August 14, 2009

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

Re: PCAOB Rulemaking Docket Matter No. 29
Concept Release on Requiring the Engagement Partner to Sign the Audit Report
July 28, 2009

Dear Board Members,

I am submitting my comments to you regarding the above referenced Rulemaking Docket Matter. These are my personal comments and do not necessarily reflect those of my employer. You specifically asked respondents to answer sixteen (16) questions.

Reasons for a Signature Requirement

1. **Would requiring the engagement partner to sign the audit report enhance audit quality and investor protection?**

   The engagement partner already has to sign off on the files in order for the report to be issued. If this person does not already possess a strict sense of duty and understand the liability, then he or she is in the wrong position and ought not be an engagement partner in a registered accounting firm.

   Moreover, if the engagement partner is inclined towards deception, he or she can sign every page of the report and financial statements, and they would be just as fraudulent. If our colleagues in Europe feel this is helpful, let them add the requirement. The Board and the Securities and Exchange Commission (SEC) can make reports far more transparent, *i.e.* understandable, with laws and regulations that do not require a signature.

2. **Would such a requirement improve the engagement partner's focus on his or her existing responsibilities? The Board is particularly interested in any empirical data or other research that commentators can provide.**

   As I mention above, those who are inclined to be deceptive will sign anything to receive the fruits of the fraud and to prevent their misdeeds from being discovered.

3. **Would disclosure of the engagement partner's name in the report serve the same purpose as a signature requirement, or is the act of signing itself important to promote accountability?**

I should hope that the Board and SEC have improved that sense of accountability in recent years without this requirement.

The issue I have with releasing the name is that we live in a very different world. Suppose Robert "Bob" Anderson signs under the registered accounting firm's name. People recognize the firm Father Knowles & Best as a responsible firm with a list of well known clients. For some reason unknown to either Bob or the client, the client's stock dips. One investor decides to look up Bob on the Internet. Before long this investor has set up a site for other investors to vent their frustration. The site may include Bob's address.

The argument can be made that the client's Chief Executive Officer (CEO) and Chief Financial Officer (CFO) face this backlash already. They are *directly* responsible for the company. Bob must rely on his staff and the integrity of client personnel. In the example above, market pressures beyond anyone's control may weaken the stock price.

The real question the Board must ask is does adding Bob's signature to the report increase the *integrity* of the financial statements? Simply put, would the signature of the engagement partner under Arthur Andersen's logo have prevented Enron from issuing bogus statements?

4. Would increased transparency about the identity of the engagement partner be useful to investors, audit committees, and others?

The Board suggests that audit committees might seek out certain partners, resulting in "competition [that] could lead to an improvement in audit quality." Taking my example above, let us stipulate that Bob has certain expertise that makes him attractive to audit committees of companies in a certain industry. Every committee making contact with Father, Knowles & Best requests Bob as the engagement partner. Bob's time is limited. Therefore, the price of the audit goes *up*.

Furthermore, if I am an investor in a company Bob's firm audits and know that Bob is well regarded, what conclusion should I draw if someone other than Bob is the engagement partner? Perhaps the price of the stock will drop as informed investors see that Bob is not signing the report. Let us not forget the Board requirements do require partner rotation. Is it the Board's intention to create engagement partners who are akin to professional athletes – seeking engagements that will provide a larger pay day; even "free agency"? By that I mean that Bob may be courted by other registered accounting firms to enhance their book of clients.

5. Would such information allow users of audit reports to better evaluate or predict the quality of a particular audit? Could increased transparency lead to inaccurate conclusions about audit quality under some circumstances? We are particularly interested in an empirical data or other research that commenters can provide.

The Board is essentially asking if audit report users will begin to discuss financial statements in the same way sports fans discuss coaches and players. Imagine a comment like this, "Bob Anderson signed the report for ABC, Inc. last year, and everyone knows that Bob only signs the best reports." Another investor may chime in with, "True. But Bob is *not* signing this year. The audit firm said that Bob was rotating off the engagement, but I heard rumors that Bob was moving to Cleaver, Haskell and Cleaver. There will be a new engagement partner no matter what; a partner who is untested. I may dump ABC now." A third party to the conversation says, "Bob is high quality – do we all agree? Even if he takes ABC with him to another firm, Bob is going to command more money, and the insurance company is going to want a higher premium because Bob's exposure is increasing dramatically."

I will grant the Board that this is far from empirical data or research; however, it does seem to logically follow from the Board's question.

6. Are there potential unintended consequences of requiring the engagement partner to sign the audit report that the Board should be aware of?

Please see my responses to questions three, four and five above; see also the second paragraph of my response to question seven below.

7. The EU's Eighth Directive requires a natural person to sign the audit report, but provides that '[i]n exceptional circumstances, Member States may provide that this signature does not need to be disclosed to the public if such disclosure could lead to imminent, significant threat to the personal security of any person." If the Board adopts an engagement partner signature requirement, is a similar exception necessary? If so, under what circumstances should it be available?

I mention in my response to question three above that any investor might seek to locate a partner when the name is known. How would a firm, partner, or issuer recognize an "imminent, significant threat" *before* the time of issuance?

The concurrent issue with allowing an exception is that investors will notice the missing signature and may draw the conclusion that the report and financial statements are defective in some manner. After all, the Board would have to permit language as to why the signature is missing. For example, "Under the exception paragraph of Rule ___, the engagement partner's name and signature is withheld." Who wants to be an engagement partner if it endangers a life?

8. What effect, if any, would a signature requirement have on an engagement partner's potential liability in private litigation? Would it lead to an unwarranted increase in private liability? Would it affect an engagement partner's potential liability under provisions of the federal securities laws other than Section 10(b) of the Securities Exchange Act, such as Section 11 of the Securities Act of 1933? Would it affect an engagement partner's potential liability under state law?

I am not an attorney, so it is difficult for me to prognosticate potential court actions. One and perhaps only, benefit to having an engagement partner's signature on the report is it may shield *other* partners from liability. Had the partner working on Enron signed the report, the firm Arthur Andersen may still exist.

9. Are there steps the Board could or should take to mitigate the likelihood of increasing an engagement partner's potential liability in private litigation?

The Board appears to be loath to increase liability, while indicating that requiring a signature will somehow make partners more aware of their responsibility; simultaneously somehow making reports and financial statements more transparent. Increasing liability will have a chilling effect on registered accounting firms. Many partners may choose to retire or move to private companies (as I alluded to at the end of my response to question seven above). This will reduce the supply of auditing services and increase the costs. Therefore, I understand why the Board seeks to limit liability. The public, however, may wonder if there is a benefit to shareholders if restrictions are placed on legal remedies.

10. Some commenters on the ACAP Report who expressed concern about liability suggested that a safe harbor provision accompany any signature requirement. While the Board has no authority to create a safe harbor from private liability, it could, for example, undertake to define the engagement partner's responsibilities more clearly in the PCAOB standards. Would such a standard-setting project be appropriate?

Anything the Board can do to clarify the PCAOB standards is always welcome. The shortcoming with standards is that standards do not have the weight of law or regulations. The SEC in concert with the Board ought to work with Congress to create a safe harbor regardless of whether the signature requirement passes muster.

<u>Potential Amendments to PCAOB Standards</u>

11. If the Board adopts an engagement partner signature requirement, would other PCAOB standards, outside AU sec. 508 and Auditing Standard No. 5, need to be amended?

No comment.

12. Should the Board only require the engagement partner's signature as it relates to the current year's audit? If so, how should the Board do so? For example, should firms be permitted to add an explanatory paragraph in the report that states the engagement partner's signature relates only to the current year?

If the Board does adopt this requirement, and I believe the Board ought *not* do so, then I would take another approach. If the engagement partner has not changed, then the engagement partner may sign covering all years presented. If the engagement partner has changed, then each partner signs for years presented when he or she was the engagement

partner. Any other language in the report limiting the engagement partner's exposure may be viewed as dodging responsibility.

13. If a signature requirement is adopted, should a principal auditor that makes reference to another auditor also be required to make reference to the other engagement partner? Would an engagement partner at the principal auditor be less willing to assume responsibility for work performed by another firm under AU sec. 543?

If I were to sign a report as an engagement partner where another audit firm performed work, I would certainly seek to limit my responsibility. Nothing excuses me from due diligence in reviewing the other firm's work. Nonetheless, I would mention the firm, the "engagement partner" for the work, and want that engagement partner to sign a special report on their limited engagement.

14. Auditors are not required to issue a report on a review of interim financial information, though AU sec. 722, *Interim Financial Information,* imposes requirements on the form of such a report in the event one is issued. Should the engagement partner be required to sign a report on interim financial information if the firm issues one?

If the Board adopts a signature requirement, then for the sake of consistency, the requirement ought to carry to interim reports.

15. Would requiring the engagement partner to sign the audit report make other changes to the standard audit report necessary?

As discussed above, if an engagement partner is limiting his or her responsibility, then such language has to be available. It can also be argued that phrasing may need to be changed. For example, the first sentence generally starts with, "We have audited the accompanying…" To incorporate a signature requirement, it may be better to start the report with, "My firm has audited…" In fact, wherever "we" occurs, it could change to "my firm". The opinion paragraph might start like this: "In my opinion and that of my firm…" After all, we are pointing out that one person – the engagement partner – is putting his or her mark on the report. The firm is no longer speaking collectively. It is the partner's voice speaking in the report.

16. If the Board adopts a signature requirement, should it specify a form of the engagement partner's signature? For example, should the engagement partner sign on behalf of the firm and then "by" the engagement partner?

If the Board does adopt the requirement, then the signature ought to look something like this –

Robert Anderson

Father, Knowles & Best LLC
Anytown, Anystate

The stated goal for the signature requirement is to emphasize the engagement partner's accountability and make reports and statements more transparent. It is my belief that one who becomes an engagement partner better understand this whether he or she has to sign the report *personally* or not. I do not believe the requirement meets the stated goals.

Ultimately, I ask the Board to remember the questions I posed above. First, if the engagement partner at Arthur Andersen had to personally sign the Enron report, would that change the financial statements? Second, does adding the engagement partner's signature add *integrity* to the financial statements?

Respectfully submitted,

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