



## ORDER

Respondents improperly added, altered, and backdated audit documentation submitted to the Division in response to March 27, 2013 Accounting Board Demands as further evidence of Respondents' noncooperation and that Respondents thereby violated AS 3, because Respondents did not document that the information had been created and added to the audit work papers after the documentation completion dates or the reason for so doing.

### II.

In anticipation of the issuance of this Amended Order and pursuant to PCAOB Rule 5205, Respondents have each submitted an Offer of Settlement (collectively, "Offers") that the Board has determined to accept. 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 findings herein, except as to the Board's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Amended Order Instituting Disciplinary Proceedings, and Order Making Findings and Imposing Sanctions ("Order") as set forth below.<sup>1/</sup>

### III.

On the basis of Respondents' Offers, the Board finds<sup>2/</sup> that:

#### A. Respondents

1. Labrozzi & Co., P.A. is a professional association organized under the laws of the state of Florida, with an office in Miami, Florida. The Firm is registered with the Board pursuant to Section 102 of the Act and PCAOB Rules. The Firm is licensed

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<sup>1/</sup> The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

<sup>2/</sup> Except with respect to sanctions imposed under Section 105(b)(3) of the Act, the sanctions that the Board is imposing on Respondents in this Order may be imposed only if a respondent's conduct meets one of the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5). The Board finds that Respondents' conduct described in this Order meets the condition set out in Section 105(c)(5), which provides that such sanctions may be imposed in the event of: (A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or (B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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by the Florida Board of Accountancy (License No. AD65931). The status of the license is currently "Delinquent." As of its 2012 Annual Report on Form 2, the Firm had one principal (Douglas A. Labrozzi, CPA) and no audit staff.

2. Douglas A. Labrozzi, CPA is the president of the Firm and a certified public accountant licensed in the state of Florida (License No. AC40693). The status of his license is currently "Delinquent, Active." Labrozzi is an associated person of a registered public accounting firm as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

**B. Summary**

3. This matter concerns Respondents' repeated failure to cooperate with a Board investigation and comply with PCAOB rules and standards. Respondents failed to produce certain categories of documents and information demanded in Accounting Board Demands until after the Board instituted disciplinary proceedings against them on September 17, 2013. Further, Labrozzi refused to appear for sworn testimony as demanded by the Division until after the institution of disciplinary proceedings against him.<sup>3/</sup> In addition, Respondents added, altered, and backdated audit documentation for three audits prior to providing that documentation to the Division in connection with its investigation without informing the Division, and without documenting, that the information had been created and added to the audit work papers after the documentation completion dates or the reason for so doing, as required by AS 3.

**C. Respondents Failed to Cooperate with a Board Investigation**

4. The Act authorizes the Board to impose disciplinary sanctions for a registered firm's or associated person's noncooperation with a Board investigation.<sup>4/</sup> Board rules include procedures for implementing that authority.<sup>5/</sup> Noncooperation with a Board investigation includes failing to comply with an accounting board demand.<sup>6/</sup> As described below, Respondents failed to comply with Accounting Board Demands issued

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<sup>3/</sup> The Original OIP alleged that Respondents failed to cooperate with a Board investigation based on Respondents' failure to produce certain categories of documents and information to the Division and Labrozzi's refusal to appear for investigative testimony.

<sup>4/</sup> See Section 105(b)(3) of the Act.

<sup>5/</sup> See PCAOB Rules 5110 and 5200(a)(3).

<sup>6/</sup> See PCAOB Rule 5110(a)(1).

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on March 27, 2013 pursuant to PCAOB Rule 5101(a)(2) by failing to produce certain documents and information. Further, Douglas Labrozzi failed to comply with a March 27, 2013 Accounting Board Demand requiring him to appear for sworn testimony.

5. Noncooperation with a Board investigation also includes knowingly making any false material declaration or making or using any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration.<sup>7/</sup> As described below, Respondents failed to cooperate with a Board investigation by submitting audit documentation to the Division that they knew to contain false declarations.

Respondents Failed to Produce Certain Demanded Documents and Information

6. On March 20, 2013, the Board issued an Order of Formal Investigation ("OFI"), *In the Matter of Labrozzi & Co., P.A.* The March 20, 2013 OFI related to potential audit failures involving the Firm's audits of the June 30, 2011 financial statements of Issuer A and the December 31, 2010 financial statements of Issuer B. Labrozzi was the sole auditor involved in those audits.

7. Prior to the Board's issuance of the OFI, and as part of an informal inquiry the Division was conducting pursuant to PCAOB Rule 5100, the Division issued a request for documents and information to the Firm on November 8, 2012 ("November 8 Request"). In response, the Firm provided the Division with certain documents in late November and December 2012.

8. Following the issuance of the OFI, the Division issued an Accounting Board Demand ("ABD") on March 27, 2013 directed to Labrozzi for documents, information and testimony. At the same time, the Division issued a separate ABD for documents and information directed to the Custodian of Records of the Firm. The ABDs required Labrozzi and the Firm to produce responsive documents and information by April 15, 2013. In addition, the Division staff enclosed copies of an informational PCAOB Form ENF-1, detailing the consequences of a refusal to produce documents in connection with an investigation.

9. The demanded documents were relevant to the Board's investigation. Specifically, the March 27, 2013 ABDs required Respondents to produce, among other things, documents relating to the Firm's audits and reviews of Issuer A and Issuer B. The demands spanned three fiscal years as related to Issuer A and two fiscal years with respect to Issuer B. The demanded documents included audit and review work papers and other documents relating to those audits and reviews.

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<sup>7/</sup> See PCAOB Rule 5110(a)(2).

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10. As indicated in the cover letters to Respondents, to the extent that Respondents had previously produced an identical copy of one or more of the documents specified in the ABDs, they did not need to provide an additional copy. Instead, the letter directed Respondents to describe such documents, including the date of production, and the paragraphs of the ABDs to which such documents related. The ABDs contained essentially identical demands for documents and information as the November 8 Request, except that the ABDs included Demands 14 and 15, which sought, respectively, a written description of the search conducted for responsive documents and a sworn, written certification that all responsive, non-privileged documents have been produced.

11. While documents produced by the Firm in response to the November 8 Request were responsive to certain demands, as of the date of the Original OIP entire categories of documents demanded by the ABDs had not been produced, as set forth below in paragraph 22.

12. After the ABDs' April 15 deadline for producing documents and information had passed and no response had been received, the Division advised Respondents' attorneys that Respondents had missed the deadline to respond and that the PCAOB considered the non-production of all responsive, non-privileged documents and other information by the due date to constitute a failure to cooperate under Board Rule 5110. The Division, however, granted Respondents certain limited extensions, each time reminding Respondents that a failure to fully respond might result in disciplinary action being taken.

13. On June 5, 2013, counsel provided to the Division certain documents by email; however, that production did not respond to various categories of demanded documents and information outstanding at that time and, thus, did not satisfy Respondents' obligations. For example, at that time Respondents still had not produced certain audit and review work papers for Issuer A and Issuer B, and correspondence files for certain years for both issuers.

14. Thereafter, the Division again advised counsel that neither Labrozzi nor the Firm had provided sufficient responses to the ABDs and that such non-compliance was viewed by PCAOB staff as a failure to cooperate under Board Rule 5110.

Labrozzi Failed to Appear for Testimony Pursuant to the ABD

15. As stated, pursuant to the OFI, the Division issued an ABD to Labrozzi on March 27, 2013. In addition to demanding documents, the ABD required Labrozzi to appear for sworn testimony. The ABD set his testimony to begin on May 14, 2013 in



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New York. That date was postponed to June 11, 2013 in order to accommodate settlement discussions.

16. Then, on June 5, 2013, Respondents' counsel requested that testimony be rescheduled because of his vacation plans. The Division accordingly agreed to a final, two week extension of the testimony date to June 25, 2013, and stated that no further extensions would be granted.

17. On June 19, 2013, the Division asked counsel to confirm that Labrozzi would arrive for his testimony in New York beginning on Tuesday, June 25, 2013. In response, by email dated June 21, 2013, counsel wrote, "Mr. Librozzi [sic] will appear for deposition on Tuesday."

18. On Monday, June 24, 2013, the day before Labrozzi's scheduled testimony – after the Division had made travel plans for certain staff to travel to New York, booked a court reporter, and organized and arranged for the use of testimony exhibits – Respondents' counsel informed the Division by phone that Labrozzi would not be arriving for his testimony. As of the date of the Original OIP, neither Labrozzi nor his attorney had offered an alternative date for Labrozzi's testimony.

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19. On June 27, 2013, the Division sent counsel for Respondents a letter (the "Charging Letter") outlining the Division's intent to recommend that the Board commence a disciplinary proceeding to determine whether Respondents failed to cooperate with a PCAOB investigation, by failing to comply with the March 27, 2013 ABDs.

20. The Charging Letter detailed the events surrounding Labrozzi's failure to appear for sworn testimony and explained that such non-compliance with an ABD was viewed as a failure to cooperate with the Board.

21. In addition, the Charging Letter set out the categories of documents and information that had been demanded of Respondents and not produced, including, certain audit and review work papers for Issuer A and Issuer B, and correspondence files for certain years for both issuers.

22. On July 19, 2013, Respondents submitted a brief statement of position to the Charging Letter (the "SOP"). The SOP included the production of certain additional work papers and correspondence. However, entire categories of documents were not produced and remained outstanding as of the date of the Original OIP: (1) the fiscal year-end 2010 audit work papers for Issuer A; (2) the 2011 quarterly review work

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papers for Issuer A; and (3) the correspondence files for the fiscal year-end 2012 audit and 2012 quarterly reviews of Issuer A.<sup>8/</sup> As of the issuance of the Original OIP, Respondents had also failed to provide a description of the search conducted for responsive documents and a sworn certification that all responsive documents have been produced.<sup>9/</sup>

23. The SOP made no mention of Labrozzi's willingness to appear for testimony. Therefore, on July 22, 2013, the Division wrote counsel for Respondents, pointing out the SOP's silence as to Labrozzi's willingness to appear for testimony and requesting that counsel advise the Division by July 25, 2013 whether or not Labrozzi would agree to appear for sworn testimony. As of the date of the Original OIP, the Division had not received a response.

24. Thus, Respondents failed to cooperate with a Board investigation by failing to comply with ABDs requiring the production of certain documents and information to the Division.

25. Further, Labrozzi failed to cooperate with a Board investigation by failing to comply with an ABD demanding his sworn testimony.

Respondents Altered Work Papers Before Producing Them to the Division

26. After receiving the Division's informal request for documents dated November 8, 2012, Respondents significantly added to, altered, and backdated the audit documentation for (1) the audit of the June 30, 2010 Issuer A financial statements ("Issuer A 2010 Audit"), (2) the audit of the June 30, 2011 Issuer A financial statements ("Issuer A 2011 Audit"), and (3) the audit of the December 31, 2010 Issuer B financial statements ("Issuer B 2010 Audit"). Respondents subsequently produced these altered audit work papers in response to the March 27, 2013 ABDs without informing the

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<sup>8/</sup> It was not until disciplinary proceedings against Respondents were underway that Respondents produced the fiscal year-end 2010 audit work papers for Issuer A, and the correspondence files for the fiscal year-end 2012 audit and 2012 quarterly reviews of Issuer A. And it was not until December 2013, after the institution of disciplinary proceedings, that Respondents clarified that the Firm did not perform 2011 quarterly reviews for Issuer A and, thus, Respondents did not possess 2011 quarterly review work papers for Issuer A.

<sup>9/</sup> It was not until December 11, 2013, after the institution of disciplinary proceedings, that Respondents provided this information.



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Division that the documentation did not reflect contemporaneous audit work.<sup>10/</sup> The Division only learned of this in the course of questioning Labrozzi during his rescheduled investigative testimony on December 12 and December 13, 2013. Labrozzi acknowledged during testimony that he had prepared and added the audit documentation in an attempt to make the work papers appear more complete and robust.

27. In particular, for all three audits, Labrozzi completed and added to the work papers numerous checklists and other form documents issued by PPC (Thomson Reuters) ("PPC work papers") which purported to describe procedures performed as part of the audits. For example, Labrozzi wholesale added to the audit documentation for all three audits PPC forms entitled "Financial Statement Materiality Worksheet for Planning Purposes"; "Audit Program for General Planning Procedures"; "Fraud Risk Factors"; "Audit Documentation Checklist"; and "Disclosure Requirements for Financial Statements of Smaller Reporting Companies," among other forms. The 33 separate PPC work papers that were added to the audit documentation for the three audits account for a total of (1) 161 pages out of 199 total pages of the work paper file for the Issuer A 2010 Audit; (2) 165 pages out of 222 total pages of the work paper file for the Issuer A 2011 Audit; and (3) 191 pages out of 455 total pages of the work paper file for the Issuer B 2010 Audit.

28. In addition, with regard to other work papers (non-PPC work papers) included in the Issuer A 2010 Audit file and the Issuer A 2011 Audit file produced to the Division, Labrozzi, after receiving the November 8 Request, added substantive comment boxes with text purporting to explain the significance of the work paper for the audit, as revealed by the metadata corresponding to these comments. For example, in the work papers for the Issuer A 2011 Audit, Labrozzi added comment boxes to a "Stock Agreement – Public Company" containing the following text: "Objective: To determine if transaction exists" and "Conclusion: Transaction deemed reasonable. See Memo at WP 4404 for auditors explanation of media credits." Metadata reveals these comment boxes were added on November 20, 2012.

29. In no instance where Labrozzi added documentation or information to the work papers for the three audits after he received the November 8 Request did he

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<sup>10/</sup> Respondents produced the altered Issuer A 2010 Audit documentation to the Division for the first time on December 8, 2013 in response to the ABDs. Respondents first produced the Issuer A 2011 Audit documentation to the Division on December 14, 2012, and then re-produced the same altered audit documentation on December 8, 2013 in response to the ABDs. Respondents first produced the Issuer B 2010 Audit documentation to the Division on November 29, 2012, and then re-produced the same altered audit documentation on June 5, 2013 in response to the ABDs.

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document that he was adding the information at a later date or the reason for such an addition. To the contrary, in many instances, Labrozzi added his initials and backdated the PPC work papers to misleadingly suggest that they had been completed at the time of the audit. For example, Labrozzi dated the "Audit Documentation Checklist" PPC work paper included in the Issuer A 2011 Audit file as having been completed on August 14, 2011, even though he completed it after receiving the November 8 Request.

30. Thus, Respondents produced to the Division the work papers for the Issuer A 2010 Audit, the Issuer A 2011 Audit and Issuer B 2010 Audit without informing the Division of the numerous late alterations and addition of backdated documents to those work papers. As a result, Respondents failed to cooperate with a Board investigation by submitting audit documentation to the Division that they knew to contain false declarations.

### **D. Respondents Violated PCAOB Rules and Auditing Standards**

31. PCAOB rules require that a registered public accounting firm and its associated persons comply with the Board's auditing standards and related professional practice standards.<sup>11/</sup> AS 3 requires that an auditor prepare audit documentation in sufficient detail to document the procedures performed, evidence obtained, and conclusions reached with respect to relevant financial statement assertions, and to demonstrate clearly that the work was in fact performed.<sup>12/</sup> Prior to the report release date,<sup>13/</sup> the auditor must have completed all necessary auditing procedures and obtained sufficient evidence to support the representations in the auditor's report. A complete and final set of audit documentation should be assembled for retention as of a date not more than 45 days after the report release date ("documentation completion date").<sup>14/</sup> Circumstances may require additions to audit documentation after the report release date. While information and documentation may be added after that date, any added information or documentation must indicate the date the information was added,

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<sup>11/</sup> See PCAOB Rule 3100.

<sup>12/</sup> See AS 3 ¶¶ 4 and 6.

<sup>13/</sup> See AS 3 ¶ 14 (defining "report release date" as "the date the auditor grants permission to use the auditor's report in connection with the issuance of the company's financial statements").

<sup>14/</sup> See AS 3 ¶ 15.



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the name of the person who prepared the additional documentation, and the reason for adding it.<sup>15/</sup>

32. Both the November 8 Request and ABDs expressly sought the Firm's "complete and final sets of audit and review documentation assembled for retention" for the relevant audits in accordance with AS 3.

33. Respondents improperly created and added audit documentation to the audit files following the documentation completion dates for the Issuer A 2010 Audit, the Issuer A 2011 Audit, and the Issuer B 2010 Audit. In particular, for all three audits, following the relevant documentation completion dates, Labrozzi completed and added to the work papers numerous PPC work papers which purported to describe procedures performed as part of the audits. In addition, with regard to other work papers (non-PPC work papers) included in the Issuer A 2010 Audit file and the Issuer A 2011 Audit file produced to the Division, Labrozzi, following the relevant documentation completion dates, added substantive comment boxes with text purporting to explain the significance of the work paper for the audit. Respondents performed such additions and alterations without documenting that the audit documentation had been created and added after the documentation completion dates or the reason for so doing.

34. Accordingly, Respondents repeatedly violated AS 3.

## IV.

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondents' Offers. Accordingly, it is hereby ORDERED that:

- A. Pursuant to Sections 105(b)(3)(A)(iii) and 105(c)(4)(E) of the Act and PCAOB Rules 5300(a)(5) and 5300(b)(1), Labrozzi & Co., P.A. and Douglas A. Labrozzi, CPA are hereby censured;
- B. Pursuant to Section 105(b)(3)(A)(ii) and 105(c)(4)(A) of the Act and PCAOB Rules 5300(a)(1) and 5300(b)(1), the registration of Labrozzi & Co., P.A. is revoked; and

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<sup>15/</sup> See AS 3 ¶ 16.

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- C. Pursuant to Section 105(b)(3)(A)(i) and 105(c)(4)(B) of the Act and PCAOB Rules 5300(a)(2) and 5300(b)(1), Douglas A. Labrozzi, CPA is barred from being an associated person of a registered public accounting firm, as that term is defined in Section 2(a)(9) of the Act and PCAOB Rule 1001(p)(i).

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown  
Secretary

February 13, 2014