

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 75075 / May 29, 2015

Admin. Proc. File No. 3-16430

In the Matter of the Application of  
  
MARK E. LACCETTI  
  
For Review of Disciplinary Action Taken by the  
  
PCAOB

ORDER GRANTING LEAVE TO  
ADDUCE ADDITIONAL  
EVIDENCE

Mark E. Laccetti, CPA, appeals a disciplinary decision by the Public Company Accounting Oversight Board (the "PCAOB"), which found that Laccetti violated PCAOB rules and auditing standards in connection with the audit of a foreign issuer's consolidated financial statements.<sup>1</sup> The PCAOB barred Laccetti from associating with a registered public accounting firm (with the right to petition the PCAOB to associate with such a firm after two years) and ordered him to pay an \$85,000 civil money penalty. On May 15, 2015, Laccetti filed the instant motion for leave to adduce additional evidence. The Commission's Rule of Practice 452 requires that such motions show "with particularity that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence previously."<sup>2</sup> For the reasons below, we grant Laccetti's motion as a discretionary matter.

Laccetti seeks to adduce two letters, a facsimile, and transcripts of certain investigatory testimony. He contends that these documents support his argument on appeal that the PCAOB's Division of Enforcement and Investigations (the "Division") violated his right to the assistance of counsel by excluding a technical expert from assisting his attorneys during his investigatory testimony. In its decision, the PCAOB rejected Laccetti's right-to-counsel argument, finding in part that the claim was moot because the PCAOB did not rely on Laccetti's investigatory testimony when reaching its decision. Laccetti asserts that the evidence he now seeks to adduce demonstrates "that the Division's denial of his meaningful right to counsel is not moot and that it tainted the proceeding initiated by the [PCAOB]."

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<sup>1</sup> *Mark E. Laccetti*, PCAOB File No. 105-2009-007 (Jan. 26, 2015).

<sup>2</sup> 17 C.F.R. § 201.452.

Laccetti further contends that "[a]dmitting this evidence is in no way controversial or burdensome" because it "is in the possession of the Division (and has been since each document's inception, all prior to August 2008), and the documents are either official transcripts of investigative testimony or documents authored by the Division." Laccetti also argues that there were reasonable grounds for not adducing this material previously because the PCAOB provided "evolving rationalizations" for excluding his expert consultant. Laccetti does not specify how the "evolving rationalizations" prevented him from adducing evidence earlier.<sup>3</sup>

Laccetti's explanation of why he failed to adduce the additional evidence previously does not meet the particularity requirement in Rule 452. We nevertheless determine as a discretionary matter to admit the documents Laccetti seeks to adduce.

Accordingly, it is ORDERED that Mark E. Laccetti's motion for leave to adduce additional evidence is granted.

For the Commission, by the Office of the General Counsel, pursuant to delegated authority.

Brent J. Fields  
Secretary

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<sup>3</sup> In support, Laccetti references the Commission's decision in *Ralph W. LeBlanc*, which permitted the respondent to adduce additional evidence where he was "not aware of the significance" of the evidence "until the law judge's decision issued." Securities Exchange Act Release No. 48254, 2003 WL 21755845, at \*6 n.23 (July 30, 2003).