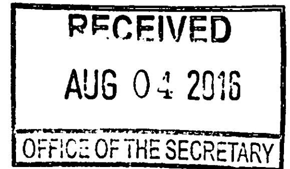

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINITRATIVE PROCEEDINGS
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.**	**HALL RESPONDENTS' REPLY BRIEF IN SUPPORT OF MOTION FOR SUMMARY DISPOSITION**

Respondents, David S. Hall, P.C., d/b/a The Hall Group CPAs (the "Hall Group") and David S. Hall, CPA, ("Mr. Hall") (collectively the "Hall Respondents"), by and through their undersigned attorneys, hereby submit the following reply brief in support of their motion for summary disposition pursuant to 17 C.F.R. §§ 201.250 and 201.154, to dismiss this action filed by the Division of Enforcement ("Division") of the United States Securities and Exchange Commission ("Commission" or "SEC"), under the doctrine of claim preclusion (res judicata), because the because the claims share the same nucleus of operative facts as the action before the Public Company Accounting Oversight Board ("PCAOB" or "Board").

STATEMENT OF THE CASE

The Commission's OIP determined that The Hall Group failed to conduct audits and quarterly reviews with respect to eight audit clients: (1) Freestone Resources, Inc. ("Freestone"); (2) Seven Arts Entertainment, Inc. ("Seven Arts"); (3) Medient Studios, Inc. ("Medient"); (4) Dyna Resource, Inc. ("Dyna"); (5) 360 Global Investments, Inc. ("Global"); (6) Kingdom Koncrete, Inc. ("Koncrete"); (7) Premier Oil Field Service ("Premier"); (8) Surface Coatings,

Inc. ("Coatings"). The Commission's OIP contains virtually identical allegations as to the three audits referenced in the PCAOB OIP and added allegations as to an additional 13 audits and 35 review engagements.

The Commission's OIP is based in part on the very same audit clients, Freestone, Seven Arts, Medient, and Dyna, investigated by the PCAOB.[1] Based on the PCAOB's extensive investigation, it imposed sanctions against the Hall Group and Mr. Hall individually under various sections of the Sarbanes Oxley Act and the PCAOB rules censuring the firm and Mr. Hall, barring Mr. Hall from associating with a registered public accounting firm for a minimum of three years and revoking the Hall Group's registration with the PCAOB. As a consequence of the PCAOB's Order under Section 105(c)(7)(B) of Sarbanes Oxley, Mr. Hall was also prohibited from associating in an accountancy or financial management capacity with any issuer registered with the Commission.

As set forth in detail in The Hall Respondents' Motion for Summary Disposition, the Commission had de novo authority to review all PCAOB disciplinary actions, including the PCAOB Order entered against Respondents and had the power to enhance, modify, cancel, reduce or require remission of sanctions imposed by the Board. Further, the Board had to notify the Commission of its investigations of Respondents and could have referred its investigations to the Commission. The Board was required to coordinate its investigations with the Commission and shared with the Commission confidential information obtained in the course of its investigation. *See* 15 U.S.C. § 7215(4), (5) (2016); Respondents' Brief in Support of their Motion for Summary Disposition, pp. 6-10.

[1] The PCAOB, however, had already investigated Dyna in addition to the three companies referenced in the PCAOB OIP. *See*: PCAOB OIP dated April 26, 2016; Freestone Resources, Inc., p.10; Seven Arts Entertainment, Inc., p.6; Medient Studios, Inc., p.8; Exhibit 54, attached as Exhibit A hereto, Hall Group CPAs, PCAOB Inspection Comment Form dated July 15, 2013 ("For the third issuer inspected, Dyna Resource, Inc....").

As a result of these powers and obligations, the PCAOB and the Commission are in privity with each other so the acts, enforcement actions and decisions of the PCAOB constitute the acts of the Commission. The claims asserted in the Commission OIP relating to violations of the standards of the PCAOB were the subject of the PCAOB investigation and enforcement action that was settled. The fact the Division's OIP was dated the very same date as the PCAOB Order demonstrates that the PCAOB and the Division were sharing the same information at the same time and could have brought one action.[2] Consequently, the Division's assertions in the OIP of the same claims that were or could have been asserted by the PCAOB are barred in whole or in part by the doctrine of claim preclusion.

ARGUMENT

The Board's action and the Commission's action were not parallel. The PCAOB's Order was final and was not challenged by the SEC.[3] The Commission attempts to argue that the actions were somehow parallel and that the Board and Commission have brought simultaneous actions in the past. Div. Resp. pp.2-3. In *Moore*,[4] the SEC and the Board issued simultaneous releases announcing sanctions against Moore and his firm. The Board's sanctions took into

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[2] The Declaration of Timothy L. Evans, lead counsel for the Division, suggests that the Commission received a February 11, 2016 Offer of Settlement from The Hall Group and an unsigned, draft dated January 29, 2016 "Confidential Draft Order For Settlement Purposes Only" on July 14, 2016. This does not negate the fact that a final Order had been entered by the PCAOB on April 26, 2016 or that the Board was required to coordinate its investigations with the Commission and share information obtained in the course of its investigation. *See* 15 U.S.C. § 7215(4), (5) (2016).

[3] *See*, The Hall Respondents' Brief in Support of Motion for Summary Disposition, p.9-10.

[4] Cited by the Commission at n.1: *SEC v. Moore, et al.*, 2009 WL 2634841, Litig. Release No. 21189, 96 S.E.C. Docket 2081, Case No. 2:09-cv-01637 (D.Nev. Aug. 27, 2009)(CPA issued audit reports for more than 300 clients who consisted of primarily shell or developmental stage companies with public stock quoted on the OTCBB or the Pink Sheets; Moore et al. consented to the entry of a final judgment permanently enjoining them from future violations, ordering them to disgorge certain funds, pay a penalty; Moore also consented to entry of an administrative order suspending them from appearing or practicing before the Commission as an accountant pursuant to Rule 102(e)(3) of the Commission's Rules of Practice); and *In re: Moore et al.*, PCAOB Release No. 105-2009-006 (Aug. 27, 2009)(In determining the appropriate sanctions, the Board took into account the fact that Moore had agreed to pay a civil monetary penalty to the SEC. Notably, the PCAOB acted at the same time as the SEC entry of a consent final judgment and penalty. In addition, the PCAOB OIP made findings concerning Respondents' violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5. No similar findings were made in this case).

account the fact that Moore had agreed to pay a civil monetary penalty to the SEC. Notably, Moore *et al.*, consented to the entry of a final judgment by the SEC and to the entry of an administrative order suspending them from appearing or practicing before the Commission as an accountant pursuant to Rule 102(e)(3) of the Commission's Rules of Practice. There was no consent by the Hall Respondents to the entry of a final judgment in this case.. In *Price Waterhouse, Bangalore,*[5] the PCAOB Order again was simultaneous with the SEC Order. The doctrine of res judicata was not applicable because there was no prior adjudication, but a simultaneous one. The SEC action involved serious allegations of fraudulent financial accounting by falsifying the company's revenue, income, earnings per share against twelve different Respondents.[6] Whether both the Commission and the PCAOB could have proceeded at the same time against the Hall Respondents is not the issue. The issue is whether the SEC can sit by while the PCAOB settles with the Respondents and then bring a subsequent action for the same violations based on the same nucleus of operative fact.[SNB1]

A. The Commission and the Board Are In Privity

Under the doctrine of res judicata, or claim preclusion, "a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action." *Oreck Direct LLC v. Dyson Inc.*, 560 F.3d 398, 403 (5th Cir. Feb.23, 2009)(quoting *Allen v. McCurry*, 449 U.S. 90, 94 (1980)); *Test Masters Educ. Servs. Inc. v.*

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[5] Cited by the Commission at n.1: *In re: Lovelock & Lewes, et al.*, 2011 WL 1295803, 100 S.E.C. Docket 2941, Release No. 64184 (April 5, 2011)(involving fraudulent financial accounting by falsifying the company's revenue, income, earnings per share etc.; 12 different Respondents; assessing a civil money penalty of $6 million) and *In re: Price Waterhouse, Bangalore, et al.*, PCAOB Release No. 105-2011-002 (April 11, 2011)(The PCAOB Order followed the SEC Order; assessing a civil money penalty of $1,500,000; notably, the PCAOB acted simultaneous to the SEC penalty assessment).

[6] Despite the findings of fraud that actually damaged investors, it appears that the Price Waterhouse accountants were not barred by the PCAOB from being an associated person of a registered public accounting firm or to be. associated with any issuer, broker, or dealer. Nor did the SEC bar Price Waterhouse accountants from appearing or practicing before the Commission as an accountant, despite the severity of the findings. These cases are an example of if you pay, you can still play.

Singh, 428 F.3d 559, 571 (5th Cir. 2005); *Davis v. Dallas Area Rapid Transit*, 383 F.3d 309, 312-313 (5th Cir.2004); *In re Southmark Corp.*, 163 F.3d 925, 934 (5th Cir.1999). Its purpose is to "insure[] the finality of judgments, thereby conserving judicial resources and protecting litigants from multiple lawsuits." *Oreck*, 560 F.3d at 401 (quoting *United States v. Shanbaum*, 10 F.3d 503, 310 (5th Cir.1994); *Sw. Airlines Co. v. Tex. Int'l Airlines, Inc.*, 546 F.2d 84, 94-95 (5th Cir.), *cert. denied*, 434 U.S. 832 (1977) (discussing the multiple policies served by res judicata).

Four elements are necessary for a claim to be barred by res judicata: (1) the parties in the two actions must be identical or in privity; (2) the judgment in the prior action must be rendered by a court of competent jurisdiction; (3) the prior action must be concluded by a final judgment on the merits; and (4) the same claim or cause of action must be involved in both cases. *Test Masters*, 428 F.3d at 571; *Southmark*, 163 F.3d at 934; *Shanbaum*, 10 F.3d at 310.

1. Identity of the Parties – Strict Identity Not Required – Privity Existed.

The identity requirement of claim preclusion is concerned with who may be bound by a prior judgment. The parties to prior and subsequent actions must be identical or in privity to be subject to preclusion. *Test Masters*, 428 F.3d at 571. This determination is a question of law. *Southwest*, 546 F.2d at 95 (the identity of parties "represents a legal conclusion rather than a judgmental process"). Strict identity of parties is not necessary to satisfy the identity element of claim preclusion. *Russell v. SunAmerica Sec. Inc.*, 962 F.2d 1169, 1173 (5th Cir.1992). As stated above, claim preclusion may also be applied to a nonparty who is considered to be in privity with a party to the prior suit. *Test Masters*, 428 F.3d at 571; *Southwest*, 546 F.2d at 94-95.

Federal courts have held that judgments can bind nonparties under certain circumstances. *Taylor v. Sturgell*, 553 U.S. 880, 891-95 (2008); *Eubanks v. Fed. Deposit Ins. Corp.*, 977 F.2d

166, 170 (5th Cir.1992) (citing *Meza v. Gen. Battery Corp.*, 908 F.2d 1262, 1266(5th Cir. 1990)). At common law, the preclusive effect of a judgment extended to nonparties "in privity" with parties to the suit. *Meza*, 908 F.2d at 1266. And, the concept of privity has continually been recognized by the Fifth Circuit Court of Appeals as a basis for extending res judicata to a nonparty. *Test Masters*, 428 F.3d at 571; *Meza*, 908 F.2d at 1266; *Southwest*, 546 F.2d at 94-95. According to Fifth Circuit case law, "parties which are sufficiently related to merit the application of claim preclusion are in privity." *Russell,* 962 F.2d at 1174.

Privity is "a legal conclusion that the relationship between the one who is a party on the record and the non-party is sufficiently close to afford application of the principle of preclusion." *Southwest,* 546 F.2d at 95 (citation omitted). In other words, privity is "merely another way of saying that there is sufficient identity between parties" for res judicata to apply. *Meza v. Gen. Battery Corp.*, 908 F.2d 1262, 1266 (5th Cir. 1990). It is a label that expresses the determination that preclusion is justified. 18A Charles Alan Wright, Arthur R. Miller & Edward H. Cooper, Federal Practice and Procedure § 4449, 351 n .33 (2d ed.2002). "'Privity' is not a requirement [the court] can satisfy through inquiry; rather the existence of 'privity' is the inquiry satisfied." *Russell,* 962 F.2d at 1174. The analysis hinges on the SEC's precise relationship with the PCAOB.[7]

The SEC argues that privity exists in three instances: "(l) where the non-party is the successor in interest to a party's interest in property; (2) where the non-party controlled the prior litigation; and (3) where the non-party's interests were adequately represented by a party to the original suit." *Meza,* 908 F.2d at 1266. The SEC argues that all three tests fail. Respondents,

[7] See Hall Respondent's Brief in Support of Motion for Summary Disposition, pp. 6-9; Hall Respondent's Brief in Opposition to the Division of Enforcement's Motion for Partial Summary Disposition, pp. 6-9.

however, meet the second and third tests of *Meza,* as well as the second, third, fourth and fifth tests in *Taylor*. Surprisingly, the SEC addresses only the three tests of *Meza* and does not even note the U.S. Supreme Court's decision in *Taylor*[SNB2].

In *Taylor v. Sturgell*, 553 U.S. 880 (2008), the Court considered the permissible reach of nonparty preclusion, avoiding use of the term "privity" altogether-"to avoid confusion." *Id.* at 894, n. 8. The Court noted the multiple meanings of the term; first stating that in the res judicata context, "privity" sometimes refers to the "substantive legal relationships justifying preclusion," *Id.* (citing *Richards v. Jefferson Cty, Ala.*, 517 U.S. 793, 798 (1996)), and observing that privity "has also come to be used more broadly, as a way to express the conclusion that nonparty preclusion is appropriate on any ground." *Id.* (citing 18A Charles Alan Wright, Arthur R. Miller & Edward H. Cooper, Federal Practice and Procedure § 4449, 351-353 (2d ed.2002).While the *Taylor* Court did not apply a "privity" label to the discussion, it did recognize six discrete exceptions to the general rule against nonparty preclusion. *Taylor*, 553 U.S. at 893-95. "First, '[a] person who agrees to be bound by the determination of issues in an action between others is bound in accordance with the terms of his agreement.'" *Id.* (quoting the Restatement (Second) of Judgments § 40, p 390 (1980)). Second, "nonparty preclusion may be justified based on a variety of pre-existing 'substantive legal relationship[s]' between the person to be bound and a party to the judgment." *Id.* (citations omitted). Third, "'in certain limited circumstances, a nonparty may be bound by a judgment because she was adequately represented by someone with the same interests who [wa]s a party to the suit.'" *Id.* (quoting *Richards*, 517 U.S. at 798) (internal quotation marks omitted). "Fourth, a nonparty is bound by a judgment if she 'assume[d] control over the litigation in which that judgment was rendered.'" *Id.* (quoting *Montana v. United States*, 440 U.S. 147, 154 (1979) (internal quotation marks omitted). "Fifth, a party bound by a

judgment may not avoid its preclusive force by relitigating through a proxy." *Id.* In other words, preclusion applies when "a person who did not participate in litigation later brings suit as the designated representative of a person who was a party to the prior adjudication." *Id.* (citing *Chi., Rock Island & Pac. Ry. Co. v. Schendel*, 270 U.S. 611, 620 (1926)). And sixth, "in certain circumstances a special statutory scheme [like bankruptcy and probate proceedings] may 'expressly foreclos[e] successive litigation by nonlitigants ... if the scheme is otherwise consistent with due process.' " *Id.* (quotation omitted).

2. Thus, there are six recognized exceptions to the general rule that a person cannot be bound by a judgment in litigation to which he was not a party. *Taylor*, 553 U.S. at 893-95. These exceptions represent examples of relationships between a party and a nonparty that are sufficiently related to justify preclusion of the nonparty. *Id.* If any one of the exceptions applies to the SEC, due process is not offended, and the identity element necessary for preclusion is satisfied. *Id.* Respondents meet the second and third tests of *Meza,* as well as the second, third[8], fourth[9] and fifth tests in *Taylor*.The Relationship Between the PCAOB and the SEC is Sufficient to Find Privity and Nonparty Preclusion

   (a) The Fourth *Taylor* Exception: when the nonparty assumed control over the earlier litigation.[10]

The fourth *Taylor* exception is applicable to the PCAOB because they were acting on behalf of and under the control of the SEC. The Board was required to promptly file with the commission notice of any final disciplinary sanction imposed on the Hall Group. 15 USC § 7217(c)(1). Review procedures provided for review of the decision of the Board upon the Commission's own motion or upon petition of the Hall Group filed within 30 days of receipt of notice of the board's action by The Hall Group.15 USC §78s(d)(2). The Commission was specifically permitted to enhance, modify, cancel, reduce, or require the remission of any sanction imposed by the Board. 15 U.S.C. § 7217(c)(3). The Commission had "the opportunity

[8] Same as the third *Meza* test.
[9] Same as the second *Meza* test.
[10] This is also the *Meza* second factor, that privty exists. Div. Resp. pp. 7-9.

to present proofs and argument. . . ." *Taylor*, 553 U.S. at 895 (quoting *Montana*, 440 U.S. at 154). The Commission at all times had control of the proceedings before the PCAOB.[11]

The Commission relies on *Jones v. SEC*, 115 F.3d 1173 (4th Cir. 1997) to argue that because the Fourth Circuit determined that the SEC did not control the NASD, that the SEC does not control the PCAOB. This argument completely ignores the statutory construct underlying the relationship between the SEC and the PCAOB. As noted by the Supreme Court in *Free Enterprise Fund v. Public Co. Accounting Oversight Bd.*, 561 U.S. 477, 485 (2010), the PCAOB is unlike the "self-regulatory organizations" because it is "a Government-created, Government-appointed entity, with expansive powers to govern an entire industry." The United States, in its own briefing[12] submitted the following as incontrovertible fact:

> b. In performing its functions, the Board is comprehensively subject to the "oversight and enforcement authority" of the SEC. 15 U.S.C. 7217(a); see 15 U.S.C. 7211(c) (in performing its duties under Sections 7212 to 7215, the Board is "subject to action by the Commission under [S]ection 7217 of this title"). In important respects, Congress patterned the Commission's relationship with the Board on its relationship with so-called self-regulatory organizations (SROs), like the National Association of Securities Dealers (NASD) and the New York Stock Exchange (NYSE), whose role in regulating the securities markets the SEC had closely supervised and controlled for several decades. S. Rep. No. 205, 107th Cong., 2d Sess. 12 (2002); *see generally Gordon v. NYSE*, 422 U.S. 659, 663-667 (1975). The authority exercised by SROs under the federal securities laws is "entirely derivative" and "ultimately belongs to the SEC," which has plenary authority to review and alter any regulatory or disciplinary decision the organizations may make. *NASD v. SEC*, 431 F.3d 803, 806 (D.C. Cir. 2005). Once the SEC has taken action in a regulatory or disciplinary matter initiated by an SRO, an aggrieved party may obtain judicial review by filing a petition in an appropriate court of appeals. 15 U.S.C. 78y(a).

[11] *Id. See e.g., Griswold v. Cty. of Hillsborough*, 598 F.3d 1289, 1293 (11th Cir. 2010) (Griswold had complete control over the prior litigation as the Companies' president and sole shareholder).

[12] The Brief for the United States was filed by David M. Becker, General Counsel; Mark D. Cahn, Deputy General Counsel; Jacob H. Stillman, Solicitor; **John W. Avery, Senior Litigation Counsel, Securities and Exchange Commission**; Elena Kagan, Solicitor General, Counsel of Record; Tony West, Assistant Attorney General; Edwin S. Kneedler, Deputy Solicitor General; Curtis E. Gannon, Assistant to the Solicitor General; Mark B. Stern, Mark R. Freeman, Attorneys, Dept. of Justice.

The provisions of Sarbanes-Oxley providing for SEC control over the Board specifically incorporate many of the provisions of the Securities Exchange Act of 1934 (Exchange Act), 15 U.S.C. 78a et seq., that established SEC control over SROs. But the Act also confers additional authorities, thereby giving the SEC uniquely pervasive control over the Board's conduct. The following are the central features of that control:

i. Rules and Auditing Standards. When the Board promulgates auditing standards, ethics rules, or other rules, they cannot "become effective without prior approval of the Commission." 15 U.S.C. 7217(b)(2). After the Commission has approved a rule, it may modify or delete the rule in any manner it deems necessary at any time. 15 U.S.C. 7217(b)(5) (incorporating 15 U.S.C. 78s(c) in modified form).

ii. Inspections, Investigations, and Sanctions. When the Board conducts a periodic inspection of an accounting firm under 15 U.S.C. 7214, the firm may seek review by the Commission, under such rules as the Commission may promulgate, of the Board's final inspection report, so long as the firm previously presented to the Board its objections to the Board's draft report. 15 U.S.C. 7214(h). When the Board conducts investigations of registered accounting firms, it must act in accordance with its SEC-approved rules. 15 U.S.C. 7215(b)(1). **The Board is required to notify the SEC of any investigations of potential violations of the securities laws, and to coordinate with the SEC to protect any SEC investigation. 15 U.S.C. 7215(b)(4).** The Board lacks independent subpoena authority, and must request that the SEC issue a subpoena when the Board seeks to compel documents or testimony from any person. 15 U.S.C. 7215(b)(2)(D).**When the Board seeks to impose a disciplinary sanction, the sanction is subject to de novo review by the Commission.** 15 U.S.C. 7217(c)(2) (making 15 U.S.C. 78s(d)(2) and (e)(1) applicable in modified form). **Any disciplinary action of the Board is automatically stayed upon either application to the SEC for review or the SEC's sua sponte initiation of review.** 15 U.S.C. 7215(e). **The Commission may "enhance, modify, cancel, reduce, or require the remission of a sanction imposed by the Board" if the Commission concludes that the proposed sanction "is not necessary or appropriate" under the Act or the securities laws or is "excessive, oppressive, inadequate, or otherwise not appropriate to the finding or the basis on which the sanction was imposed."** 15 U.S.C. 7217(c)(3); see also 15 U.S.C. 7217(c)(2).

iii. Rescission of the Board's Authority. The Commission may rescind, in whole or in part, any aspect of the Board's enforcement authority at any time, based on the Commission's judgment of what is necessary to protect the public and advance the purposes of the Act and the securities laws. 15 U.S.C. 7217(d)(1) ("The Commission, by rule, consistent with the public interest, the protection of investors, and the other purposes of this Act and the securities laws, may relieve the Board of any responsibility to enforce compliance with any provision of this Act, the securities laws, the rules of the Board, or professional standards.") (emphases added); see 15 U.S.C. 7217(d)(2) (authorizing the Commission to censure or impose limitations on the Board).

. . . .

> vi. Additional Regulatory and Enforcement Authority of the Commission. In addition to all of the foregoing specific powers, the Act grants the Commission the overarching authority to adopt "such rules and regulations, as may be necessary or appropriate in the public interest or for the protection of investors, and in furtherance of this Act." 15 U.S.C. 7202(a). A violation of the Act, or a Commission or Board regulation issued under the Act, "shall be treated for all purposes in the same manner as a violation of the [Exchange Act]," 15 U.S.C. 7202(b)(1), which means that the Commission can take enforcement action itself if the Board does not, see, e.g., 15 U.S.C. 78u. The Act further specifies that neither the Act nor the Board's rules shall be construed to impair or limit the Commission's own authority to regulate the accounting profession for purposes of enforcement of the securities laws, or to set accounting and auditing standards, or to take, on its own initiative, "legal, administrative, or disciplinary action" against accounting firms registered with the Board. 15 U.S.C. 7202(c); see 15 U.S.C. 7218.

Brief for the United States filed in *Free Enterprise Fund v. Public Company Accounting Oversight Board*, 2009 WL 3290435 (U.S.), *3-7 (U.S. Oct. 13, 2009) (emphasis added, footnotes omitted) ("U.S. Brief"). If this isn't sufficient evidence of the SEC's control over the PCAOB, *see* the Amici Curiae Brief filed by the Former Chairmen of the Securities and Exchange Commission in support of Respondents, in *Free Enterprise Fund v. Public Company Accounting Oversight Board*, 2009 WL 3404248 (U.S., Oct. 20, 2009) ("Former Chairmen-Amici Curiae").[13] "Congress designed the PCAOB to be . . . under the complete oversight and control of the SEC." Former Chairmen-Amici Curiae at *2. "[T]he SEC's complete power over the Board is not just a matter of legal authority, but of fact. In the seven years since Sarbanes-Oxley was enacted, the SEC has used its arsenal of powers vigorously and continuously to ensure that PCAOB rules and practices conform to SEC policies. The SEC's authority has spawned close, ongoing coordination between the two bodies. The pervasive powers Congress

[13] Amici curiae are seven former Chairmen of the SEC, who reflect four decades of SEC leadership under Presidents of both political parties: G. Bradford Cook (1973), Roderick M. Hills (1975-1977), Harold M. Williams (1977-1981), David S. Ruder (1987-1989), Arthur Levitt, Jr. (1993-2001), Harvey L. Pitt (2001-2003), and William Donaldson (2003-2005). Former Chairmen Hills and Ruder served on the Advisory Council to the PCAOB from 2004 to 2009 and now serve as emeritus members. Collectively, amici represent decades of experience in the administration of the federal securities laws. Five (Chairmen Hills, Williams, Ruder, Levitt, and Pitt) testified during hearings that led to the adoption of the Sarbanes-Oxley Act of 2002, and Congress cited their testimony frequently to support and explain the Act's structure. Two (Chairmen Pitt and Donaldson) were directly responsible for the Act's initial implementation, including creating and staffing the PCAOB.

gave the SEC thus have translated in practice into comprehensive SEC control and oversight of the Board's actions." Former Chairmen-Amici Curiae . at *2-3. "Based on testimony and information from experienced regulators, Congress designed the SEC-Board structure . . . to ensure efficient and coherent financial regulation by putting the Board under the plenary authority of the SEC. . . ." The Former Chairmen-Amici Curiae further elaborated:

> Congress . . . subjected the Board to even greater SEC authority than the Commission has over SROs. For example, while SRO governing boards are generally selected by their members or shareholders, PCAOB members are appointed by the SEC, after consultation with the Secretary of the Treasury and the chairman of the Federal Reserve's Board of Governors. See 15 U.S.C. § 7211(e)(4).8 In addition, unlike SROs, the PCAOB's budget is subject to SEC approval. See 15 U.S.C. § 7219(b); *see also* Nagy, *supra* n.2, at 1025 & n.292 (2005). Thus, as even one of petitioner's own academic amici puts it, the Board "is squarely under the thumb of the SEC's oversight and control." Pritchard, The Irrational Auditor and Irrational Liability, 10 Lewis & Clark L. Rev. 19, 35 (2006).

Former Chairmen-Amici Curiae , at *15-16.

> For constitutional purposes, it suffices that the SEC has comprehensive de jure authority over the Board. Any doubt on that score, however, should be removed by the fact that, not only does the SEC possess these powers in principle, but the SEC exercises them vigorously in practice. The profound power the SEC possesses and exercises makes clear that (1) Board members are inferior officers, and (2) Board members are completely subordinate to the SEC, regardless of the structure of the SEC's removal power.

Id. at *19-20.

> The SEC's statutory authority to disapprove PCAOB rules or budget proposals, reverse the Board's enforcement decisions, or remove Board members and censure the Board - or even rescind its duties altogether - create powerful incentives in advance for the Board to seek and comply with the Commission's direction. The Board must - and does - take account of the SEC's views in all aspects of the Board's work. As a result, the two bodies engage in close, ongoing coordination, as Congress intended. As Christopher Cox, SEC Chairman from 2005 to 2009, has explained, the SEC and the PCAOB routinely "discuss things in development" so that "before the SEC would have to take formal action after the fact to try and influence or adjust or reverse some action, these things are well understood and worked out to start with." *Sarbanes-Oxley at Four: Hearing*

Before the H. Comm. on Fin. Servs., 109th Cong. 24-25 (2006) ("*Sarbanes-Oxley at Four*").

Former Chairmen-Amici Curiae *20. For all of the foregoing reasons, the fourth *Taylor* exception is applicable to the PCAOB because they were acting on behalf of and under the control of the SEC[SNB3].

The Commission argues that "[t]here is no requirement [that the Commission approve] the Board's disciplinary proceedings." Div. Resp., p. 8. This is splitting hairs. The Commission's authority with respect to sanctions imposed by the Board specifically permits it to "enhance, modify, cancel, reduce, or require the remission" of any sanction imposed by the Board. 15 U.S.C. § 7217(c)(3).[14] The Commission cannot abdicate the responsibilities conferred on it by Congress, then cry "we had no control". As a matter of law, no sanction imposed by the PCAOB can become final without the approval of the Commission, either by express action or because the Commission chooses not to modify the order. This argument does not negate the fact that the claims asserted by the Commission in this action are precluded by the PCAOB final Order.

(b) The Third *Taylor* Exception: when a nonparty was 'adequately represented by someone with the same interests who [wa]s a party" in an earlier suit.[15]

"A party's representation of a nonparty is 'adequate' for preclusion purposes only if, at a minimum: (1) The interests of the nonparty and her representative are aligned[16] . . . and (2) either the party understood itself to be acting in a representative capacity[17] or the original court took

[14] *See* discussion *supra* U.S. Brief at *5-6 (ii).

[15] This is also the *Meza* third factor, that privty exists. Div. Resp. pp. 4-6.

[16] The Commission had de novo authority to review all PCAOB disciplinary actions, including the PCAOB Order entered against Respondents and had the power to enhance, modify, cancel, reduce or require remission of sanctions imposed by the Board. The Board had to notify the Commission of its investigations of Respondents and could have referred it investigations to the Commission. The Board was required to coordinate its investigations with the Commission and shared with the Commission confidential information obtained in the course of its investigation. See 15 U.S.C. § 7215, 7217, 7218; *see* Respondents' Brief in Support of Motion for Summary Disposition at pp.6-9; Respondents' Brief in Opposition to Division's Motion for Partial Summary Disposition, pp. 6-9.

[17] The PCAOB was at all times acting in a representative capacity for the SEC. *See* discussion *supra*, §(c), the fourth Taylor exception (addressing the legal relationship between the SEC and PCAOB); Respondents' Brief in Support

care to protect the interests of the nonparty. . . ." *Taylor*, 553 U.S. at 900 (citations omitted). Additionally, "adequate representation sometimes requires (3) notice of the original suit to the person alleged to have been represented...." *Id.* (citations omitted). The interests of the PCAOB and the SEC are clearly aligned. As discussed *supra*, the PCAOB acts at the behest of and is at all times subject to the authority of the SEC. If the Commission was dissatisfied with the extent of the PCAOB's action it had the unilateral power to change the PCAOB's decision – or for that matter the scope of its enforcement action. *See Southwest*, 546 F.2d at 102 (interests of Civil Aeronautics Board were sufficiently represented by public authorities and legal interests coincided with those of the cities and the regional airport board). The Board was required to notify the Commission of any pending Board investigation. *See* 15 U.S.C. §7215(b)(4)(A). All three of these elements have been met.

The Commission argues that it's proceeding against the Hall Respondents includes claims and relief that could not have been brought by the Board.[18] The only difference between the sanction issued by the PCAOB and the one sought by the SEC is a bar from practicing before the Commission to the extent of being associated with a privately held investment adviser registered with the Commission. Hall is barred by the PCAOB from serving as an accountant or financial manager for a public company, broker dealer or public investment adviser. If the Commission had wanted to include private investment advisers it could have joined the prior PCAOB proceeding, but did not.

(c) The Second *Taylor* Exception: existence of a "substantive legal relationship."

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of their Motion for Summary Disposition at pp.6-9; Respondents' Brief in Opposition to Division's Motion for Partial Summary Disposition, pp. 6-9.

[18] The Commission asserts violations of Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 and SEC Rules 102€ and (f). Div. Resp. pp.5-6.

The *Taylor* exception most applicable to the SEC is the second: the existence of a "substantive legal relationship" between the SEC and the PCAOB. *Taylor*, 553 U.S. at 894. The substantive legal relationship between the SEC and the PCAOB as enumerated in the Act is sufficiently close to justify preclusion of the SEC's claims. *See* discussion *supra*, §(a), the fourth Taylor exception (addressing the substantive legal relationship between the SEC and PCAOB); *see also Griswold v. Cty. of Hillsborough*, 598 F.3d 1289, 1293 (11th Cir. 2010)(interests of President and sole shareholder of the Companies were "closely aligned" with those of the Companies in the prior litigation); *Yankton Sioux Tribe v. U.S. Dept. of Health and Human Servs.*, 533 F.3d 634, 640-41 (8th Cir. 2008)(interests of Yankton Sioux Tribe and individual members in *Yankton I* was aligned with interests asserted by different member and his family); *Southwest*, 546 F.2d at 102 (interests of Civil Aeronautics Board were sufficiently represented by public authorities and legal interests coincided with those of the cities and the regional airport board).

(d) The Fifth *Taylor* Exception: when a party who did not take part in litigation, as a way of avoiding preclusion, later sues as the designated representative of a person who was a party to the earlier suit; Agency.

Under the fifth exception "a party bound by a judgment may not avoid its preclusive force by relitigating through a proxy." 553 U.S. at 895. "Preclusion is . . . in order when a person who did not participate in a litigation later brings suit as the designated representative of a personal who was a party to the prior adjudication." *Id.* (citing *Chi., R.I. & P.R. Co. v. Schendel*, 270 U.S. 611, 620, 623 (1926)). Preclusion applies to "a nonparty who later brings suit as an agent for a party who is bound by a judgment." *Taylor*, 553 U.S. at 895; *see also*18A Wright & Miller, § 4449, n.15.

The *Taylor* Court suggested that this fifth category should be analyzed with a "control test" for agency. The Court stated that "preclusion is appropriate only if the putative agent's conduct of the suit is subject to the control of the party who is bound by the prior adjudication." *Id.* (citing 1 Restatement (Second) of Agency § 14, 60 (1957); *Montana,* 440 U.S. 147 (1979)). Even though the SEC did not intervene, there are numerous control mechanisms present in the Act so that the SEC nonetheless retains "virtually absolute"[19] control over the PCAOB and the PCAOB proceeding. *See supra*, § (a), the fourth *Taylor* exception.

(e) Privity between officers of the same government.

"There is privity between officers of the same government so that a judgment in a suit between a party and a representative of the United States is res judicata in relitigation of the same issue between that party and another officer of the government." *Scott v. Kuhlmann*, 746 F.2d 1377, 1378 (9th Cir. 1984) (privity applied to different individuals who were named defendants in the two suits, but all were employees of the FCC who participated in inquiry in which donation records were sought) (quoting *Sunshine Anthracite Coal Co. v. Adkins*, 310 U.S. 381, 402-03 (1940). *See also Boone v. Kurtz*, 617 F.2d 435, 436 (5th Cir.1980) (per curiam); *Mervin v. FTC*, 591 F.2d 821, 830 (D.C.Cir.1978)(fact that the present defendant was the FTC, while the defendant in one of the prior cases was the Civil Service Commission, did not prevent application of res judicata).

3. Conclusion as to Privity Element - The First Element for Claim Preclusion is Met.

In summary, the foregoing sections of the Act enable the SEC to retain a tremendous amount of control over a PCAOB action even when it chooses not to intervene. *See Free Enterprise Fund v. Public Co. Accounting Oversight Bd.*, 561 U.S. 477, 484-86 (2010). The

[19] *Free Enterprises*, 561 U.S. at 530.

relationship between PCAOB and the SEC is sufficiently close to trigger res judicata. As such, the identity element of claim preclusion is satisfied.

B. Claim Preclusion - Element 2: Judgment by a Court of Competent Jurisdiction

This element was argued in The Hall Respondent's Brief in Support of Motion for Summary Disposition, p.9 and The Hall Respondent's Brief in Opposition to the Division of Enforcement's Motion for Partial Summary Disposition, pp. 9-10. For the reasons stated therein, this element has been met. The SEC's opposition does not address this element and it therefore must be deemed to have been conceded.

C. Claim Preclusion - Element 3: Final Judgment on the Merits

This element was argued in The Hall Respondent's Brief in Support of Motion for Summary Disposition, pp.9-11, and The Hall Respondent's Brief in Opposition to the Division of Enforcement's Motion for Partial Summary Disposition, pp. 10-12. The SEC's opposition does not address this element and it therefore must be deemed to have been conceded. For the reasons stated therein, this element has been met.

D. Claim Preclusion – Element 4 - The Claims Asserted Against The Hall Respondents in this Commission Action Were or Could Have Been Asserted in the PCAOB Action.

This element was argued in the Hall Respondent's Brief in Opposition to the Division of Enforcement's Motion for Partial Summary Disposition, pp. 12-15. Those arguments are restated herein. The Commission attempts to argue that the facts alleged in the Commission proceeding are broader than the facts alleged in the PCAOB proceeding or that its claims are broader than the claims in the PCAOB proceeding. Div. Resp., p. 10. The Commission's concession that three audits overlap[20]establishes that the PCAOB could have brought the action itself. There is nothing

[20] It's actually four audits that overlap. *See* n. 1 *supra*.

in the Commission's case that does not involve the same sorts of violations for the very same audit clients that were involved in the PCAOB case for nearly identical time frames. Nothing in the Commission's case post-date the PCAOB investigation and its Order. Every violation asserted by the Commission could therefore have been brought by the PCAOB had it chosen to do so, or the Commission could have required the PCAOB to expand its enforcement action.

E. The Hall Respondents Did Not Waive the Claim Preclusion Argument. A Waiver of Legal Rights Must Be Clear and Unequivocal.

The Commission argues that the Hall Respondents waived their res judicata argument when they executed the Offers of Settlement. Div. Resp. p. 9, citing:

> Respondent waives any claim that the settlement of this proceeding, including the imposition of any sanction herein, precludes any government entity from imposing liabilities, sanctions, or penalties on Respondent for the violations alleged in this proceeding or identified in the attached Order Instituting Disciplinary Proceedings, Making Finding, and Imposing Sanctions ("Order").

Evans Dec., Ex. A, Ex. 1, (PCAOB-SEC-THG-001169-71) and Ex. 2, (PCAOB-SEC-THG-001187-89) (signed Feb. 11, 2016).[21]

"Waiver is the intentional relinquishment of a right actually known, or intentional conduct inconsistent with claiming that right." *Balfour Beatty Rail, Inc. v. Kansas City S. Ry. Co.*, 2016 WL 1170829, at *21 (N.D. Tex. Mar. 25, 2016) (citing *Ulico Cas. Co. v. Allied Pilots Ass'n*, 262 S.W.3d 773, 778 (Tex.2008)). *See also Johnson v. Zerbst*, 304 U.S. 458, 464 (1938) ("[W]e 'do not presume acquiescence in the loss of fundamental rights.' A Waiver is ordinarily an intentional relinquishment or abandonment of a known right or privilege."); *Brady v. United States*, 397 U.S. 742, 748 (1970) ("Waivers of constitutional rights not only must be voluntary but must be knowing, intelligent acts done with sufficient awareness of the relevant

[21] The Commission's interpretation of this language is unconscionable and against public policy.

circumstances and likely consequences."). "The Fifth Amendment's Double Jeopardy Clause stands as an inhibition upon the government's right to institute charges. This inhibition is absolute, and even though the bar works as a protection of individuals, it does not constitute an individual right which is subject to waiver." *United States v. Broce*, 781 F.2d 792, 795 (10th Cir. 1986) (citing *Menna v. New York*, 423 U.S. 61 (1975), and *Blackledge v. Perry*, 417 U.S. 21 (1974)). The Hall Respondents do not equate res judicata to the Double Jeopardy clause in the Constitution, but assert only that there are equally important public policies underlying both. That is that defendants should be subjected to multiple governmental actions to vindicate single wrongful conduct.

Waiver simply does not apply in this instance because it is the April 26, 2016 Order that had preclusive effect, not settlement. Because the PCAOB and the SEC were in privity, the Order precludes any claims that were or could have been brought by the PCAOB. The SEC proceeding is based on the same nucleus of operative facts. The facts were related in time, space and origin. The language relied on by the Commission does not somehow revive the finality and preclusive effect of Order to allow the SEC to sue the Hall Respondents for the very same sorts of violations for the same audit clients that were involved in the PCAOB case for nearly identical time frames.[22] Nothing in the Commission's case post-dates the PCAOB investigation and its order.

As argued above, the Commission and the PCAOB are privities, in other words the same agency or agencies that are so closely aligned that the acts of one are the acts of the other. If the

[22] *See* Hall Respondents' Brief in Opposition to Division's Motion for Partial Summary Disposition, pp. 16-18, discussing the requirement of an "express" reservation. A reservation of the right of the SEC to sue the Hall Respondents for the same claims must be clearly expressed. The PCAOB Order states that the Respondents consent to the entry of the Order: "Solely for purposes of these proceedings and any other proceedings brought by or on behalf of the Board, or to which the Board is a party, and without admitting or denying the finds herein. . . ." The Offer was drafted by the PCAOB under that auspices and authority of the SEC and as such should be construed against them.

language in the settlement offer were read as literally as the SEC contends, the PCAOB itself could bring another action against the Hall Respondents for the same violations - a plainly absurd result. The Commission's position is an inefficient use of its own and of judicial resources. Since this is a case of first impression, it is important to recognize that it was not the intent of Congress to use the time and resources of the country to bring endless proceedings.[23]

The Supreme Court has cautioned against departing from accepted principles of res judicata. In *Federated Department Stores, Inc. v. Moitie*, the Court explained that "[t]he doctrine of res judicata serves vital public interests beyond any individual judge's ad hoc determination of the equities in a particular case. There is simply 'no principle of law or equity which sanctions the rejection by a federal court of the salutary principle of res judicata.' " 452 U.S. 394, 401 (1981) (quoting *Heiser v. Woodruff*, 327 U.S. 726, 733 (1946)). The application of res judicata would not be unjust in this case. The SEC could have advanced claims against the Hall Respondents during or simultaneous to the PCAOB proceeding, but chose not to.

CONCLUSION

The SEC was fully aware of the nature and ramifications of the PCAOB proceedings, had the opportunity through its wholly-controlled sub-agency, the PCAOB, to present evidence and testimony, and had access to fully develop the evidentiary record. In fact, the SEC's OIP was entered the very same day as the Board's April 26, 2016 Order.. The PCAOB's Order has preclusive effect over the subsequently filed action brought by the Commission and must be dismissed.

[23] See testimony of SEC Chair Mary Jo White before the Subcommittee on Financial Services and General Government Committee on Appropriations, May 14, 2014: "I appreciate the opportunity to describe why and how the SEC needs the $1.7 billion requested for the coming fiscal year in order to fulfill the obligations given to the agency by Congress to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. . . . The SEC needs significant additional resources to keep pace with the growing size and complexity of the securities markets and the agency's broad responsibilities. . . . The SEC needs significant additional resources to keep pace with the growing size and complexity of the securities markets and the agency's broad responsibilities.

Dated: August 1, 2016

Respectfully Submitted,

JONES & KELLER, P.C.

By: s/ Stuart N. Bennett
Stuart N. Bennett, #5682
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Denver, CO 80202
Telephone: 303-573-1600
E-mail: sbennett@joneskeller.com

Attorney for Respondents David S. Hall, P.C., d/b/a The Hall Group CPAs, and David S. Hall, CPA

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of August, 2016, a true and correct copy of the foregoing HALL RESPONDENTS' REPLY BRIEF IN SUPPORT OF MOTION FOR SUMMARY DISPOSITION was served on the following as indicated:

Via Regular U.S. Mail (Original & 3 copies) to:

US Securities & Exchange Commission
Attn: Brent J. Fields, Secretary
Office of the Secretary
100 F. Street NE, Mail Stop 1090
Washington, DC 20549

Via Email to:

The Honorable Cameron Elliot
Administrative Law Judge
Securities & Exchange Commission
alj@sec.gov

Via Regular Mail and Email:

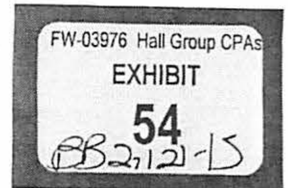
Michele Helterbran Cochran
[redacted]
Coppell, TX [redacted]
[redacted]

Via Regular Mail and Email:

Susan A. Cisneros
[redacted]
Lewisville, TX [redacted]
[redacted]

s/ Tammy Harris
Tammy Harris

PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD
INSPECTION COMMENT FORM



Firm:	David S. Hall, P.C. (a/k/a The Hall Group, CPAs)	Date:	July 15, 2013
Office:	Lewisville, TX	Issuer's FYE:	Not Applicable
Issuer:	Not Applicable	Control Number:	QC-01

PCAOB Comment – Facts:

For two of the issuers inspected, Freestone Resources, Inc.[1] and Seven Arts Entertainment, Inc., Susan Cisneros performed the engagement quality reviews and signed the PPC Form PCA-CX-14.1: *Supervision, Review, and Approval Form* as the Engagement Quality Reviewer for the audits of the issuers' fiscal year ended June 30, 2012.

For the third issuer inspected, DynaResource, Inc., Susan Cisneros performed the quarterly engagement quality reviews and signed the PPC Form PCA-IR-4: *Supervision, Review, and Approval Form- Interim Review* as the Engagement Quality Reviewer for the issuer's first, second and third quarter reviews for the year ended December 31, 2012.

The Firm's staff title descriptions, included in an appendix to its quality control document, were as follows:

> *"Principal/Partner- Owner or part owner of firm, licensed CPA in Texas; signs reports; responsible for overall management of firm (includes quality control); manages managers or is no managers, seniors; manages administration; responsible for practice development and decisions on new clients.*
>
> *Non-Equity Partner- Partner for audit jobs; licensed CPA in Texas; signs reports; responsible for managing all staff on their jobs; some practice development responsibilities. Experience 7+ years public.*
>
> *Manager (Auditor) - Manages audit jobs; licensed CPA in Texas; reports to Principal/Partner or Non-Equity Partner; manages Seniors and Staff; Also responsible for areas as delegated by Principal/Partner. Experience 5+ years public.*
>
> *Senior (Auditor) - In charge of audit jobs; degreed Accountant (licensed CPA in Texas desirable); CPA candidate; manages staff; report to Manager, or if no Manager, Principal/Partner or Non-Equity Partner; also responsible for areas as delegated by Manager and/or Principal/Partner. Experience 3+ years public"*

---

[1] On the Exhibit B – *Issuer Information Form* received from the Firm, the Firm erroneously noted Paul Babb, employee of the Firm, as the Engagement Quality Reviewer for Freestone Resources, Inc.

Exhbit A
to Hall's Reply Brief

The Firm also provided the inspection team with a biography of Susan Cisneros, which contained the following information:

"Susan Cisneros began her audit career with the Fisk and Robinson Audit Firm in 1990. This firm specialized in financial audits. She learned all aspects of the audit and financial reporting process and specialty areas included oil and gas and banking.

In 1997, Susan began working at Coca-Cola Company as a Senior Financial Analyst. This position included review if all financial statements and entries for her division for monthly close, as well as preparation and final review of the yearly budget and management of staff.

Susan Cisneros was employed by The Hall Group, CPAs for over 7 years. Her title was Audit Senior and she ran SEC issuer as well as non-profit audits, including DynaResource, Inc. As an Audit Senior, Susan was responsible for the detailed review of all audit and 10Q workpapers and reports prior to manager and partner review. She has extensive hands on experience with SEC rules and regulations. She also tutored under David Hall, Managing Partner in developing her expertise audit theory, financial reporting and SEC filings. Susan has a broad background in financial reporting, audit and SEC reporting, with specialized experience in oil and gas, service, and entertainment industries.

She has continued to work with the Hall Group, CPAs on a contract basis as an Engagement Quality Reviewer since January 2012.

She has a MS in Accountancy from University of North Texas."

During fieldwork, David Hall, the Firm's managing partner, stated that Susan Cisneros was not a Certified Public Accountant.

In addition, on the Firm's Exhibit B – *Issuer Information Form* provided to the inspection team, for those issuers where Susan Cisneros is listed as the Engagement Quality Reviewer, the Firm responded "N/A" to the following question; "*If engagement quality review is performed by a CPA outside of the Firm, provide the firm name.*"

I have read the facts as presented above and agree ☒ or disagree☐. (If disagree, provide reasons below.)

Firm Representative: DAVID HALL, PRESIDENT [signature] 8/5/13

Printed Name and Title **Signature and Date**

2.0 CPE 8/15/13

PCAOB Comment – Issue:

The Firm failed to comply with Auditing Standard No. 7, *Engagement Quality Review,* ("AS 7"). AS 7, paragraph 3 states, "...*An engagement quality reviewer from the firm that issues the engagement report (or communicates an engagement conclusion, if no report is issued) must be a partner or another individual in an equivalent position...*"

HALL, DAVID 00021

Specifically, the Firm failed to ensure that the engagement quality reviewer used by the Firm had sufficient qualifications to perform the function of engagement quality reviewer for the audits of three SEC issuer clients. The biographical information provided for Susan Cisneros and the managing partner's representation that she was not a Certified Public Accountant demonstrate that Susan Cisneros did not meet the Firm's requirements for a *"Principal/Partner- Owner or part owner of firm, licensed CPA in Texas; signs reports; responsible for overall management of firm (includes quality control);.....".* As such, Susan Cisneros did not meet the requirement as a "*partner or another individual in an equivalent position*" as set forth in AS 7 to serve as engagement quality reviewer.

PCAOB Reviewer:	**Kisha LeBlanc**	**/s/ Kisha LeBlanc 7/1/2013**
	Printed Name	**Signature and Date**
PCAOB Inspection Leader:	**Robbyn M. Johnson**	**/s/ Robbyn M. Johnson 7/1/2013**
	Printed Name	**Signature and Date**

Firm's Response (Indicate agreement or disagreement with the issue(s) noted above and specific reasons to support your response. If your response includes procedures performed by the engagement team, indicate if procedures were performed and documented during the audit; if procedures were performed but not documented during the audit; or if procedures were performed and/or documented subsequent to the audit.):

4.0 cpe 9/25/13
2.0 cpe 9/25/13

Firm's Remedial Action(s) (if applicable, consider the requirements of AU 390 and/or AU 561):

Firm Representative Responsible for the Firm's Response and/or Remedial Action(s):

Firm Representative:	DAVID HALL	[signature]
	Printed Name and Title	**Signature and Date**

We agree with the issue noted above and ~~have~~ are in process for negotiating an agreement with an outside CPA Firm (PCAOB registered) and will not issue any more reports until this is in place and have that firm perform the appropriate Review process. (over)

HALL, DAVID 00022

We have also had internal CPE relating to the engagement reviewer process since the PCAOB was here in June, 2013.

PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD
INSPECTION COMMENT FORM

Firm:	David S. Hall, P.C. (a/k/a The Hall Group, CPAs)	Date:	July 23, 2013
Office:	Lewisville, TX	Issuer's FYE:	June 30, 2012
Issuer:	Seven Arts Entertainment, Inc.	Control Number:	SAE-01

PCAOB Comment – Facts:

The issuer (the "Company" or "SAE Inc.") is engaged in the development, acquisition, financing, production, and licensing of theatrical motion pictures for exhibition in domestic and foreign theatrical markets and for subsequent release in other forms of media. In the quarter ended March 31, 2012, the issuer formed a new subsidiary, and acquired music assets to create a new line of business for the issuer.

The issuer reported total assets of approximately $32.9 million for the fiscal year ended June 30, 2012. Revenues for the fiscal year ended June 30, 2012, were approximately $8.4 million, including approximately $7.5 million (net of $1.9 million discount) in fee related revenue - related party ("fee revenue"). The issuer had a fee income receivable from related party's balance of approximately $7.5 million as of June 30, 2012. Net loss for the fiscal year ended June 30, 2012 was approximately $8.3 million.

The Firm established planning materiality and tolerable misstatement of $250,000 and $180,000, respectively. The Firm assessed the inherent risk, control risk, and risk of material misstatement related to revenue and receivables at high, for all relevant assertions. The Firm also identified revenue and accounts receivable as a fraud risk.

The issuer recorded net fee revenue of approximately $7.5 million for the fiscal year ended June 30, 2012 along with a related receivable for the same amount, related to transferrable tax credits generated by a related party, Seven Arts Pictures Louisiana LLC ("SAPLA"), which is owned by the wife of the issuer's president, CEO, and Chairman of the Board of Directors, who owns 69 percent of the issuer's outstanding common stock. The tax credits were transferred to the issuer under the terms of a related party agreement between the issuer and SAPLA, and represent Louisiana and Federal historic rehabilitation and film infrastructure tax credits for the restoration and the establishment of a post-production facility owned by SAPLA.

According to disclosures in the issuer's financial statements, the transferred tax credits from SAPLA to the issuer may be used by the issuer to offset state or federal tax liabilities, sold back to the state of Louisiana by the issuer for cash at a discount, or sold or brokered by the issuer to interested third party buyers.

I have read the facts as presented above and agree ☒ or disagree ☐. (If disagree, provide reasons below.)

Firm Representative: DAVID HALL PRESIDENT | D Hall 8/8/13

Printed Name and Title | Signature and Date

PCAOB Comment – Issue:

The Firm failed to evaluate whether the issuer had met the revenue recognition criteria of Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC"), Topic 605 – *Revenue Recognition.* FASB ASC 605-10-25-1 states the following;

2.0 ok 8/31/13

> *25-1 The recognition of revenue and gains of an entity during a period involves consideration of the following two factors, with sometimes one and sometimes the other being the more important consideration:*
>
> > *a. Being realized or realizable. Revenue and gains generally are not recognized until realized or realizable. Paragraph 83(a) of FASB Concepts Statement No. 5, Recognition and Measurement in Financial Statements of Business Enterprises, states that revenue and gains are realized when products (goods or services), merchandise, or other assets are exchanged for cash or claims to cash. That paragraph states that revenue and gains are realizable when related assets received or held are readily convertible to known amounts of cash or claims to cash.*

Specifically, the Firm failed to properly evaluate how the tax credits transferred by SAPLA to the issuer could be recorded as the issuer's revenue since no goods or services were provided by the issuer to any third party for cash or claims to cash. In addition, the Firm failed to evaluate whether the related party receivable was valid.

PCAOB Reviewer:	**Sean D. Kelley**	**/s/ Sean D. Kelley July 23, 2013**
	Printed Name	**Signature and Date**
PCAOB Inspection Leader:	**Robbyn M. Johnson**	**/s/Robbyn M. Johnson July 23, 2013**
	Printed Name	**Signature and Date**

Firm's Response (Indicate agreement or disagreement with the issue(s) noted above and specific reasons to support your response. If your response includes procedures performed by the engagement team, indicate if procedures were performed and documented during the audit; if procedures were performed but not documented during the audit; or if procedures were performed and/or documented subsequent to the audit.):

Firm's Remedial Action(s) (if applicable, consider the requirements of AU 390 and/or AU 561):

Firm Representative Responsible for the Firm's Response and/or Remedial Action(s):

Firm Representative: DAVID HALL, PRESIDENT — D Hall 8/8/11

Printed Name and Title — **Signature and Date**

We believe that we did evaluate the revenue recognition criteria by establishing "realizable" status in that the Company could transfer credits back to the government agencies for cash less a 15% discount. We believe that is a "claim to cash".

The "goods and services" provided by the issuer were made by "assumption of debt" as well as signing as a guarantor on all of the debt related to this construction.

We believe that we evaluated the related party via management representation.

Notwithstanding, we welcome your feedback as to this comment. CPE has also been set

PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD
INSPECTION COMMENT FORM

Firm:	David S. Hall, P.C. (a/k/a The Hall Group, CPAs)	Date:	July 15, 2013
Office:	Lewisville, TX	Issuer's FYE:	June 30, 2012
Issuer:	Seven Arts Entertainment, Inc.	Control Number:	SAE-02

PCAOB Comment – Facts:

The issuer is engaged in the development, acquisition, financing, production, and licensing of theatrical motion pictures for exhibition in domestic and foreign theatrical markets and for subsequent release in other forms of media. In the quarter ended March 31, 2012, the issuer formed a new subsidiary, and acquired music assets to create a new line of business for the issuer.

The issuer reported total assets and music assets of approximately $32.9 million and $2.9 million, respectively, as of June 30, 2012. Revenues and net loss for the fiscal year ended June 30, 2012, were approximately $8.4 million and $8.3 million, respectively.

The Firm established planning materiality and tolerable misstatement of $250,000 and $180,000, respectively. The Firm assessed the inherent risk, control risk, and risk of material misstatement related to the music assets at medium, high, and medium, respectively, for all relevant assertions. The Firm also identified the valuation of the music assets as a fraud risk.

In connection with two music asset acquisitions in February 2012, the issuer issued shares of preferred stock and acquired approximately $1.6 million in music assets. The music assets acquired related to completed sound recordings, the right to additional recordings, and certain advertising credits. The issuer determined the fair value of the acquired music assets was not reliably measurable because the artist in the acquired sound recordings had not released an album in many years. The issuer made the determination that the fair value of its preferred stock issued in connection with the music assets acquired was appropriate to value the acquired music assets. The Firm agreed with the issuer's determination.

To value its preferred stock shares, which were not publicly traded, the issuer divided the number of its preferred stock shares issued in the acquisitions by 1.10, the preferred stock redemption value to common stock shares, and multiplied by the weighted average of the closing bid prices of the issuer's common stock based on the ten trading days leading up to September 30, 2012.

To test the issuer's valuation of the preferred stock issued as consideration for the music assets acquired, the Firm agreed the number of preferred stock shares given by the issuer and the conversion rate calculated by the issuer to the purchase agreements

and board of directors' minutes approving the authorization of the preferred shares. The Firm also recalculated the weighted average of the closing bid prices used by the issuer.

I have read the facts as presented above and agree ☒ or disagree☐. (If disagree, provide reasons below.)

Firm Representative: DAVID HALL PRESIDENT [signature] 8/6/13

Printed Name and Title	**Signature and Date**

PCAOB Comment – Issue:

4.0 ok 8/31/13

The Firm failed to perform sufficient procedures to test the valuation of the consideration given in the asset acquisitions in accordance with AU 328, *Auditing Fair Value Measurements and Disclosures*. Specifically, the Firm failed to evaluate the appropriateness of the valuation methods, and the appropriateness and/or reasonableness of the significant assumptions, including the use of a common stock conversion factor, use of a weighted average price of its common stock for 10 trading days, and the use of stock prices in September 30, 2012 for the issuer's valuation of the acquired music assets, when the asset acquisitions were completed in February 2012.

PCAOB Reviewer:	**Sean D. Kelley**	**/s/ Sean D. Kelley July 1, 2013**
	Printed Name	**Signature and Date**
PCAOB Inspection Leader:	**Robbyn M. Johnson**	**/s/Robbyn M. Johnson July 3, 2013**
	Printed Name	**Signature and Date**

Firm's Response (Indicate agreement or disagreement with the issue(s) noted above and specific reasons to support your response. If your response includes procedures performed by the engagement team, indicate if procedures were performed and documented during the audit; if procedures were performed but not documented during the audit; or if procedures were performed and/or documented subsequent to the audit.):

Firm's Remedial Action(s) (if applicable, consider the requirements of AU 390 and/or AU 561):

Firm Representative Responsible for the Firm's Response and/or Remedial Action(s):

Firm Representative: DAVID HALL, PRESIDENT [signature] 8/6/13

Printed Name and Title	**Signature and Date**

We disagree with the following comments:

"The firm failed to perform specific procedures to test the valuation of the consideration given". "Specifically, the firm failed to evaluate the appropriateness of the valuation methods"

As the value of the Asset received was "unpredictable" due to lack of music sales, we agree with client's assertion that asset given up (preferred stock) was a better indication of value. We "agreed" the conversion rate of pfd stock to common stock to the contracts and to the preferred share definition (this effectively audits the value of preferred stock and although it does not have a public market, the common shares do. We believe we "evaluated" the appropriateness of the valuation methods.

Regarding the use of September 2012 stock pricing: this transaction was a work in process from Feb, 2012 to September 2[illegible] and the management of the musi[illegible]

negotiations
Company were in continual negotiations as far the appropriate valuation of stock price. Because of this and the volatility of the stock price, <u>both sides</u> indicated a need to wait until September 2012 to determine the exact # of pfd shares to be issued and therefore this "deal" was not effective until Sept, 2012.

We agree that we did not document testing of the use of a weighted average price of the common stock conversion factor.

PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD
INSPECTION COMMENT FORM

Firm:	David S. Hall, P.C. **(a/k/a The Hall Group, CPAs)**	Date:	August 27, 2013
Office:	Lewisville, TX	Issuer's FYE:	June 30, 2012
Issuer:	Seven Arts Entertainment, Inc.	Control Number:	SAE-03

PCAOB Comment – Facts:

The issuer (the "Company" or "SAE Inc.") is engaged in the development, acquisition, financing, production, and licensing of theatrical motion pictures for exhibition in domestic and foreign theatrical markets and for subsequent release in other forms of media.

The issuer reported total assets of approximately $32.9 million as of June 30, 2012. Revenues and net loss for the fiscal year ended June 30, 2012, were approximately $8.4 million and $8.3 million, respectively.

The Firm established planning materiality and tolerable misstatement of $250,000 and $180,000, respectively. The Firm identified related party transactions as a significant risk and as a fraud risk.

In 2007, Seven Arts Pictures Louisiana LLC ("SAPLA"), an entity controlled by the wife of the issuer's CEO, acquired real property. SAPLA was formed to acquire the property, which was to be used by Seven Arts Pictures PLC ("PLC"), a foreign private issuer and the issuer's predecessor, as a production and post-production facility for motion pictures (the "Facility"). SAPLA entered into a credit agreement dated October 11, 2007, to fund the acquisition and improvement of the Facility. This credit agreement was guaranteed by PLC.

In January 2010, Seven Arts Filmed Entertainment LLC ("SAFELA") entered into a 30 year agreement to sub-lease the Facility from an unrelated third-party that was leasing from SAPLA.

On June 11, 2010, SAE was formed and became a wholly-owned subsidiary of PLC. Also on June 11, 2010, SAE and PLC entered into an asset transfer agreement, as amended January 27, 2011 and again on August 31, 2011, to transfer all of the assets from PLC to SAE. The purpose of the transfer was to eliminate PLC's status as a foreign private issuer and to assume compliance with all obligations of a domestic issuer.

On June 30, 2012, the issuer acquired 60 percent of Seven Arts Filmed Entertainment LLC ("SAFELA"), and through this acquisition the issuer capitalized the leasehold improvements in 807 Esplande and assumed the related debt of the Facility from

SAFELA. The Facility actually commenced operations August 14, 2012 based on disclosures in Note *16 – Subsequent Events* in the issuer's consolidated financial statements included in the Form 10-K filing. The issuer, through a related party agreement with SAPLA, also obtained the rights to receive the transferrable tax credits related to these leasehold improvements, which qualify for rehabilitation tax credits under federal and state incentives.

The following was disclosed in the issuer's notes to its consolidated financial statements included in the Form 10-K filing for the fiscal year ended June 30, 2012 related to the operations of SAPLA and SAFELA;

Significant Accounting Policies

Basis of Presentation:
The accompanying consolidated financial statements include the accounts of Seven Arts Entertainment, Inc. ("SAE"), and its subsidiaries:

- *Seven Arts Filmed Entertainment, Limited ("SAFE, Ltd.") (100% owned)*
- *Seven Arts Music, Inc. ("SAM") (100% owned) and*
- *Big Jake Music, Inc. ("BJM") (100% owned)*
- *Seven Arts Filmed Entertainment Louisiana LLC ("SAFELA") (As of June 30, 2012) (60% owned by SAE, 40% owned by Palm Finance)*

The Company consolidates its subsidiaries in accordance with Accounting Standards Codification ("ASC") 810, "Business Combinations", and specifically ASC 810-10-15-8 which states, "The usual condition for a controlling financial interest is ownership of a majority voting interest, and, therefore, as a general rule, ownership by one reporting entity, directly or indirectly, or over 50% of the outstanding voting shares of another entity is a condition pointing toward consolidation." ***The Company does not have any variable interest or special purpose entities.*** *Going forward, the Company will present Palm Finance's 40% share of SAFELA's profit or loss as a noncontrolling interest.*

SAPLA REVENUE SHARING FEES
Revenue in the form of fee income is due to the Company from related party, SAPLA (owned by the wife of Peter Hoffman, the Company's CEO) in the amount of the net proceeds from the disposition of the tax credits by SAPLA. In accordance with an intercompany agreement between SAE and SAPLA, all revenues earned by SAPLA are due to SAE.

Fee Income Receivable from Related Party -- Current and Long Term Receivable
Income due from SAPLA under the terms of an intercompany agreement with SAE whereby any revenue earned by SAPLA is due to SAE Inc. Any fees due later than twelve months are classified as Long Term Receivable.

Leasehold Improvements
On June 30, 2012, the Company acquired SAFELA, which was previously a related party company. SAFELA owns, in its capacity, a 30 year lease on 807 Esplanade, New Orleans, Louisiana, which was constructed as a production and post-production facility for the Company's use. Additionally, SAFELA owns the capitalized leasehold improvements in 807 Esplanade and the related debt which financed the construction. Through this acquisition, the Company has capitalized the leasehold improvements and assumed the debt related. As the leasehold

HALL, DAVID 00032

improvements and the debt are booked at the same amounts, no net assets were transferred into the Company and no additional consideration has been paid.

The post production facility commenced operations on July 1, 2012. The leasehold improvements will be amortized over the useful life of the lease.

Note 3 – Related Party Due To/Due From

807Esplanade Guarantee:

Seven Arts Pictures Louisiana LLC, ("SAPLA") a related party of the Company, entered into a Credit Agreement with Advantage Capital Community Development Fund LLC dated October 11, 2007, for the acquisition and improvement of the production and post-production facility located at 807 Esplanade Avenue in New Orleans, Louisiana for aggregate principal advances of up to $3,700,000. This agreement was guaranteed by the Company's predecessor. Approximately $3,700,000 plus interest has been drawn under the terms of this Credit Agreement, as of June 30, 2012. The Company has now assumed the liability for $1,000,000 of this amount plus a contingent sum of $750,000 due to Advantage Capital (contingent on receipt of tax credit revenues) due to an agreement with the now mortgagor Palm Finance.

A construction loan of $1,850,000 previously guaranteed by the Company has now been assumed by the Company for 807 Esplanade.

807 Esplanade Advances:

On February 28, 2012, the Company took out a convertible loan of $200,000 from Rowett Capital Ltd. These have been loaned to 807 Esplanade to cover outstanding interest payments due on the construction loan on 807 Esplanade previously guaranteed by the Company (see below). Three additional convertible loans were taken out totalling $600,000 and then loaned onto SAPLA to pay down the construction loan on the property 807 Esplanade, as to not further delay the construction and opening of the facility, for which the Company will have a 30 year lease.

Note 7 – Leasehold Improvements

On June 30, 2012, the Company acquired SAFELA, which was previously a related party company. SAFELA owns, in its capacity, a 30 year lease on 807 Esplanade, New Orleans, Louisiana, which was constructed as a production and post-production facility for the Company's use. Additionally, SAFELA owns the capitalized leasehold improvements in 807 Esplanade and the related debt which financed the construction. Through this acquisition, the Company has capitalized the leasehold improvements and assumed the debt related. As the leasehold improvements and the debt are booked at the same amounts, no net assets were transferred into the Company and no additional consideration has been paid.

The post production facility commenced operations on July 1, 2012. The leasehold improvements will be amortized over the useful life of the lease.

Note 13 – Commitments and Contingencies

807 Esplanade Guarantee

Seven Arts Pictures Louisiana LLC, a related party and/or an affiliate of the Company, entered into a Credit Agreement with Advantage Capital Community Development Fund LLC dated October 11, 2007, for the acquisition and improvement of the production and post-production facility located at 807 Esplanade Avenue in New Orleans, Louisiana ("807 Esplanade") for aggregate principal advances of up to $3,700,000. This agreement was guaranteed by the Company's predecessor. Approximately $3,700,000 plus interest has been drawn under the terms of this Credit Agreement, as of June 30, 2012. The Company has now assumed the liability for $1,000,000 of this amount plus a contingent sum of $750,000 due to Advantage Capital (contingent on receipt of the tax credit revenues) due to an agreement with the now mortgagor Palm Finance. A construction loan of $1,850,000 previously guaranteed by the Company has now been

assumed by the Company. The Company has a 30 year lease on the property to operate a production and post-production facility.

The issuer recorded approximately $7.5 million in fee income receivable from related parties from SAPLA and approximately $7.5 million in fee related revenue – related party, net of discounts from SAPLA as of and for the fiscal year ended June 30, 2012. See comment form SAE-01 issued related to revenue recognition of these fees.

To test the issuer's determination that SAPLA was not to be consolidated in accordance with Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC"), Topic 810; *Consolidation*, the Firm obtained the issuer's Variable Interest Entity ("VIE") analysis for its work papers. The issuer's analysis noted the following;

- The issuer does not have any equity interest in or any voting rights with respect to SAPLA;
- The issuer has no power to control SAPLA through any contract ;
- The transferrable tax credits to be received from SAPLA relate to the rehabilitation of the Facility, and represent the amounts to be utilized or received by SAPLA. The expenditures for the rehabilitation to which the transferrable tax credits relate have already been spent, and therefore the amounts may be reasonably estimated.

The Firm agreed with the issuer's analysis and determined the issuer had no obligations to absorb expected losses or rights to receive residual returns, nor does it have any interest or equity investment in SAPLA. In addition, the Firm determined that the issuer had no control over SAPLA either directly or indirectly as defined under FASB ASC Topic 810.

I have read the facts as presented above and agree ☒ or disagree ☐. (If disagree, provide reasons below.)

Firm Representative: DAVID HALL, PRESIDENT [signature] 9/9/13

Printed Name and Title **Signature and Date**

PCAOB Comment – Issue:

4.0 [handwritten] 9/10/13

The Firm failed to perform sufficient procedures to evaluate the relationship between SAPLA and the issuer in accordance with PCAOB Auditing Standard ("AS") 14 *Evaluating Audit Results.*

Specifically, the Firm failed to obtain sufficient appropriate evidence to determine whether SAPLA was a VIE under FASB ASC, Topic 810. The Firm failed to evaluate whether: (1) substantially all of the activities of SAPLA are conducted on behalf of the issuer, (2) which interests are variable interests in SAPLA, and (3) which party is the primary beneficiary. In addition, given that SAPLA is owned by the wife of the CEO of

the issuer, the Firm failed to evaluate whether the issuer had control over SAPLA, even if indirectly.

PCAOB Reviewer:	**Sean D. Kelley** **Printed Name**	**/s/ Sean D. Kelley** **August 23, 2013** **Signature and Date**
PCAOB Inspection Leader:	**Robbyn M. Johnson** **Printed Name**	**/s/Robbyn M. Johnson** **August 26, 2013** **Signature and Date**

Firm's Response (Indicate agreement or disagreement with the issue(s) noted above and specific reasons to support your response. If your response includes procedures performed by the engagement team, indicate if procedures were performed and documented during the audit; if procedures were performed but not documented during the audit; or if procedures were performed and/or documented subsequent to the audit.):

Firm's Remedial Action(s) (if applicable, consider the requirements of AU 390 and/or AU 561):

Firm Representative Responsible for the Firm's Response and/or Remedial Action(s):

Firm Representative:	DAVID HALL, PRESIDENT **Printed Name and Title**	[signature] 9/9/13 **Signature and Date**

We believe that more analysis (and thus evidence and evaluation) was indeed performed. However, we agree that the documentation set forth in the work papers was lacking.

We have schedule CPE related to this topic and will implement for this and other clients immediately.

HALL, DAVID 00035

PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD
INSPECTION COMMENT FORM

Firm:	David S. Hall, P.C. (a/k/a The Hall Group, CPAs)	Date:	July 15, 2013
Office:	Lewisville, TX	Issuer's FYE:	June 30, 2012
Issuer:	Freestone Resources, Inc.	Control Number:	FRI-01 ✓

PCAOB Comment – Facts:

The issuer describes its business activities as an oil and gas technology development-stage company as defined in Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC"), Topic 915, *Development Stage Entities* according to its Form 10-K for the fiscal year ended June 30, 2012. As of July 1, 2010 the issuer reentered the development stage to devote substantially all of its efforts to raising capital to construct a prototype and to develop a wholly-owned oil separation technology as its primary business operations; no sales have been derived to date from its principal operations.

As of June 30, 2012, oil and gas properties used for research and development represented approximately $23,000 or 11 percent of total assets. For the fiscal year ended June 30, 2012 and 2011, the issuer's revenues from oil and gas sales were approximately $5,700 and $41,000, respectively, or 100 percent of revenue for each fiscal year.

The Firm's planning materiality for the audit was $6,400. The Firm assessed inherent risk as low and control risk as high and the risk of material misstatement as low for all the assertions related to oil and gas properties.

The issuer disclosed the following in *Item 1. Description of Business* of its Form 10-K for the fiscal year ended June 30, 2012:

> *Freestone Resources, Inc. (the "Company" or "Freestone") is an oil and gas technology development company that is actively developing and marketing technologies and solvents designed to benefit various sectors in the oil and gas industry. The Company's flagship technology, the Oil Recovery Unit ("ORU"), was developed for the extraction of hydrocarbons of value from ground soils, oil sands, vessels and other hydrocarbon-containing materials. The ORU's primary use is for the cleanup of hydrocarbon contamination, and the extraction of hydrocarbons of value from oil sands and oil shale.*
>
> *Freestone is also actively researching complimentary technologies that will be utilized with the ORU system in order to provide complete production and remediation solutions to oil and gas operators, drillers, and producers. The technologies currently under evaluation include systems designed to recycle frac water and produced water.*

Freestone's current well assets and leases were purchased for the purpose of testing various solvents and technologies designed to increase oil and gas production. These leases contain wells that have paraffin and asphaltine problems, and the tests are allowing the Company to perfect a treatment method that can be marketed to potential customers.

The Firm's work papers included a memorandum prepared by the issuer and dated June 30, 2012 that contained, in part, the following:

The oil and gas properties owned by Freestone Resources, Inc. ("the Company") were purchased as test properties for the various solvent technologies the Company has developed and/or analyzes for potential development. The aforesaid oil and gas properties were not purchased by the Company with the intent of creating assets for the company or for further development, but rather for testing and research on wells that have varying conditions. In order to get the most accurate data of the solvent's abilities the Company as required to purchase and own the wells so that the data could be verified as accurate by the Company without the fear of third-party variables... Due to the Company's business of oil and gas technology development and environmental cleanup, and that these properties were only purchased to test these technologies, it was decided that ASC 932 requirements did not apply to the Company as the Company does not develop these properties, does not plan to develop these properties, and does not produce oil and gas in significant quantities from these properties.

The Firm's work papers also included a memorandum prepared by the Firm and dated June 30, 2012 that contained, in part, the following:

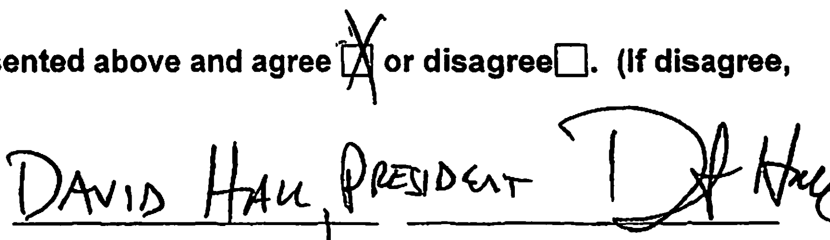
FASB ASC Topic 932, Extractive Activities – Oil and Gas ("ASC 932") indicates that companies with revenue from oil and gas production activities provide additional supplemental information in the notes to the financial statements.

Freestone is an oil and gas technologies company that has oil and gas revenues as a byproduct of their research and development of their technologies to improve conditions of underperforming wells... As a part of their research, the technologies are applied to the wells and the oil is pumped and tested. As a result, oil is captured and must be disposed of in an approved, environmental manner. Therefore, oil is captured in holding tanks, and purchased by companies in the business of collecting and refining the oil. Revenues from the purchase of oil and gas are minimal (approximately $5,700 for the year ended June 30, 2012)...

Management believes, and the Firm concurs, that to present the Company as an oil and gas company would be misleading to their investors and to the public and therefore, does not present disclosures regarding oil and gas properties that are discussed in ASC 932.

I have read the facts as presented above and agree [X] or disagree [ ]. (If disagree, provide reasons below.)

Firm Representative:



HALL, DAVID 00037

DAVID HALL Dof Hall 8/5/13

Printed Name and Title **Signature and Date**

PCAOB Comment – Issue:

2.0 ok 5/13/13

FASB ASC Topic 932, *Extractive Activities – Oil and Gas* ("FASB ASC 932"), establishes standards of financial accounting and reporting for the oil and gas producing activities of a business enterprise. Those activities involve the acquisition of mineral interests in properties, exploration (including prospecting), development, and production of crude oil, including condensate and natural gas liquids, and natural gas (hereinafter collectively referred to as oil and gas producing activities).

ASC 932 states the following:

"All entities engaged in oil and gas producing activities shall disclose in their financial statements the method of accounting for costs incurred in those activities and the manner of disposing of capitalized costs relating to those activities."

"Publicly traded companies that have significant oil and gas producing activities shall disclose with complete sets of annual financial statements the information required by the remainder of this Section. Those disclosures relate to the following and are considered to be supplementary information:

a. *Proved oil and gas reserve quantities*
b. *Capitalized costs relating to oil- and gas-producing activities*
c. *Continued capitalization of exploratory well cost*
d. *Costs incurred for property acquisition, exploration and development activities*
e. *Results of operations for oil- and gas-producing activities*
f. *A standardized measure of discounted future net cash flows relating to proved oil and gas reserve quantities*
g. *Changes in the standardized measure of discounted future net cash flows"*

ASC 932-235-50-2 also defines "significant oil and gas producing activities" as follows:

"An entity is regarded as having significant oil and gas producing activities if it satisfies any of the following criteria. The criteria shall be applied separately for each year for which a complete set of annual financial statements is presented.

a. *Revenues from oil and gas producing activities, as defined in paragraph 932-235-50-24 (including both sales to unaffiliated customers and sales or transfers to the entity's other operations), are 10 percent or more of the combined revenues (sales to unaffiliated customers and sales or transfers to the entity's other operations) of all of the entity's industry segments. An industry segment is a component of an entity engaged in providing a product or service or a group of related products or services primarily to external customers (that is, customers outside the entity) for a profit.*

b. *Results of operations for oil and gas producing activities, excluding the effect of income taxes, are 10 percent or more of the greater of:*

1. *The combined operating profit (including equity earnings) of all industry segments that did not incur an operating loss*

2. *The combined operating loss (including equity losses) of all industry segments that did incur an operating loss.*

c. *The identifiable assets of oil- and gas-producing activities (tangible and intangible entity assets that are used by oil- and gas-producing activities, including an allocated portion of assets used jointly with other operations and the investment balance in the oil- and gas-producing activities of equity method investees) are 10 percent or more of the assets of the entity, excluding assets used exclusively for general corporate purposes.*

The Firm's audit work papers reflected that the Firm considered the applicability of FASB ASC 932 to the issuer, but it appears the Firm failed to reach an appropriate conclusion on this matter in accordance with PCAOB Auditing Standard No. 14, *Evaluating Audit Results* ("AS 14"), which requires that all relevant audit evidence, regardless of whether it appears to corroborate or to contradict the assertions in the financial statements, should be taken into account.

Specifically, the Firm inappropriately accepted the issuer's accounting and disclosure for the oil and gas properties and should have identified and addressed this departure from GAAP in the issuer's financial statements given that the issuer met two of the criteria to be regarded as an entity with significant oil and gas producing activities.

PCAOB Reviewer:	**Ed Kim**	**/s/ Ed Kim** **July 10, 2013**
	Printed Name	**Signature and Date**
PCAOB Inspection Leader:	**Robbyn M. Johnson**	**/s/Robbyn M. Johnson** **July 11, 2013**
	Printed Name	**Signature and Date**

Firm's Response (Indicate agreement or disagreement with the issue(s) noted above and specific reasons to support your response. If your response includes procedures performed by the engagement team, indicate if procedures were performed and documented during the audit; if procedures were performed but not documented during the audit; or if procedures were performed and/or documented subsequent to the audit.):

Firm's Remedial Action(s) (if applicable, consider the requirements of AU 390 and/or AU 561):

Firm Representative Responsible for the Firm's Response and/or Remedial Action(s):

Firm Representative: DAVID HALL, PRESIDENT [signature] 8/5/

Printed Name and Title   Signature and Date

We Asserted in 2012 that it would be "misleading to investors" to disclose this issuer as an "oil and gas" company. However, in April, 2013, we realized that ASC 932 disclosure was indeed required and we issued the client's 3/31/13 Q with the appropriate disclosures (ASC 932).

We also had CPE training on ASC 932 in May, 2013 prior to the PCAOB visiting in ~~Aug~~ July, 2013.

We believe this concern has been appropriately addressed.

Investment

PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD
INSPECTION COMMENT FORM

Firm:	David S. Hall, P.C. (a/k/a The Hall Group, CPAs)	Date:	July 15, 2013
Office:	Lewisville, TX	Issuer's FYE:	June 30, 2012
Issuer:	Freestone Resources, Inc.	Control Number:	FRI-02 ✓

PCAOB Comment – Facts:

The issuer presented the line item "*Equity Investment in Freestone Water Solutions*" in the amount of $11,978 as a current liability on its balance sheet as of June 30, 2012 which represented approximately 22 percent and 12.5 percent of the issuer's current liabilities and total liabilities at June 30, 2012, respectively.

The Firm's planning materiality for the audit was $6,400. The Firm assessed inherent risk as low and control risk as high and risk of material misstatement as low for all assertions related to accounts receivable and sales (the issuer classified the Equity Investment in Freestone Water Solutions as "AR – Related Parties" at the time of the risk assessment).

The issuer (alternately referred to as "Freestone" or the "Company" in its Form 10-K) disclosed the following in its Form 10-K for the fiscal year ended June 30, 2012:

i. *Note 1 – Nature of Activities and Significant Accounting Policies: "The Company owns 48% of Freestone Water Solutions, LLC and has recorded the investment in accordance with the equity method."*

ii. *Note 3 – Related Party Transactions: "The Company has a related party receivable of $15,000 from Freestone Water Solutions ("FWS") a joint venture between MEA Solutions, LLC and Freestone Resources, Inc. which was created in September of 2011. Freestone does not have a controlling equity position in FWS nor does Freestone control the board or management of FWS... MEA and Freestone have advanced FWS certain short-term, start-up cash, which FWS intends to repay to Freestone and MEA upon funding and/or when profits are made. Profits and losses from FWS will be accounted for under the equity method and reflected as an investment in Freestone Water Solutions on the balance sheet. As discussed in Note 14, on September 4, 2012, FWS was dissolved. The receivable has been written off to bad debt expense, as it is deemed uncollectible."*

iii. *Note 14 – Subsequent Events: "On September 4, 2012 the Board of Directors of Managers of Freestone Water Solutions, LLC ("FWS"), a Nevada limited liability company, voted to accept the resignation of Gerald 'OJ' Armstrong as President of FWS and voted to dissolve FWS... As a result, the $15,000 receivable from FWS has been written off as of June 30, 2012. On August*

13, 2012, the Company advanced $12,000 to FWS to pay for expenses incurred related to test equipment. This amount will be expensed at that time."

The Firm's work papers included the following notations:

i. *"Any profits or losses of FWS will be disclosed as 'income or loss from equity investment' in the consolidated statement of operations."*

ii. *"As of June 30, 2012, FWS had a net loss of $24,954, of which the Company's share is $11,978. We propose the following AJE to record the investment:*

Loss on Equity Method Investment - (4802)	*$11,978*	
Equity Investment in Freestone Water Systems		*$11,978*
Bad Debt Expense	*$15,000*	
AR- Related Party		*$15,000*

As discussed in the excerpt from Note 3 above, prior to the recording of the above entries, the issuer had a $15,000 "AR- Related Party" balance.

The Firm's work papers also included an email from the CEO of the issuer to the Firm that read as follows:

"The $12,000 was an advance made by our side and matched by MEA in August to cover costs related to a smaller test unit we rented in late July. We did not know that we were going to dissolve FWS at the time the advance was made."

Inspection Team Note: The $12,000 discussed in the paragraph above refers to a $12,000 advance made by the issuer in August 2012, subsequent to the fiscal year ended June 30, 2012 audit being inspected and is not to be confused with the $11,978 recorded by the issuer as its share of FWS' loss for its fiscal year ended June 30, 2012.

I have read the facts as presented above and agree ☒ or disagree ☐. (If disagree, provide reasons below.)

Firm Representative: DAVID HALL, PRESIDENT [signature] 8/5/17

Printed Name and Title **Signature and Date**

PCAOB Comment – Issue:

1.0 [initials] 9/10/13

Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC") Topic 323, *Investments – Equity Method and Joint Ventures* ("FASB ASC 323") establishes standards of financial accounting and reporting for equity method investments and joint ventures.

FASB ASC 323 states the following:

"An investor shall adjust the carrying amount of an investment for its share of the earnings or losses of the investee after the date of investment and shall report the recognized earnings or losses in income."

"An investor's share of losses of an investee may equal or exceed the carrying amount of an investment accounted for by the equity method plus advances made by the investor. An equity method investor shall continue to report losses up to the investor's investment carrying amount, including any additional financial support made or committed to by the investor. Additional financial support made or committed to by the investor may take the form of any of the following:

a. Capital contributions to the investee
b. Investment in additional common stock of the investee
c. Investments in preferred stock of the investee
d. Loans to the investee
e. Investments in debt securities (including mandatorily redeemable preferred stock) of the investee
f. Advances to the investee"

"The investor ordinarily shall discontinue applying the equity method if the investment (and net advances) is reduced to zero and shall not provide for additional losses unless the investor has guaranteed obligations of the investee or is otherwise committed to provide further financial support for the investee."

FASB ASC Topic 855, *Subsequent Events* establishes the standards for financial accounting and reporting of events or transactions that occur after the balance sheet date.

FASB ASC 855 contains the following guidance:

"An entity shall not recognize subsequent events that provide evidence about conditions that did not exist at the date of the balance sheet date but arose after the balance sheet date but before financial statements are issued or are available to be issued."

The Firm failed to perform sufficient procedures in accordance with Auditing Standard No. 15, *Audit Evidence* ("AS No 15"), to appropriately identify the issuer's misapplication of FASB ASC 323 and FASB ASC 855. Specifically, the Firm failed to recognize that:

(1) the issuer's $11,978 share of FWS' loss should have been applied to the issuer's "*AR – Related Party*" account, which appears to be the original investment by the issuer for its investment in FWS, thereby reducing the asset in accordance with FASB ASC 323, and,

(2) the dissolution of FWS was a non-recognizable subsequent event to the issuer per FASB ASC 855 and therefore should not have been reflected in the financial statements of the issuer for the fiscal year ended June 30, 2012.

The impact of the issuer's misapplication of FASB ASC 323 and FASB ASC 855 as of June 30, 2012 on its financial statements was:

HALL, DAVID 00043

- Investment in FWS understated by $3,022 (1.5 percent of total assets)
- Liabilities overstated by $11,978 (12.5 percent of total liabilities)
- Stockholders' equity understated by $15,000 (14 percent of total stockholders' equity)
- Net loss overstated by $15,000 (3 percent of net loss)

PCAOB Reviewer:	**Ed Kim**	**/s/ Ed Kim July 10, 2013**
	Printed Name	**Signature and Date**
PCAOB Inspection Leader:	**Robbyn M. Johnson**	**/s/Robbyn M. Johnson July 11, 2013**
	Printed Name	**Signature and Date**

Firm's Response (Indicate agreement or disagreement with the issue(s) noted above and specific reasons to support your response. If your response includes procedures performed by the engagement team, indicate if procedures were performed and documented during the audit; if procedures were performed but not documented during the audit; or if procedures were performed and/or documented subsequent to the audit.):

Firm's Remedial Action(s) (if applicable, consider the requirements of AU 390 and/or AU 561):

Firm Representative Responsible for the Firm's Response and/or Remedial Action(s):

Firm Representative:	DAVID HALL, PRESIDENT	[signature] 8/5/13
	Printed Name and Title	**Signature and Date**

We agree that the accounts were in error. However, We strongly disagree that we "failed to perform sufficient procedures in accordance with ~~AS~~ AS # 15" We believe we performed "sufficient procedures" relating to FASB ASC 323. However, we made an ~~err~~ error and "booked the credit" to a liability.

We agree that we should not have "written off" the balance due to FASB ASC 855.

We have scheduled CPE relating to this comment. We understand what happened and will continue ~~out~~ our efforts to perform properly and to not make errors.

HALL, DAVID 00045

ARO Cap vs [illegible]

PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD
INSPECTION COMMENT FORM

Firm:	David S. Hall, P.C. (a/k/a The Hall Group, CPAs)	Date:	July 15, 2013
Office:	Lewisville, TX	Issuer's FYE:	June 30, 2012
Issuer:	Freestone Resources, Inc.	Control Number:	FRI-03 ✓

PCAOB Comment – Facts:

The issuer describes its business activities as an oil and gas technology development-stage company as defined in Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC"), Topic 915, *Development Stage Entities* according to its Form 10-K for the fiscal year ended June 30, 2012. As of July 1, 2010 the issuer reentered the development stage to devote substantially all of its efforts to raising capital to construct a prototype and to develop a wholly-owned oil separation technology as its primary business operations; no sales have been derived to date from its principal operations.

The issuer's Asset Retirement Obligation ("ARO") liability for the plug and abandonment of oil and gas properties was approximately $41,000 or 43 percent of total liabilities and 178 percent of oil and gas properties as of June 30, 2012. This was an increase to the liability of $22,263, and a corresponding "*Revision to ARO estimate*" expense was recorded for the fiscal year ended June 30, 2012.

The Firm's planning materiality for the audit was $6,400. The Firm assessed inherent risk as low and control risk as high and risk of material misstatement as low for all assertions related to property, which included oil and gas properties and the asset retirement obligations related to them.

Disclosed in *Note 1 – NATURE OF ACTIVITIES AND SIGNIFICANT ACCOUNTING POLICIES* of the issuer's financial statements included in the Form 10-K for the fiscal year ended June 30, 2012 was the following related to the issuer's ARO liability policy:

> *The Company records the fair value of a liability for asset retirement obligations ("ARO") in the period in which an obligation is incurred and records a corresponding increase in the carrying amount of the related long-lived asset. For Freestone Resources, asset retirement obligations primarily relate to the abandonment of oil and gas properties. The present value of the estimated asset retirement cost is capitalized as part of the carrying amount of oil and gas properties. The settlement date fair value is discounted at Freestone Resource's credit adjusted risk-free rate in determining the abandonment liability. The abandonment liability is accreted with the passage of time to its expected settlement fair value. Revisions to such estimates are recorded as adjustments to the ARO and capitalized asset retirement costs and are charged to operations in the period in which they become known. At the time the abandonment cost is incurred, Freestone Resources is required to recognize a gain*

HALL, DAVID 00046

or loss if the actual costs do not equal the estimated costs included in the ARO. During 2012 and 2011, the Company recognized no accretion expense, as the properties were written down to salvage value as of June 30, 2009.

The amounts recognized for the ARO are based upon numerous estimates and assumptions, including future abandonment costs, future recoverable quantities of oil and gas, future inflation rates, and the credit adjusted risk free interest rate.

Included in the Firm's audit work papers was a spreadsheet prepared by the issuer titled "*ARO Schedule 6.30.12 Freestone*" that calculated the issuer's asset retirement obligation for its wells. The issuer-prepared spreadsheet included the assumptions used by the issuer and detailed the calculation process. The Firm's work papers included documentation of the Firm's evaluation of the issuer's assumptions used in the calculation. Included among the issuer's assumptions was an "*Assumed cost per 7,500 feet drilled*" of $22,500 to plug and abandon the issuer's wells. The Firm's evaluation of this assumption by the issuer included the following:

C. There have been no significant changes in the cost to plug and abandon a well and an average cost is $22,500 per 7,500 feet drilled. When the Company does their own work, they are able to come in at less of a cost, however, when certain outside operating companies do the P&A work, it comes in slightly higher. Therefore, this is an average of the two.

Also included on this issuer-prepared spreadsheet was the following notation by the Firm:

AA. Per Clayton Carter, CEO, the Company took on the liability of plugging the Seguin wells in 2012. We have therefore established the liability consistent w/ the other P+A assumptions, as discussed herein.

I have read the facts as presented above and agree ☒ or disagree ☐. (If disagree, provide reasons below.)

Firm Representative: David Hall President — [signature] 8/6/1[illegible]

Printed Name and Title **Signature and Date**

PCAOB Comment – Issue:

1.0 [initials] 5/13/13

FASB ASC Topic 410, *Asset Retirement and Environmental Obligations* ("FASB ASC 410"), establishes standards of financial accounting and reporting for asset retirement obligations. FASB ASC 410 includes the following:

Changes resulting from revisions to the timing or the amount of the original estimate of undiscounted cash flows shall be recognized as an increase or a decrease in the carrying amount of the liability for an asset retirement obligation and the related asset retirement cost capitalized as part of the carrying amount of the related long-lived asset.

HALL, DAVID 00047

The Firm inappropriately accepted the issuer's accounting and disclosure for its asset retirement obligation and should have identified and addressed this departure from GAAP in the issuer's financial statements given that the issuer recognized an increase in its asset retirement obligation liability and did not capitalize the additional asset retirement cost to the related oil and gas properties.

In addition, the Firm failed to perform sufficient procedures to determine whether the ARO liability was appropriately stated as of June 30, 2012 in accordance with AU 342, *Auditing Accounting Estimates*. Specifically, the Firm failed to test management's estimate of costs to plug and abandon the issuer's oil and gas properties.

PCAOB Reviewer:	**Ed Kim**	**/s/ Ed Kim** **July 10, 2013**
	Printed Name	**Signature and Date**
PCAOB Inspection Leader:	**Robbyn M. Johnson**	**/s/Robbyn M. Johnson** **July 15, 2013**
	Printed Name	**Signature and Date**

Firm's Response (Indicate agreement or disagreement with the issue(s) noted above and specific reasons to support your response. If your response includes procedures performed by the engagement team, indicate if procedures were performed and documented during the audit; if procedures were performed but not documented during the audit; or if procedures were performed and/or documented subsequent to the audit.):

Firm's Remedial Action(s) (if applicable, consider the requirements of AU 390 and/or AU 561):

Firm Representative Responsible for the Firm's Response and/or Remedial Action(s):

Firm Representative:	DAVID HALL, PRESIDENT	[signature] 8/6/13
	Printed Name and Title	**Signature and Date**

We agree that we should have capitalized the change in estimate of ARO.

We believe that we did test the estimate of costs to plug and abandon, but our documenta was not strong.

(over)

We have scheduled CPE updating to these two points in the next 60 days.

Salvage Value - Impairment

PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD
INSPECTION COMMENT FORM

Firm:	David S. Hall, P.C. (a/k/a The Hall Group, CPAs)	Date:	July 15, 2013
Office:	Lewisville, TX	Issuer's FYE:	June 30, 2012
Issuer:	Freestone Resources, Inc.	Control Number:	FRI-04

PCAOB Comment – Facts:

The issuer describes its business activities as an oil and gas technology development-stage company as defined in Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC"), Topic 915, *Development Stage Entities* according to its Form 10-K for the fiscal year ended June 30, 2012. As of July 1, 2010 the issuer reentered the development stage to devote substantially all of its efforts to raising capital to construct a prototype and to develop a wholly-owned oil separation technology as its primary business operations; no sales have been derived to date from its principal operations.

As of June 30, 2012, oil and gas properties used for research and development represented approximately $23,000 or 11 percent of total assets.

The Firm's planning materiality for the audit was $6,400. The Firm assessed inherent risk as low and control risk as high and the risk of material misstatement as low for all assertions related to oil and gas properties, which included oil and gas properties used for research and development.

The issuer disclosed the following in *Note 2 – FIXED ASSETS* to their financial statements included in its Form 10-K for the fiscal year ended June 30, 2012:

> *The Company's oil and gas properties used for research and development were written down to salvage value during the year ended June 30, 2009.*

The Firm's work papers included a memorandum prepared by the Firm dated June 30, 2012 that included, in part, the following with respect to the valuation of the issuer's wells as of June 30, 2012:

> *In 2009, it was determined by the Company's management, and agreed to by their prior auditors, that the estimated fair value of the properties needed to be reduced.*
>
> *During the June 30, 2012 audit, the Firm discussed the prospects of the well with Clayton Carter, CEO. He had determined, through discussion with their consultants and board, that there was no change in the prospects of the wells, and that the Company did not believe that investing more money in the equipment was a prudent decision at that time. The Company is in the development stage, and their strategy is to do the necessary testing on the well, then sell the lease and acquire other wells*

with different attributes with the proceeds. He indicated there has been no change in the equipment at the leases and that salvage value, which was estimated at 10% of the original cost, remains appropriate. Estimate appears reasonable. We reviewed the client's calculation of the 10% (of the original cost) salvage value and based upon analysis, appears to remain as valid salvage value with no additional impairment necessary at June 30, 2012.

The Firm also furnished a memorandum to the inspection team during inspection field work prepared by the issuer's Oil and Gas Operations Manager, who provided his evaluation of the salvage values for the issuer's oil and gas properties. This documentation was not part of the original archived audit work papers for the issuer's audit provided by the Firm at the start of inspection field work.

I have read the facts as presented above and agree ☒ or disagree☐. (If disagree, provide reasons below.)

Firm Representative: DAVID HALL, PRESIDENT [signature] 8/6/

Printed Name and Title **Signature and Date**

PCAOB Comment – Issue:

Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC"), Topic 360, *Property, Plant and Equipment* includes the following:

2.0 CPE 9/18/13

A long-lived asset (asset group) shall be tested for recoverability whenever events or changes in circumstances indicate that its carrying amount may not be recoverable. The following are examples of such events or changes in circumstances:

a. *A significant decrease in the market price of a long-lived asset (asset group)*

b. *A significant adverse change in the extent or manner in which a long-lived asset (asset group) is being used or in its physical condition*

c. *A significant adverse change in legal factors or in the business climate that could affect the value of a long-lived asset (asset group), including an adverse action or assessment by a regulator*

d. *An accumulation of costs significantly in excess of the amount originally expected for the acquisition or construction of a long-lived asset (asset group)*

e. *A current-period operating or cash flow loss combined with a history of operating or cash flow losses or a projection or forecast that demonstrates continuing losses associated with the use of a long-lived asset (asset group)*

f. *A current period expectation that, more likely than not, a long-lived asset (asset group) will be sold or otherwise disposed of significantly before the end of its previously estimated useful life. The term "more likely than not" refers to a level of likelihood that is more than 50 percent.*

The Firm failed to perform sufficient procedures to test the issuer's properties for impairment. Specifically, the Firm failed to perform procedures to consider the issuer's history of net operating losses and the going concern opinions that it issued for the three years ended June 30, 2012 as indicators of impairment, and therefore, also failed to test the recoverability of the asset by comparing the carrying value to the undiscounted cash flows in accordance with ASC Topic 360.

PCAOB Reviewer:	**Ed Kim**	**/s/ Ed Kim** **July 10, 2013**
	Printed Name	**Signature and Date**
PCAOB Inspection Leader:	**Robbyn M. Johnson**	**/s/Robbyn M. Johnson** **July 11, 2013**
	Printed Name	**Signature and Date**

Firm's Response (Indicate agreement or disagreement with the issue(s) noted above and specific reasons to support your response. If your response includes procedures performed by the engagement team, indicate if procedures were performed and documented during the audit; if procedures were performed but not documented during the audit; or if procedures were performed and/or documented subsequent to the audit.):

Firm's Remedial Action(s) (if applicable, consider the requirements of AU 390 and/or AU 561):

Firm Representative Responsible for the Firm's Response and/or Remedial Action(s):

Firm Representative:	DAVID HALL, PRESIDENT	[signature] 8/6/13
	Printed Name and Title	**Signature and Date**

We agree that we should have considered the issuer's history of NOL's and going concern. However, we stand by our assertion that carrying value is reasonable.

~~We have scheduled CPE relating to this count in next 60 days~~

We believe that we <u>did</u> test salvage value, however, we did not strongly document this testing.

We have scheduled CPE to address these points in the next 30 days.