

**BEFORE THE
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C.**

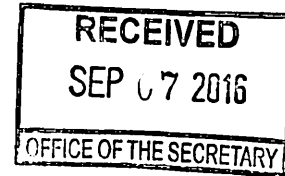
Admin. Proc. File No. 3-16430

In the Matter of the Application of

MARK E. LACCETTI, CPA

For Review of Disciplinary Action Taken by the

PUBLIC COMPANY ACCOUNTING
OVERSIGHT BOARD



**PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD'S
MOTION TO TERMINATE STAY OF BOARD DISCIPLINARY ACTION**

The Public Company Accounting Oversight Board (“Board”) respectfully requests that the Commission terminate the statutory stay, provided by Section 105(e)(1) of the Sarbanes-Oxley Act of 2002 (“the Act”), of the Board disciplinary action that the Commission sustained in its September 2, 2016 order in this proceeding.


Under Section 105(e)(1) of the Act, 15 U.S.C. 7215(e)(1), application to the Commission for review of any disciplinary sanction imposed by the Board “operate[s] as a stay” on the imposition of such sanction, “unless and until the Commission orders” that “no such stay shall continue to operate.” Pursuant to Section 105(e), and SEC Rule of Practice 401(e), the Commission may lift the stay summarily or on consideration, which may be expedited, of a motion to lift the stay. Thus, upon application for Commission review of a Board sanction, Section 105(e) preserves, by way of the statutory stay, the status quo at imposition of the sanction until the Commission has the opportunity to consider whether the status quo should prevail. *See generally Free Enterprise Fund v. PCAOB*, 561 U.S. 477, 486 (2010) (describing

the Act as “plac[ing] the Board under the SEC's oversight, particularly with respect to the issuance of rules or the imposition of sanctions (both of which are subject to Commission approval and alteration)”. “[O]nce any stay on the imposition of such sanction has been lifted,” the Board “shall report the sanction” to the public. Sections 105(d)(1) & (d)(1)(C) of the Act, 15 U.S.C. 7215(d)(1) & (d)(1)(C).

In each of the three previous cases in which the Commission sustained Board sanctions, the Commission ordered the termination of the statutory stay, either upon issuance of the decision or soon after pursuant to Board motion. *See S.W. Hatfield, CPA*, SEC Rel. No. 34-69976, 2013 SEC LEXIS 1999 (July 11, 2013); *R.E. Bassie & Co.*, SEC Rel. No. 3354, 2012 SEC LEXIS 89, *54 (Jan. 10, 2012); *Gately & Assocs., LLC*, SEC Rel. No. 34-63167, 2010 SEC LEXIS 3554 (Oct. 22, 2010). The Commission does not appear to have ordered the termination of the stay in connection with its September 2, 2016 order in this proceeding. Because the Section 105(e)(1) stay has the effect both of (1) precluding the Board from reporting its disciplinary action to the public (*see* Section 105(d)(1)(C) of the Act) and (2) precluding from taking effect sanctions that the Commission has sustained, finding no basis for concluding that they were not “in furtherance of Sarbanes-Oxley and the securities laws” (SEC Rel. No. 34-

78764 at 6, 8 (Sept. 2, 2016)), the Board respectfully requests that the Commission terminate the stay.^{1/}

Respectfully submitted,



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September 6, 2016

^{1/} To the extent Applicant may want to seek review of the Commission's September 2, 2016 order in federal court and to prevent the sanctions from taking effect while he does so, his recourse is to move the Commission for a stay of its order under SEC Rule of Practice 401(c), which expressly contemplates a motion for a stay pending judicial review, to which the Board can respond in due course. It is the Commission's order that would be on review in court. Securities Exchange Act Section 25(a)(1), 15 U.S.C. 78y(a)(1); *see, e.g., Schellenbach v. SEC*, 989 F.2d 907, 909 (7th Cir. 1993); *Eichler v. SEC*, 757 F.2d 1066, 1069 n.2 (9th Cir. 1985).

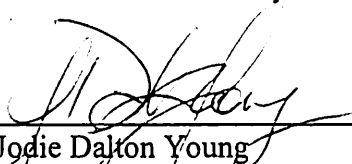
CERTIFICATE OF SERVICE

I hereby certify that on the 6th of September 2016, I caused to be sent to Lawrence J. Zweifach and Darcy C. Harris (via Federal Express, with courtesy copy by electronic mail to DHarris@gibsondunn.com) and to Michael J. Scanlon and Jacob T. Spencer (via hand delivery) copies of "Public Company Accounting Oversight Board's Motion to Terminate Stay of Board Disciplinary Action" (the original and three copies of which were filed via hand delivery with the Office of the Secretary today) addressed as follows:

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Mr. Zweifach and Ms. Harris are being served via Federal Express, with courtesy copy by electronic mail, rather than by hand delivery, because they are located in New York.



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