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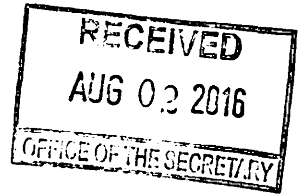


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

Administrative Proceeding
File No. 3-17228

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** **Respondents.**	**DIVISION OF ENFORCEMENT'S REPLY IN SUPPORT OF ITS MOTION FOR PARTIAL SUMMARY DISPOSITION AS TO RESPONDENTS DAVID S. HALL, P.C. D/B/A THE HALL GROUP CPAS AND DAVID S. HALL, CPA**

David S. Hall, P.C. d/b/a The Hall Group CPAs and David S. Hall, CPA's (the "Hall Respondents") Response to the Division's Motion for Partial Summary Disposition as to the Hall Respondents (the "Hall Response") raises no substantive defenses to the Division's allegations against them. Instead, it admits numerous of the Division's allegations and attempts to excuse the resulting violations by arguing that they had no option but to violate the law and that no relief is warranted. It also raises procedural defenses, part of which the Court has already denied and the remainder of which the Division has already shown does not apply here. Because there are no genuine issues with regard to any material fact and the Division is entitled to summary disposition as a matter of law, the Court should grant the Division's Motion for Partial Summary Disposition as to the Hall Respondents (the "Division's Motion").

I. The Division Established That It Is Entitled to Summary Disposition as a Matter of Law

In the Division's Motion, the Division established through admitted and undisputed facts that (1) the Hall Respondents lacked independence when providing audit services for certain

clients [Division's Motion, at pp. 6-7]; (2) the Hall Respondents failed to conduct audits and reviews in accordance with applicable standards [*Id.*, at pp. 7-9]; and (3) Hall, as CFO of DynaResource, allowed the company's interim financial statements to be reviewed by an auditor that lacked independence [*Id.*, at p. 9]. The Division further established that these acts constituted violations by the Hall Respondents 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, and by Hall of Rule 13a-14 of the Exchange Act. *Id.*, at pp. 9-13.

II. The Hall Respondents Do Not Contend That There Is A Genuine Issue With Regard to Any Material Fact in the Division's Motion

Neither the Hall Response nor the Hall Respondents' own Motion for Summary Disposition (the "Hall Motion") include a single sentence denying the Division's allegations. Rather, their filings attempt only to excuse their admitted violations, avoid consequences for those violations, or argue that they should not have to defend the violations because of res judicata and collateral estoppel based on the Hall Respondents' proceeding before the Public Company Accounting Oversight Board (the "Board").

First, the Hall Respondents do not deny the Division's allegations. In their response, the Hall Respondents admit that their answer in this proceeding "does not deny many of the wrongful acts attributed to them by the OIP." Hall Response, at p. 22. As discussed in the Division's Motion, and as acknowledged on page 22 of the Hall Response, the Hall Respondents admitted that they failed to obtain a proper engagement quality reviewer [OIP, at ¶ 19], violated the partner rotation requirements [OIP, at ¶ 22], and that Hall, as CFO of an issuer, engaged an audit firm in which he had a financial interest to perform audit services for that issuer [OIP, at ¶¶ 27-28].

Not only do they refer to the admissions from their answer, the Hall Respondents also affirmatively state that "the rules were technically violated," but allege that those violations were not intentional or willful and did not result in actual investor harm. But the Division's claims do not require a showing of scienter, and "willfully" means intentionally committing the act that constitutes the violation, not intentionally violating a rule or statute. *See Wonsover v. SEC*, 205 F.3d 408, 414-15 (D.C. Cir. 2000); *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965). Moreover, the Division is not required to show actual investor harm. This is especially true for the bars sought by the Division, which are intended to "preserve the integrity of [the Commission's] own procedures, by assuring the fitness of those professionals who represent others before the Commission." *Touche Ross & Co. v. SEC*, 609 F.2d 570, 579 (2d Cir. 1979).

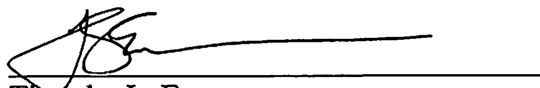
Second, the Hall Respondents argue that their violations do not warrant the relief sought by the Division. Their primary argument here is that their settlement in the Board's proceeding—which included a $10,000 penalty against The Hall Group and bars against both The Hall Group and Hall, with a right to re-apply after three years—already satisfied any need for relief by the Division. But the Hall Respondents ignore multiple factors that support the Division's requested relief, including (1) the Board's relief was settled relief, not relief arising from litigation; (2) the Board did not obtain any monetary relief against Hall; (3) the Division's allegations involve more than 40 additional audits and reviews than those at issue in the Board's proceeding; and (4) the Division seeks broader bars than those imposed by the Board (e.g., a bar under Rule of Practice 102(e) would bar the Hall Respondents from acting as an accountant for an investment adviser, which is not true of the Board's bar). For these reasons, and all the factors discussed in the Divisions Motion, the relief sought against the Hall Respondents is appropriate.

Finally, the Board's proceeding does not bar this proceeding. The Court has already denied the Hall Respondents' collateral estoppel argument. And the Division's response to the Hall Motion shows that the res judicata argument should also be denied because the Board and the Commission are not in privity.

In sum, the Division established that is entitled to summary disposition as a matter of law, and the Hall Respondents do not contend that there is a genuine issue with regard to any material fact in the Division's Motion, but seek only to avoid the consequences of their actions. This should not be allowed. The Court should grant the Division's Motion for Partial Summary Disposition against the Hall Respondents and impose the relief requested therein.

Dated: August 1, 2016

Respectfully submitted,



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Service List

Pursuant to Rule 150 of the Commission's Rules of Practice, I hereby certify that a true and correct copy of the *Division of Enforcement's Reply in Support of Its Motion For Partial Summary Disposition as to Respondents David S. Hall, P.C. d/b/a The Hall Group CPAs and David S. Hall, CPA* was served on the following on August 1, 2016 via United Parcel Service, Overnight Mail:

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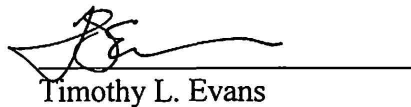

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