



November 29, 2004

Office of the Secretary
Public Company Accounting Oversight Board
1666 K Street, N.W.
Washington, DC 20006-2803

RE: PCAOB Rulemaking Docket Matter No. 015
"Proposed Rule on Procedures Relating to Subpoena Requests
In Disciplinary Proceedings"

To Whom It May Concern:

One of the expressed goals of the Texas Society of Certified Public Accountants (TSCPA) is to speak on behalf of its members when such action is in the best interest of its members and serves the cause of Certified Public Accountants in Texas, as well as the public interest. The TSCPA has established a Professional Standards Committee (PSC) to represent those interests on accounting and auditing issues.

We are delighted to have the opportunity to provide the input of the TSCPA PSC into your deliberations regarding the proposed rule governing procedures related to subpoena requests in disciplinary proceedings conducted under Section 105(c) of the Sarbanes-Oxley Act of 2002.

Our committee commends the Board for moving to adopt rules governing procedures for seeking issuance of subpoenas in disciplinary proceedings. We understand that these rules are designed to supplement the previously adopted rules implementing the Sarbanes-Oxley Act's provisions for compelling testimony and the production of documents in an investigation or disciplinary proceeding. Our concerns related to the issues addressed in this proposed ruling are noted in the following paragraphs.

Paragraph 2 under "Procedures Relating to Subpoena Requests" leads us to believe that a request for a subpoena must occur at the initial pre-hearing conference in a disciplinary proceeding. We believe that this provides only a limited opportunity to request a subpoena and if further developments necessitate the need for another subpoena, it appears unlikely that such a request would be granted. This could present a potential burden to the defendant if further review of the data related to the proceeding indicates the need for a subsequent subpoena. We believe the proposed rule should provide for greater latitude in terms of the time available for requesting a subpoena.

In paragraph 8 of the proposed rule, a 30-day period is provided for the Commission to approve the subpoena and for receipt of the related information. We believe 30 days is not an adequate amount of time for the Commission to respond and for the related information to be received and adequately reviewed. It is our request that the Board consider extending the 30-day period to provide for a more adequate time frame for the Commission to respond and the data to be analyzed.

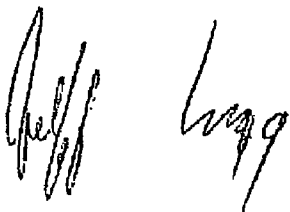
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The last sentence in the second full paragraph on page 4 of the proposed rule states: "The purpose of the proposed rule is not to facilitate any type of discovery process, but solely to secure the availability in the disciplinary proceeding of evidence that there is a reasonable basis to believe exists." We fully understand that the PCAOB has virtually unlimited discovery powers against an accounting firm in disciplinary proceedings. This is consistent with the authority of the Board in connection with their role in disciplinary proceedings. However, we believe the proposed rule should allow an accounting firm involved in the proceeding the opportunity to apply for subpoenas to be issued to third parties for purposes of relevant discovery.

On pages A2-4 and A2-5, the proposed rule states: "... the hearing officer must determine that the nature and substance of the evidence that the party seeks to have subpoenaed is more than a matter of speculation." And, "... the hearing officer must determine that the unavailability of the evidence may bear on a party's ability to establish or defend against the charges in the proceeding." Further along on page A2-5, the proposed rule states: "The proposed rule does not, however, require that a hearing officer recommend seeking a subpoena in every case where both conditions are present." We hope a hearing officer would never refuse to make a request under such circumstances. However, if the hearing officer did refuse to make a request when both conditions were met, we believe the proposed rule should allow for some form of due process in which the defendant could appeal the hearing officer's decision.

We appreciate the opportunity to provide our input to the standard setting process.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Jeff Gregg". The signature is written in a cursive, somewhat stylized font.

C. Jeff Gregg, CPA
Chair, Professional Standards Committee
Texas Society of Certified Public Accountants