was performed or documented
Premier Oil Field Services	3/31/2012	83	Helterbran	[none]	No engagement quality review was performed or documented

Premier Oil Field Services	6/30/2012	84	Helterbran	[none]	No engagement quality review was performed or documented
Premier Oil Field Services	9/30/2012	85	Helterbran	[none]	No engagement quality review was performed or documented
Surface Coatings, Inc.	3/31/2012	102	Helterbran	Cisneros	Cisneros not competent generally
Surface Coatings, Inc.	6/30/2012	103	Helterbran	Cisneros	Cisneros not competent generally; documentation did not comply with Auditing Standard No. 3
Surface Coatings, Inc.	9/30/2012	104	Helterbran	Cisneros	Cisneros not competent because engagement involved complicated equity transactions and not competent generally
Surface Coatings, Inc.	3/13/2013	108	Helterbran	[none]	No engagement quality review was performed or documented

As to the review of 360 Global for the period ended March 31, 2012, the evidence is insufficient to conclude that Helterbran was the engagement partner rather than Hall. The page for the engagement partner's signature is missing from DX 24, the parties did not stipulate that Helterbran signed off on the engagement, *see* Stip. ¶ 9, and no testimony about the engagement was elicited. The "engagement completion document," DX 25, lists Helterbran as the engagement partner, but contains neither a signature nor a date. On balance, The Hall Group's documentation of this review was so sloppy that it cannot be determined which of the two possible engagement partners was responsible for it.

Therefore, I find that Helterbran was responsible for six audits and eighteen reviews that did not comply with PCAOB standards, and that Cisneros was responsible for seven audits and twelve reviews that did not comply with PCAOB standards.

D. Secondary Liability

The OIP charges Helterbran and Cisneros with willfully aiding and abetting and causing The Hall Group to violate Rule 2-02(b)(1) of Regulation S-X and with causing The Hall Group's issuer clients to violate Exchange Act Section 13(a) and Rules 13a-1 and 13a-13.

Because the audits set forth in the preceding section did not comply with PCAOB standards, The Hall Group violated Rule 2-02(b)(1) of Regulation S-X. To be liable for aiding and abetting, a respondent must provide substantial assistance to the primary violator and do so at least recklessly. As engagement partner and engagement quality reviewer, Helterbran and Cisneros were responsible for the audits at issue and therefore provided substantial assistance to The Hall Group's primary violation. I find that Helterbran acted recklessly in approving the audits. Helterbran was aware of the danger posed by audits lacking proper engagement quality

reviews or documentation. She knew that Cisneros was signing off on the engagement quality reviews despite not being a CPA and having limited auditing experience, but she took no steps to ensure that Cisneros was competent and had read and understood the applicable standards. She fought against corner-cutting by Hall and was the voice of reason at the firm. Nevertheless, she went along with his decisions despite her misgivings. Because I find that Helterbran acted recklessly, I find that her actions were also willful. *Donald L. Koch*, Exchange Act Release No. 72179, 2014 SEC LEXIS 5091, at *48 n.139 (May 16, 2014) (“Our finding of scienter, amply supported by evidence in the record, demonstrates that Respondents’ violations were willful.”), *pet. denied in relevant part*, 793 F.3d 147 (D.C. Cir. 2015).

On the other hand, I do not find that Cisneros acted recklessly. She did not know the qualifications required to be an engagement quality reviewer and did not even read the standards she was certifying. She simply assumed that if Hall had assigned her to do the job, she was qualified. While this conduct was certainly unreasonable and a departure from the applicable standards of care, the evidence is insufficient to conclude that Cisneros knew of the danger, that it was obvious to her, or that she was willfully blind to it. Cisneros credibly testified that had she been actually aware of the standards, she would never have signed off as engagement quality reviewer. Tr. 570-71.

“Causing” liability requires only a mental state of negligence. Because Helterbran aided and abetted The Hall Group’s violations, she necessarily caused them. *Ronald S. Bloomfield*, 2014 SEC LEXIS 698, at *63. Because Cisneros acted negligently by signing off on engagement quality reviews without being qualified to do so, she was also a cause of the violations.

Further, The Hall Group’s issuer clients violated Exchange Act Section 13(a) and Rules 13a-1 and 13a-13 because they filed annual and quarterly reports with the Commission that had not been audited or reviewed in accordance with PCAOB standards. Specifically, the issuers violated Section 13(a) and Rule 13a-1 because they included in their annual reports false representations by The Hall Group that it had conducted its audits in accordance with PCAOB standards. The issuers also violated Section 13(a) and Rule 13a-13 by including interim financial statements in their quarterly reports that had not been reviewed in accordance with PCAOB standards, as required by Rule 10-01(d) of Regulation S-X. For the same reasons that they “caused” The Hall Group’s violations of Rule 2-02(b)(1) of Regulation S-X, Helterbran and Cisneros “caused” The Hall Group’s issuer clients to violate Exchange Act Section 13(a) and Rules 13a-1 and 13a-13.

IV. SANCTIONS

The Division of enforcement seeks the permanent denial of Helterbran’s and Cisneros’ privilege to appear or practice before the Commission, a cease-and-desist order, disgorgement and prejudgment interest, and civil penalties. Div. Br. at 15-16.

A. Practice Bar and Public Interest Factors

The OIP alleges that Helterbran engaged in improper professional conduct subject to Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission’s Rules of

Practice and that Cisneros engaged in improper professional conduct subject to Section 4C(a)(2) of the Exchange Act. OIP at 9. The OIP additionally alleges that Helterbran and Cisneros willfully aided and abetted and caused violations of the securities laws, and that they are subject to Section 4C(a)(3) and Rule 102(e)(1)(iii). *Id.* at 9-10. Under Exchange Act Section 4C and Commission Rule of Practice 102(e), the Commission may “censure a person or deny, temporarily or permanently, the privilege of appearing or practicing” before it to any person who is found to have committed “improper professional conduct” or “willfully aided and abetted the violation of any provision of the Federal securities laws or the rules and regulations thereunder.” 17 C.F.R. § 201.102(e)(1)(ii)-(iii); *accord* 15 U.S.C. § 78d-3(a)(2)-(3). The Division argues that Helterbran and Cisneros should be permanently barred from practicing before the Commission. Div. Br. at 19.

The statute and rule each define “improper professional conduct” as (A) “intentional or knowing conduct, including reckless conduct, that results in a violation of applicable professional standards” or (B) negligent conduct in the form of (1) a “single instance of highly unreasonable conduct that results in a violation of applicable professional standards” under circumstances where “heightened scrutiny” is warranted or (2) “repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission.” 15 U.S.C. § 78d-3(b); 17 C.F.R. § 201.102(e)(1)(iv).⁶ The Division confined its Section 102(e) arguments to the “negligent conduct” prong and did not address or raise any arguments under the “intentional or knowing” prong of the statute and rule. Div. Br. at 16. “Unreasonable conduct” is evaluated under an ordinary or simple negligence standard; in other words, it is the failure to exercise reasonable care. Amendment to Rule 102(e) of the Commission’s Rules of Practice, 63 Fed. Reg. 57,164, 57,169 (Oct. 26, 1998). “The term ‘repeated’ may encompass as few as two separate instances of unreasonable conduct occurring within one audit, or separate instances of unreasonable conduct within different audits.” *Id.*

Based on the findings and conclusions above, Helterbran and Cisneros failed to exercise reasonable care and repeatedly violated applicable auditing standards. This repeated conduct indicates a lack of competence to practice before the Commission. Therefore, Helterbran and Cisneros may be subject to discipline under Exchange Act Section 4C(a)(2) and Helterbran may be subject to discipline under Rule 102(e)(1)(ii).

Because Helterbran willfully aided and abetted violations of Regulation S-X, she may be subject to discipline under Exchange Act Section 4C(a)(3) and Rule 102(e)(1)(iii). Because Cisneros did not aid and abet violations of Regulation S-X, but merely negligently “caused” them, she may not be disciplined under Section 4C(a)(3) and Rule 102(e)(1)(iii). *See S.W. Hatfield, CPA*, Exchange Act Release No. 73763, 2014 SEC LEXIS 4691, at *15 (Dec. 5, 2014).

In determining whether a practice bar is appropriate, I am mindful that the purpose of the rule is to guard against future harmful conduct, not to punish past wrongs. 63 Fed. Reg. at

⁶ Rule 102(e)(1)(iv) describes improper professional conduct with respect to persons licensed as accountants; Section 4C describes improper professional conduct with respect to any registered public accounting firm or associated person.

57,166 & n.26. I am also guided by the public interest factors set forth in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979). See *Chris G. Gunderson*, Exchange Act Release No. 61234, 2009 SEC LEXIS 4322, at *20 (Dec. 23, 2009) (applying the *Steadman* factors to a disciplinary proceeding under Rule 102(e)). Those factors are: the egregiousness of the respondents' actions; the isolated or recurrent nature of the infractions; the degree of scienter involved; the sincerity of the respondents' assurances against future violations; the respondents' recognition of the wrongful nature of their conduct; and the likelihood of future violations. *Id.*

As to Helterbran, her misconduct was serious and recurrent, and her lack of recognition of the wrongfulness of her misconduct is troubling. She downplays the seriousness of her violations, blames her own misdeeds on Hall and the toxic work environment at The Hall Group, and suggests without corroboration that the engagements for which she was responsible were performed correctly but just were not documented properly. *E.g.*, Tr. 556. She seemingly gave up entirely on ensuring engagement quality reviews once she decided to leave The Hall Group. Her attitude is especially troubling because the position of engagement partner is important in the larger context of investor protection. It is not simply a job title, or a position within a hierarchy; it is a role that carries with it significant legal responsibility for ensuring the accuracy and transparency of corporate finances and, in a larger sense, the proper functioning of the capital markets. Helterbran's repeated, serious violations undermined the protections afforded public investors, and her lack of recognition of this suggests a lack of current competence.

On the other hand, Helterbran's misconduct was not otherwise egregious, because there is no evidence of monetary harm to clients or investors, and her misconduct was not proven to constitute fraud. She acted with the lowest degree of scienter. She has convincingly explained that she does not intend to "be in auditing ever again," although she "really want[s] to get back into SEC reporting," which involves practicing before the Commission and which presents opportunities for future violations. Tr. 554.

On balance, these factors suggest both a degree of risk to the integrity of the Commission's processes, and a lack of current competence, sufficient to warrant a multi-year practice bar but not a permanent bar. Helterbran will be denied the privilege of practicing or appearing before the Commission as an accountant, with the right to reapply after five years.

As to Cisneros, her misconduct was also serious and only slightly less recurrent than Helterbran's, and was also not especially egregious. She acted only negligently, and she was refreshingly candid about her own lack of qualifications. At the same time, although she has accepted the blame for her misdeeds, she has provided few assurances against future violations and recently worked as an auditor. On balance, a one-year suspension of her privilege of practicing or appearing before the Commission as an accountant is justified.

B. Cease-and-Desist Order

Section 21C of the Exchange Act authorizes the Commission to impose a cease-and-desist order on any person who has violated a provision of the Exchange Act or any rule or regulation thereunder or who was "a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation." 15 U.S.C. § 78u-3(a). A cease-and-desist order is forward-looking and requires a showing of risk of future violations, but, "in

the ordinary case, a finding of past violation is sufficient to demonstrate a risk of future ones.” *KPMG Peat Marwick*, 54 S.E.C. at 1191. In addition to the risk of future violations, the Commission considers the *Steadman* factors. *Id.* at 1192; *see also Steadman*, 603 F.2d at 1140. The Commission also considers “whether the violation is recent, the degree of harm to investors or the marketplace resulting from the violation, and the remedial function to be served by the cease-and-desist order in the context of any other sanctions being sought in the same proceedings.” *KPMG Peat Marwick*, 54 S.E.C. at 1192.

The *Steadman* factors discussed above weigh in favor of a cease-and-desist order as to both Respondents. The violations were both recent and remote, there was no proven harm to investors or the marketplace, and a cease-and-desist order would serve a remedial purpose by deterring both the Respondents specifically and other accounting professionals generally. On balance, a cease-and-desist order is warranted for both Respondents.

C. Disgorgement

In a cease-and-desist proceeding under Section 21C(a) of the Exchange Act, the Commission may order disgorgement, including reasonable prejudgment interest. 15 U.S.C. § 78u-3(e). “The primary purpose of disgorgement as a remedy for violation of the securities laws is to deprive violators of their ill-gotten gains, thereby effectuating the deterrence objectives of those laws.” *SEC v. Frohling*, --- F.3d ---, No. 13-3191-cv, 2016 WL 7093925, at *4 (2d Cir. Dec. 6, 2016) (quoting *SEC v. First Jersey Secs., Inc.*, 101 F.3d 1450, 1474 (2d Cir. 1996)). Disgorgement may only be ordered of profits causally connected to the violation. *SEC v. First City Fin. Corp.*, 890 F.2d 1215, 1231 (D.C. Cir. 1989). Because separating legal profits from illegal profits “may at times be a near-impossible task,” the calculation of disgorgement need only be a “reasonable approximation” of the ill-gotten gains. *Id.* The Division bears the burden of persuasion that what it seeks in disgorgement is a reasonable approximation of Respondents’ unjust enrichment. If that burden is met, Respondents must then clearly demonstrate that the sum is not a reasonable approximation. *Id.* at 1232.

The Division puts forward a figure of \$76,188 as its approximation of Helterbran’s ill-gotten gains. Div. Br. 22. It reaches this amount by taking Helterbran’s salary for 2011, 2012, and 2013 and reducing that amount by twenty-five percent for time spent on “administrative matters.” Then, because Helterbran worked on engagements for fifteen issuers and the engagements that did not comply with PCAOB standards were for five issuers, the Division asserts that one-third of the amount is a reasonable approximation of the profit causally connected to the violations.

The Division’s estimate has at least two flaws. First, the Division offered no basis for the twenty-five percent reduction for administrative matters—there was no testimony or other evidence about how much time Helterbran worked on engagements compared to other matters in this specific case, nor was there any evidence or information about administrative time in general at auditing firms. Although it stands to reason that Helterbran would devote some fraction of her time to administrative matters, the Division offers no reason why that fraction was twenty-five percent rather than some other share.

Second, the Division does not explain the rationale for grouping the wrongful conduct by issuer rather than considering it by engagement. The Division's analysis treats all of Helterbran's work for five issuers—360 Global, DynaResource, Kingdom Concrete, Premier Oilfield Services, and Surface Coatings—as resulting in illegal profits. But there were many engagements for those issuers during the relevant period that were not charged in the OIP. For example, the 360 Global reviews for the first three quarters of 2011 were not included in the OIP. There were other engagements where Helterbran performed audit work but was not responsible for any violations. For example, in the Kingdom Concrete and Surface Coatings audits for the period ending December 31, 2010, Helterbran was the detail reviewer and not responsible for signing off on the improper engagement quality review. DX 68, 99. The Division also abandoned its argument for three audits charged in the OIP—two for 360 Global and one for DynaResource. Div. Br. 4-5. By calculating the amount on an issuer-by-issuer basis, the Division seeks disgorgement for audits and reviews it did not prove were wrongfully performed.

The Division's calculation of Cisneros' unjust enrichment is also flawed. Hall estimated that Cisneros spent twenty percent of her time on public company work in 2010 and 2011. The Division guesses that half of her time on public company engagements was doing engagement quality reviews. The Division argues that Cisneros should disgorge ten percent of her income from The Hall Group for 2010 and 2011 and fifty percent of her income for 2012, which totals \$14,520. The earliest engagements identified in the OIP, however, are audits for the annual period ended December 31, 2010, and work on these took place in 2011. The Division did not provide proof of wrongdoing by Cisneros in 2010, and it would not be appropriate to order disgorgement of salary she earned during that year. The Division also offered no support for the fifty percent estimate for the amount of her work on engagement quality reviews.

For these reasons, the Division's disgorgement figures of \$76,188 for Helterbran and \$14,520 for Cisneros are not prima facie reasonable approximations of their ill-gotten gains. And even if the Division had reasonably approximated the ill-gotten gains, I would be reluctant to order disgorgement of them. The person who reaped the profits from The Hall Group cutting corners on its engagement quality reviews was Hall. Hall could have hired a qualified, external engagement quality reviewer, but chose not to because it would have reduced his profit. Helterbran's and Cisneros' culpability was comparatively less than Hall's, and Cisneros persuasively testified that had she known she was unqualified to act as engagement quality reviewer, she would not have so acted. *See* Tr. 570-71. Although ordering a disgorgement of salary is within the Commission's authority, the Commission has in some cases exercised its discretion not to order it. *See Rita J. McConville*, Exchange Act Release No. 51950, 2005 SEC LEXIS 1538, at *57 n.64 (June 30, 2005). Under the circumstances of this case, ordering Helterbran and Cisneros to disgorge parts of their salaries would not serve the deterrence purpose of the sanction and would not be in the public interest.

D. Civil Penalty

Exchange Act Section 21B authorizes civil penalties in cease-and-desist proceedings if a respondent violated or caused a violation of the Exchange Act or any rule or regulation issued thereunder. 15 U.S.C. § 78u-2(a)(2)(B). The statute sets out six factors to consider in determining whether a civil penalty is in the public interest: (1) whether the conduct involved "fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement";

(2) harm to others; (3) unjust enrichment; (4) previous discipline for violating the securities laws; (5) the need for deterrence; and (6) such other matters as justice may require. 15 U.S.C. § 78u-2(c). The statute sets forth three tiers of maximum penalties depending on the nature of violation. 15 U.S.C. § 78u-2(b). Within this framework, the Commission has the discretion to choose the amount of the penalty. *Phlo Corp.*, Exchange Act Release No. 55562, 2007 SEC LEXIS 604, at *60 (Mar. 30, 2007).

The Division requests that first-tier penalties, which have a maximum of \$7,500 for each act or omission, be imposed. Div. Br. at 24; *see* 15 U.S.C. § 78u-2(b)(1); 17 C.F.R. § 201.1001, tbl. I. The Division asserts that a penalty should be imposed, at the low end, for each of the “different ways that Helterbran and Cisneros failed to conduct engagements in accordance with PCAOB standards (four for Helterbran and three for Cisneros).” Div. Br. at 24. At the upper end, the Division suggests imposing a penalty for each engagement not conducted according to PCAOB standards. *Id.*

Helterbran’s conduct involved reckless disregard for regulatory requirements, but Cisneros’ did not, nor did Cisneros’ conduct otherwise involve fraud, deceit, manipulation, or deliberate disregard of regulatory requirements. The Hall Group’s issuer clients were harmed by the misconduct in this case, because they retained The Hall Group to perform audits and reviews that complied with PCAOB standards, and that is not what they received. There was no evidence, however, of any errors in the audited or reviewed financial data, and there was no evidence of any pecuniary harm to the investing public. Although there was evidence of unjust enrichment, as discussed above it was not adequately quantified. Neither Helterbran nor Cisneros has previously been found to have violated the securities laws or professional standards. Civil penalties will deter Respondents and others from ignoring their professional responsibilities, particularly, as in this proceeding, where Respondents received ill-gotten gains but they are difficult to quantify. And there is nothing inappropriate about the Division making a generous settlement offer on the eve of the hearing, and then seeking stiffer sanctions once it is put to its proof, as Helterbran suggests. *See* Helterbran Reply at 5.

On balance, Helterbran’s scienter, more culpable role, and likely greater ill-gotten gains warrant a greater civil penalty, although as to both Respondents the civil penalty should not fall at either end of the first tier. I find that Helterbran should be penalized \$3,750 per unit of violation, and Cisneros \$2,000 per unit of violation.

The Division proposes two different methods of counting the units of violation: by the number of different ways Respondents violated the law (according to the Division, four as to Helterbran and three as to Cisneros), or by the number of different engagements that violated PCAOB standards (twenty-four as to Helterbran and nineteen as to Cisneros). Although these methods are consistent with the statute, the Commission recently endorsed a third method: so long as there is at least one violation within a particular time period, and within the limitations period, the unit of violation may be the number of time periods during which the violations continued. *See J.S. Oliver Capital Mgmt., LP*, Exchange Act Release No. 78098, 2016 SEC LEXIS 2157, at *76-78 (June 17, 2016) (imposing fifteen civil penalties for each of fifteen months during which violations occurred). Applied on a quarterly basis—because that is the natural rhythm of audit and review engagements—this method results in six units of violation as to Helterbran, for each quarter between January 2012 and June 2013, and five units of violation

as to Cisneros, for each quarter between January 2012 and March 2013.⁷ Therefore, Helterbran will be ordered to pay \$22,500 in civil penalties, and Cisneros \$10,000.

V. RECORD CERTIFICATION

Pursuant to 17 C.F.R. § 201.351(b), I certify that the record includes the items set forth in the record index issued by the Commission's Office of the Secretary on February 16, 2017, and the accompanying Amended Exhibit List issued on February 28, 2017, except that RX 23 was rejected. See *David S. Hall, P.C.*, Admin. Proc. Ruling Release No. 4655, 2017 SEC LEXIS 680 (ALJ Mar. 6, 2017).

ORDER

It is ORDERED, pursuant to Section 21C of the Securities Exchange Act of 1934, that Respondents Michelle L. Helterbran Cochran, CPA, and Susan A. Cisneros shall cease and desist from causing any violations or future violations of Section 13(a) of the Securities Exchange Act of 1934 and Rules 13a-1 and 13a-13 thereunder, and of Rule 2-02(b)(1) of Regulation S-X.

It is FURTHER ORDERED, pursuant to Section 4C of the Securities Exchange Act of 1934 and Rule 102(e)(1)(ii) and (iii) of the Commission's Rules of Practice, that Respondent Michelle L. Helterbran Cochran, CPA, is denied the privilege of appearing or practicing before the Commission as an accountant; provided, however, that Respondent Michelle L. Helterbran Cochran, CPA, may reapply to the Commission for permission to appear or practice before it after five years.

It is FURTHER ORDERED, pursuant to Section 4C of the Securities Exchange Act of 1934, that Respondent Susan A. Cisneros is denied the privilege of appearing or practicing before the Commission as an accountant for one year.

It is FURTHER ORDERED, pursuant to Section 21B of the Securities Exchange Act of 1934, that Respondent Michelle L. Helterbran Cochran, CPA, shall pay a CIVIL MONEY PENALTY of \$22,500.

It is FURTHER ORDERED, pursuant to Section 21B of the Securities Exchange Act of 1934, that Respondent Susan A. Cisneros shall pay a CIVIL MONEY PENALTY of \$10,000.

Payment of civil penalties shall be made no later than twenty-one days following the day this initial decision becomes final, unless the Commission directs otherwise. Payment shall be made in one of the following ways: (1) transmitted electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request; (2) direct payments from a

⁷ For each quarter during the relevant periods referenced above, Helterbran and Cisneros performed work that violated PCAOB standards, as found in the legal conclusions. The date when Helterbran or Cisneros signed the audit or review form for the engagements at issue is used to determine when each Respondent performed work subject to sanctions within the relevant periods. As to 360 Global in particular, Respondents' work was generally performed in the first quarter of 2013, well after the end of the relevant fiscal year or quarter. *E.g.*, DX 15, 28.

bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or (3) by certified check, bank cashier's check, bank money order, or United States postal money order made payable to the Securities and Exchange Commission and hand-delivered or mailed to the following address along with a cover letter identifying the Respondent and Administrative Proceeding No. 3-17228: Enterprises Services Center, Accounts Receivable Branch, HQ Bldg., Room 181, AMZ-341, 6500 South MacArthur Blvd., Oklahoma City, Oklahoma 73169. A copy of the cover letter and instrument of payment shall be sent to the Commission's Division of Enforcement, directed to the attention of counsel of record.

This initial decision shall become effective in accordance with and subject to the provisions of Rule 360 of the Commission's Rules of Practice, 17 C.F.R. § 201.360. Pursuant to that Rule, a party may file a petition for review of this initial decision within twenty-one days after service of the initial decision. A party may also file a motion to correct a manifest error of fact within ten days of the initial decision, pursuant to Rule 111 of the Commission's Rules of Practice, 17 C.F.R. § 201.111. If a motion to correct a manifest error of fact is filed by a party, then a party shall have twenty-one days to file a petition for review from the date of the undersigned's order resolving such motion to correct a manifest error of fact.

The initial decision will not become final until the Commission enters an order of finality. The Commission will enter an order of finality unless a party files a petition for review or motion to correct a manifest error of fact or the Commission determines on its own initiative to review the initial decision as to a party. If any of these events occur, the initial decision shall not become final as to that party.

Cameron Elliot
Administrative Law Judge