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November 30, 2011

To: Office of the Secretary
Public Company Accounting Oversight Board
1666 K Street, N.W., Washington, D.C. 20006-2803
Transmitted by e-mail to: comments@pcaobus.org

Re: PCAOB Rulemaking Docket Matter No. 029
Release No. 2011-007, "Improving Transparency Through Disclosure of Engagement Partner and Certain Other Participants in Audits"

We appreciate the opportunity to respond to the proposed rule, "Improving Transparency Through Disclosure of Engagement Partner and Certain Other Participants in Audits" that is contained in Release No. 2011-006 dated August 16, 2011 (the Release), of the Public Company Accounting Oversight Board (the PCAOB or the Board). We note that many of our concerns that we believe warrant the Board's continuing serious consideration are already mentioned in the Release and in the commentary of others.

We previously commented in response to the related Concept Release No. 2009-005, Docket Matter No. 029, dated July 28, 2009 (the 2009 Release). However, we note that the scope of the Release is broader than the 2009 Release, and in that regard, it muddies what we view as two separate and unrelated issues. The first issue addresses disclosure of the name of the engagement partner (or partners) in the audit report and/or in periodic reports to the PCAOB. The second deals with disclosures regarding the participation of other audit firms in the audit (currently the subject of AU 543), which was barely mentioned in the 2009 Release. In our opinion, these two should be dealt with in separate proposed standards, and we have chosen only to comment on the first issue at this time.

In summary, we are firmly opposed to including engagement partners' names in audit reports based on our belief that doing so will afford no discernible benefit to investors, but we do not object to including them in periodic reports to the PCAOB.

We present details of, and support for, our overriding concerns and reservations in Part 1 of the attachment. In Part 2, we respond briefly to the 15 specific questions posed in the Release. To reduce the need for redundancies in this regard, our responses to the questions in Part 2 include cross-references to relevant numbered paragraphs in Part 1.

Thank you for this opportunity to comment. We hope the Board finds our comments useful as it continues its deliberations on this matter. Please contact the undersigned at hlevy@pbtk.com or 702/384-1120 if there are any questions about these comments.

Very truly yours,

Piercy Bowler Taylor & Kern, Certified Public Accountants

Howard B. Levy, Sr. Principal and Director, Technical Services

Attachment

Part 1 — Overriding Concerns and Reservations

1. For reasons that we hope will become clear in the paragraphs that follow, we challenge the underlying premise implicit in the first paragraph of Part I of the Release that suggests that more information about "key participants" in the audit (*i.e.*, beyond that which is readily available outside an audit report about the firm taking responsibility by signing the report) would be useful to investors.[1] Accordingly, consistent with our earlier letter (no. 15) dated September 11, 2009, in response to the 2009 Release, we are firmly against any proposal for naming individual partners in audit reports as entirely unnecessary and without any discernible benefit to investors or other users.

2. We believe the best way to address our concerns about the Release is to address the reasons given by others and presented in Part 11A of the Release in support of the proposal regarding the naming of partners in reports that are effectively brought forward from the 2009 Release. The perceived benefits of naming partners presented to the Board by others are, in our opinion, virtually imaginary and speculative, unsupported by any reliable empirical evidence. They are, in our view, groundless opinions likely to be held only by those who do not understand the professional reality of the environment in which audits are conducted and who, based on observations relative to the highly insignificant minority of inevitable "bad apples" among us, fail to appreciate and, thus, unfairly underrate the typical level of professionalism, integrity and other ethical values that overwhelmingly dominates the auditing profession in the United States. Each of the following examples of unsupported, speculative claims that are cited in the Release[2] assert that a requirement for naming engagement partners in audit reports would be beneficial because it:

- *"might provide ...[users] the opportunity to evaluate, to a degree, an engagement partner's experience and track record"* (see paragraph 4, below),
- *"may increase that individual's sense of personal accountability for the work performed and the opinion expressed, which could, in turn, have a positive effect on his or her behavior,"*
- *"may increase an engagement partner's sense of responsibility for the quality of the audit,"*
- *"would increase transparency about who is responsible for performing the audit, which could provide useful information to investors and, in turn, provide an additional incentive to firms to improve the quality of all of their engagement partners,"*
- *"is likely to have a number of positive effects, including a change in partner behavior that would positively influence audit quality, and an increase in transparency for audit and financial statement users,"*
- *"would enhance accountability and transparency and, in turn, investor protection,"*
- *"will motivate audit firms to strengthen the quality, expertise, and oversight of their engagement partners,"* or
- *"should serve to lift his or her standard of professionalism."*

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1 The Release, p. 1.

2 *Ibid., pp. 6-7.*

Moreover, it is totally false to suggest (as it does on p. 6 of the Release) that audit committees would not otherwise have access to the names of engagement partners unless they are named in audit reports.

3. First, with rare exceptions, we believe that audit partners in the United States who sign off on audit reports for issuers fully understand the formidable risks and responsibilities undertaken by them in such activities. They function not only in the face of risks of damage to their professional reputation or more seriously, loss of employment and their rights to engage in professional practice, but of severe monetary loss and even possible imprisonment. In addition, the quality control policies and procedures in place in most audit firms, which in the United States undergo frequent scrutiny by regulators and *de facto* regulators, general allow for little or no significant, unbridled discretion on the part of individual engagement partners especially in SEC audit practice that is governed in large part by PCAOB AS 7. Accordingly. we believe that the rare individual whose attitude and behavior are not now sufficiently influenced by the applicable quality control, ethical and other professional standards, the regulatory oversight provided by the PCAOB's rigorous inspection program, and the other powerful constraints and deterrents that are already in place in the United States, would not likely be moved to alter his or her behavior as consequence of such an additional requirement as is now proposed. In other words, in our opinion, it would not be any more than remotely likely that a requirement to name engagement partners in audit reports would afford any significant incremental incentive for them to exercise greater care or to perform higher quality audits than is now generally the case, or for their firms to take any meaningful steps to improve the performance of all of their engagement partners as a group.

4. We believe the weak reasons offered by proponents for a naming requirement run directly counter to a statement that is attributed in the 2009 Release to the 2008 report of the Advisory Committee on the Auditing Profession (with which we concur) that such a requirement "should not impose on any signing partner any duties, obligations or liability that are greater than the duties, obligations and liability imposed on such person as a member of an auditing firm." Knowledge of this fact already affords the overwhelming majority of engagement partners with a sense of accountability and professionalism not likely to be significantly heightened by any requirement to be named in audit reports.

5. Among the thousands of audit engagement partners now signing their firm's names to audit reports, virtually none of their names are household words. On the contrary, such names are almost universally unknown and, therefore, mean nothing to investors. Moreover, even if such names were known to investors, it would be impossible for them to be able to assess the relative capabilities, integrity and other ethical values thereof, even with access to their brief professional biographical summaries that are used primarily for promotional purposes (generally, only their firm's management is in a position to make such evaluations) or the extent of discretion exercisable by the partner within the constraints of the quality control environment in which he or she functions. Accordingly, we believe it is not reasonable and without basis to suggest that public disclosure of their names could be "useful to investors" in any meaningful way. In fact, the only parties for whom such information could be useful are private litigants and regulators who can obtain such information, for example, in discovery proceedings, with little or no cost or trouble.

6. It is the audit firms that develop the partners and provide them with the cultural environments in which they grow and operate. Such development and cultures afford leadership, technical training, firm-specific audit methodologies, performance monitoring and evaluation and many other quality control policies and procedures, including the tone-at-the-top that nurtures their ethical values, all of which typically go way beyond the professional standards and regulatory requirements. And it is the firms that determine which partners should be assigned to which engagements. Under such circumstances, perhaps with the exception of the smallest firms that perform audits for only a handful of issuers, the degree of responsibility for audit performance to be reasonably ascribed to individual engagement partners is dwarfed in relation to that properly borne by the audit firms. We have traditionally defined materiality in terms of what would make a difference to users in making investment decisions. In our opinion, it would be almost universally irrational for any financial statement user

to allow disclosure of the name of the engagement partner to influence any investment decision. To name the engagement partners in audit reports might likely mislead investors by unduly elevating the perceived significance of such immaterial information and unduly minimize the audit firm's role.[3] Moreover, to name several partners would likely be confusing to users who, no matter how much additional language encumbered the report (and in our opinion, would likely make it more difficult for users to assess the relative importance on matters contained therein) would necessarily still be ill-equipped to assess the relative significance of each partner's contribution and responsibility.

7. As we previously stated in our letter dated September 11, 2009, in response to the 2009 Release, it appears that the proposal to name engagement partners in audit reports was likely motivated by an overzealous obsession with convergence for its own sake. We object to the "copycat" behavior that results from an irrational belief that if it is done in the international arena, we should do it here, too. Maybe such a requirement is meaningful in Europe, but we believe it would not be so here because of the legal, regulatory and other operational and effective disincentives in this country discussed above.

8. Despite our overriding belief that naming partners in audit reports is at best, of no value and at worst, misleading, to investors and other users, in the interests of transparency, we do not believe such information should be kept secret from those who seek it out. In fact, it has always been possible, with some effort, to obtain such information, but we would not be opposed to making it more readily available to the public by requiring its inclusion in periodic reports to the PCAOB such as Forms 2 and 3, as suggested in the Release as an additional or alternative requirement to including it in audit reports.

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[3] On pp. 5 and 8 of the Release, the Board cites as its principal reason for not proposing an individual partner's signature (such as explored in the 2009 Release) its desire not to minimize the firm's role. We see the undesirable effect of naming partners as not significantly diminished from that of requiring a partner's signature.

Part 2 — Responses to Specific Questions Presented in the Release

Although we have expressed our most significant views in the foregoing comments (Part 1), our direct responses to the 15 specific questions presented in the Release (and below). To facilitate analysis and summary by the PCAOB staff of the comments received, in some cases, we have included parenthetical cross-references to our relevant comments in Part 1 and between overlapping questions wherever we believe they provide useful additional information as to the basis for our responses to these questions.

Q1. *Would disclosure of the engagement partner's name in the audit report enhance investor protection? If so, how? If not, why not?*

We do not believe that any reasonable proposal intended to improve transparency would likely afford investors sufficient information about any engagement partner (with the possible rare exception of one who has received negative publicity about a high profile audit failure) to enable them to make any meaningful judgments about the partner's capabilities, his or her integrity and other ethical values or the quality control environment in which he or she functions. (4, 5 and 6)

Q2. *Would disclosing the name of the engagement partner in the audit report increase the engagement partner's sense of accountability? If not, would requiring signature by the engagement partner increase the sense of accountability?*

No and no. (2 and 3)

Q3. *Does the proposed approach reflect the appropriate balance between the engagement partner's role in the audit and the firm's responsibility for the audit? Are there other approaches that the Board should consider?*

No and no. (6)

Q4. *Would the proposed disclosure clearly describe the engagement partner's responsibilities regarding the most recent reporting period's audit? If not, how could it be improved?*

We believe it is a practical impossibility to adequately describe an engagement partner's level of responsibility in relation to that of the audit firm in any way that would be accurate, meaningful and useful to investors. (5 and 6)

Q5. *Would the proposed disclosure clearly describe the engagement partner's responsibilities when the audit report is dual-dated? If not, how could it be improved?*

We see dual-dating as relatively rare occurrence in view of the change in resent years in the way audit reports are dating. Moreover, in view of our position on the lack of utility in the proposed naming of partners in audit reports, we believe this question does not warrant the devotion of our energy (or the Board's) at this time.

Q6. *Would the proposed amendments to the auditing standards create particular security risks that warrant treating auditors differently from others involved in the financial reporting process?*

We do not see ourselves as competent to address this this question.

Q7. *Would the proposed amendments to the auditing standards lead to an increase in private liability of the engagement partner?*

We believe this is a question for lawyers, not accountants. Our layman's view, however, is that the individual

engagement partner's litigation risk and ultimate liability would not be affected by including his or her name in an audit report. Accordingly, liability is not among the reasons for our concerns with this proposal. (4)

Q8. *What are the implications of the proposed disclosure rule for private liability under Section 10(b)?*

See our response to ***Q7***. (4)

Q9. *Would the disclosure of the engagement partner's identity affect Section 11 liability? If so, what should the Board's approach be?*

See our response to ***Q7***. (4)

Q10. *Would the disclosure of the engagement partner's identity have any other liability consequences (such as under state or foreign laws) that the Board should consider?*

See our response to ***Q7***. (4)

Q11. *Would a different formulation of the disclosure of the engagement partner ameliorate any effect on liability?*

See our response to ***Q7***. (4)

Q12. *If the Board adopts the proposed requirement that audit reports disclose the name of the engagement partner, should the Board also require firms to identify the engagement partner with respect to each engagement that the firms are otherwise required to disclose in Form 2?*

See our response to ***Q13***. (8)

Q13. *If the Board does not adopt the proposed requirement that audit reports disclose the name of the engagement partner, should the Board nonetheless require firms to identify the engagement partner with respect to each engagement that the firms are otherwise required to disclose in Form 2?*

Although we do not see any benefit to investors of disclosing the name of the engagement partner, we see no reason it should be kept secret or not readily available to those who want to know. Accordingly, we believe disclosure in Form 2 and/or Form 3 reports to be a practical alternative in compromise between those, like us, who believe the disclosure should not be made in audit reports and those who seek this information, and we do not object to such a compromise requirement. (8)

Q14. *Disclosure in the audit report and on Form 2 would provide notice of a change in engagement partner only after the most recent period's audit is completed. Would more timely information about auditor changes be more useful? Should the Board require the firm to file a special report on Form 3 whenever there is a change in engagement partners?*

See our response to ***Q13***. (8)

Q15. *A change in engagement partner prior to the end of the rotation period could be information that investors may want to consider before the most recent period's audit is completed. Should the Board require the firm to file a special report on Form 3 when it replaces an engagement partner for reasons other than mandatory rotation to provide an explanation of the reasons for the change?*

See our response to ***Q13***. (8)