

ORDER

consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings and Imposing Sanctions ("Order") as set forth below.²

III.

On the basis of Respondent's Offer, the Board finds that:³

A. Respondent

1. Suzanne M. Herring, age 49 of Las Vegas, Nevada, is a principal with the registered public accounting firm, L.L. Bradford & Company, LLC ("L.L. Bradford"), a position she has held since January 2013. From February 2008 until January 2013, Herring worked as an audit staff person for another registered public accounting firm, Samyn & Martin, LLC ("Samyn & Martin"). At all relevant times, Herring was 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

2. This matter concerns Herring's violations of PCAOB rules and auditing standards that require a registered public accounting firm and its associated persons to be independent of the firm's issuer audit clients throughout the relevant audit and professional engagement periods, as well as Herring's violations of Section 10A(g) of the Exchange Act and Exchange Act Rule 10A-2 concerning auditor independence. When Herring was an associated person of Samyn & Martin, she was not independent with respect to two of Samyn & Martin's issuer audit clients because she: (1) provided bookkeeping and financial statement preparation work for one of those issuers, Decision Diagnostics Corp. ("Decision Diagnostics"), during the audit period for which she served on the audit engagement team; and (2) provided derivative accounting and valuation

² The findings herein are made pursuant to Respondent's Offer and are not binding on any other persons or entities in this or any other proceeding.

³ The Board finds that Respondent's conduct described in this Order meets the conditions set out in Section 105(c)(5) of the Act, 15 U.S.C. § 7215(c)(5), which provides that certain sanctions may be imposed in the event of (1) intentional or knowing conduct, including reckless conduct, that results in a violation of the applicable statutory, regulatory, or professional standard; or (2) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

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services for the other issuer, American Petro-Hunter, Inc. ("APH"), during the audit and professional engagement period for which she was a member of the audit engagement team.⁴

3. This matter also concerns Herring's violation of the PCAOB rule that prohibits an associated person from directly and substantially contributing to a registered public accounting firm's violation of, among other things, relevant independence requirements.⁵ Specifically, when Herring joined L.L. Bradford in January 2013, she solicited Decision Diagnostics to engage L.L. Bradford as its external auditor. In connection with the retention of L.L. Bradford to audit Decision Diagnostics' December 31, 2012 financial statements, Herring, on behalf of L.L. Bradford, established the terms of the engagement. In addition, Herring served as a senior member of L.L. Bradford's engagement team for the audit, was responsible for decision-making on significant auditing matters, and was the engagement team member who maintained contact with Decision Diagnostics' management during the audit. At the time Herring took those actions, she was aware that another audit principal at L.L. Bradford had provided prohibited bookkeeping and financial statement preparation services to Decision Diagnostics during the audit period. As a result of the L.L. Bradford audit principal providing those prohibited non-audit services, L.L. Bradford was not independent of Decision Diagnostics during the audit of the company's December 31, 2012 financial statements. Through her actions, Herring directly and substantially contributed to L.L. Bradford's violation of applicable independence requirements, in violation of PCAOB Rule 3502.

C. Respondent Violated PCAOB Rules and Auditing Standards and the Exchange Act

4. PCAOB rules and standards require that a registered public accounting firm and its associated persons be independent of the firm's audit client throughout the audit and professional engagement period.⁶ A registered public accounting firm or associated person's independence obligation with respect to an audit client that is an

⁴ See Section 10A(g) of the Exchange Act; Exchange Act Rule 10A-2, *Auditor Independence*; PCAOB Rule 3520, *Auditor Independence*; and AU §§ 220.01-02, *Independence*.

⁵ See PCAOB Rule 3502, *Responsibility Not to Knowingly or Recklessly Contribute to Violations*.

⁶ See PCAOB Rule 3520; see also AU §§ 220.01-02.

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issuer encompasses not only an obligation to satisfy the independence criteria set out in the rules and standards of the PCAOB, but also an obligation to satisfy all other independence criteria applicable to the engagement, including the independence criteria set out in the rules and regulations of the Securities and Exchange Commission ("Commission") under the federal securities laws.⁷

5. Section 10A(g) of the Exchange Act provides that it shall be unlawful for a registered public accounting firm that performs an audit for an issuer "to provide to that issuer, contemporaneously with the audit, any non-audit service, including . . . [b]ookkeeping or other services related to the accounting records or financial statements of the audit client" and "[a]ppraisal or valuation services."

6. Exchange Act Rule 10A-2 states that it shall be unlawful for an auditor not to be independent with respect to, among other requirements, the prohibited non-audit services provisions of Commission Regulation S-X. Rule 2-01 of Regulation S-X provides that an accountant is not independent if, at any point during the audit and professional engagement period, the accountant provides certain non-audit services for an audit client, including bookkeeping and financial statement preparation services and appraisal or valuation services.⁸

7. As described below, Herring failed to comply with PCAOB rules and auditing standards, the Exchange Act, and Exchange Act rules in connection with Samyn & Martin's audits of Decision Diagnostics 2011 financial statements and APH's 2012 financial statements.

Samyn & Martin's Audit of Decision Diagnostics' 2011 Financial Statements

8. Prior to 2011, Herring was engaged to provide bookkeeping and financial statement preparation services for Decision Diagnostics.⁹ In that capacity, Herring

⁷ See PCAOB Rule 3520, Note 1.

⁸ 17 C.F.R. §§ 210.2-01(b), (c)(4)(i), (c)(4)(iii).

⁹ At all relevant times, Decision Diagnostics (prior to February 9, 2012, known as instaCare Corp.) was a Nevada corporation headquartered in Westlake Village, California. Decision Diagnostics' public filings disclose that it is a nationwide prescription and non-prescription diagnostic and home testing products distributor. Its common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. At all relevant times, Decision Diagnostics was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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prepared journal entries, maintained Decision Diagnostics' accounting records, advised the issuer on generally accepted accounting principles ("GAAP"), and prepared the issuer's financial statements and Forms 10-Q and 10-K that were filed with the Commission. Contemporaneously, Herring worked as a staff person for Samyn & Martin on more than ten audits unrelated to Decision Diagnostics.

9. On August 5, 2011, Decision Diagnostics engaged Samyn & Martin as the issuer's auditor for the year ended December 31, 2011. When Decision Diagnostics engaged Samyn & Martin, Herring ceased providing bookkeeping and financial statement preparation services for Decision Diagnostics and joined the 2011 audit engagement team for Samyn & Martin. During Samyn & Martin's audit of Decision Diagnostics' fiscal year 2011 financial statements, Herring audited accounting records that she had previously prepared and that reflected accounting principles she had recommended. In addition, the December 31, 2011 Decision Diagnostics' financial statements that Herring assisted in auditing were based, at least in part, on the quarterly financial statements that she had previously prepared.

10. Herring violated PCAOB rules and auditing standards, the Exchange Act, and Exchange Act rules because she provided prohibited non-audit services to Decision Diagnostics during the audit period with respect to which she served on the Decision Diagnostics' audit engagement team.¹⁰

Samyn & Martin's Audit of APH's 2012 Financial Statements

11. Beginning in March 2012, Herring provided accounting and valuation services to APH related to a derivative liability that APH recorded.¹¹ As of the end of the third quarter of 2012, the derivative liability was the largest liability on APH's balance sheet, representing more than 68% of APH's total reported liabilities. As part of Herring's services for APH, she calculated the value of the derivative liability and related amounts, prepared source data and documents that supported the amounts reflected in

¹⁰ See Section 10A(g) of the Exchange Act; Exchange Act Rule 10A-2; PCAOB Rule 3520; and AU §§ 220.01-02.

¹¹ At all relevant times, APH was a Nevada corporation headquartered in Scottsdale, Arizona. APH's public filings disclose that it is an oil and gas exploration and production company. Its common stock is registered under Section 12(g) of the Exchange Act and is quoted on the OTC Bulletin Board. At all relevant times, APH was an issuer as that term is defined by Section 2(a)(7) of the Act and PCAOB Rule 1001(i)(iii).

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the accounting records and financial statements of APH, prepared the journal entries for APH to record in its accounting records, and assisted in the preparation of APH's financial statements and notes thereto.

12. At the time Herring performed those non-audit services for APH, she was also an audit staff person for Samyn & Martin, APH's external auditor. Notwithstanding her performance of accounting and valuation services for APH during 2012, Herring also assisted with Samyn & Martin's quarterly review of APH's September 30, 2012 financial statements. Furthermore, Herring was aware that Samyn & Martin relied upon her accounting and valuation work in performing its quarterly review. Herring continued to provide derivative accounting and valuation services to APH throughout 2012 and into 2013.

13. Herring violated PCAOB rules and auditing standards, the Exchange Act, and Exchange Act rules because she provided prohibited non-audit services to APH contemporaneous with her service on the audit engagement team for APH.¹²

D. Respondent Directly and Substantially Contributed to L.L. Bradford's Violation of PCAOB Rules and the Exchange Act

14. PCAOB rules prohibit an associated person of a registered public accounting firm from taking or omitting to take an action knowing, or recklessly not knowing, that the act or omission would directly and substantially contribute to violations by that firm of the Act, rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards.¹³ As described below, L.L. Bradford failed to comply with Section 10A(g) of the Exchange Act, Exchange Act Rule 10A-2 and PCAOB rules, and Herring directly and substantially contributed to those violations.

15. Shortly after Herring stopped providing bookkeeping and financial statement preparation services to Decision Diagnostics in August 2011, an audit principal at L.L. Bradford ("L.L. Bradford Principal"), succeeded her and provided bookkeeping and financial statement preparation services for Decision Diagnostics through at least December 2012. As part of those services, the L.L. Bradford Principal

¹² See Section 10A(g) of the Exchange Act; Exchange Act Rule 10A-2; PCAOB Rule 3520; and AU §§ 220.01-02.

¹³ PCAOB Rule 3502.



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prepared the first, second, and third quarter 2012 financial statements and Forms 10-Q for Decision Diagnostics.

16. L.L. Bradford was engaged as Decision Diagnostics' external auditor on February 11, 2013 to audit the company's financial statements for the year ended December 31, 2012 (the "2012 Audit"). Herring was on the Decision Diagnostics audit at Samyn & Martin and, when she joined L.L. Bradford, Herring solicited Decision Diagnostics to engage L.L. Bradford as its external auditor. Herring established the terms of 2012 audit engagement with Decision Diagnostics, prepared the engagement letter, and prepared another letter provided to Decision Diagnostics prior to retention concerning independence, as required by PCAOB Rule 3526, *Communication with Audit Committees Concerning Independence*.¹⁴ Herring served as a senior member of the L.L. Bradford audit engagement team for the 2012 Audit and was the primary client contact for L.L. Bradford. In fact, the engagement letter between L.L. Bradford and Decision Diagnostics (erroneously) identified Herring as the engagement partner on the 2012 Audit. At the time L.L. Bradford accepted Decision Diagnostics as an audit client, Herring was aware of the timing and the nature of the services that the L.L. Bradford Principal had provided for Decision Diagnostics during fiscal year 2012. Herring was uniquely aware of the nature and timing of the L.L. Bradford Principal's services because she had provided the same services to Decision Diagnostics and had transitioned her duties to the L.L. Bradford Principal.

17. During the 2012 Audit, L.L. Bradford performed audit procedures on the underlying accounting records of the issuer that were prepared by the L.L. Bradford Principal and that reflected the accounting principles recommended by him. In addition, the December 31, 2012 financial statements that L.L. Bradford audited were based, at least in part, on the quarterly financial statements prepared by the L.L. Bradford Principal. L.L. Bradford issued an unqualified audit report on Decision Diagnostics' financial statements for the year ended December 31, 2012, which was included in the Form 10-K the issuer filed with the Commission on April 16, 2013.

18. As a result of the bookkeeping and financial statement preparation services provided by the L.L. Bradford Principal, L.L. Bradford was not independent of Decision Diagnostics during the fiscal year 2012 audit period, in violation of Section 10A(g) of the Exchange Act, Exchange Act Rule 10A-2, PCAOB Rule 3520, and AU § 220. Given her knowledge of the services performed by the L.L. Bradford Principal, her relationship with the issuer, her role in bringing the Decision Diagnostic audit to L.L. Bradford, and her senior role on the Decision Diagnostics engagement team, Herring

¹⁴ See paragraphs 19-20, *infra*.

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violated PCAOB Rule 3502 by directly and substantially contributing to the Firm's violation of relevant independence requirements. Specifically, Herring took action knowing, or recklessly not knowing, that her actions would directly and substantially contribute to L.L. Bradford's violations.

19. PCAOB Rule 3526 requires that a registered public accounting firm describe, in writing, to the audit committee of a potential audit client, all relationships between the firm or any affiliates of the firm and the potential audit client that may reasonably be thought to bear on independence. The firm is also required to discuss with the audit committee the potential effects of such relationships should the firm be appointed as the potential audit client's auditor and to document the substance of such discussion.

20. On January 21, 2013, contemporaneous with accepting the Decision Diagnostics engagement, Herring prepared and L.L. Bradford issued a letter to Decision Diagnostics pursuant to PCAOB Rule 3526. In violation of Rule 3526, however, that letter failed to disclose the bookkeeping and financial statement preparation services provided by the L.L. Bradford Principal. Also in violation of Rule 3526, L.L. Bradford failed to discuss with the Decision Diagnostics audit committee the potential impact of those services on L.L. Bradford's independence. Herring violated PCAOB Rule 3502 by taking action, knowing, or recklessly not knowing, that her preparation of the Rule 3526 letter would directly and substantially contribute to L.L. Bradford's violations.

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 Herring's Offer. Accordingly, it is hereby ORDERED that:

- A. Pursuant to Section 105(c)(4)(E) of the Act and PCAOB Rule 5300(a)(5), Suzanne M. Herring is hereby censured;
- B. Pursuant to Section 105(c)(4)(B) of the Act and PCAOB Rule 5300(a)(2), Suzanne M. Herring 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);¹⁵

¹⁵ As a consequence of the bar, the provisions of Section 105(c)(7)(B) of the Act will apply with respect to Herring. Section 105(c)(7)(B) provides: "It shall be

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- C. After two (2) years from the date of this Order, Suzanne M. Herring may file a petition, pursuant to PCAOB Rule 5302(b), for Board consent to associate with a registered public accounting firm; and
- D. Pursuant to Section 105(c)(4)(D) of the Act and PCAOB Rule 5300(a)(4), a civil money penalty in the amount of \$5,000 is imposed upon Suzanne M. Herring. All funds collected by the Board as a result of the assessment of this civil money penalty will be used in accordance with Section 109(c)(2) of the Act. Suzanne M. Herring shall pay this civil money penalty within ten (10) days of the issuance of this Order by (1) wire transfer pursuant to instructions provided by Board staff; or (2) United States Postal Service money order, bank money order, certified check, or bank cashier's check (a) made payable to the Public Company Accounting Oversight Board, (b) delivered to the Controller, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006, and (c) submitted under a cover letter which identifies Suzanne M. Herring as a Respondent in these proceedings, sets forth the title and PCAOB release number of these proceedings, and states that payment is made pursuant to this Order, a copy of which cover letter and money order or check shall be sent to the Office of the Secretary, Attention: Phoebe W. Brown, Secretary, Public Company Accounting Oversight Board, 1666 K Street, N.W., Washington, D.C. 20006.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

Phoebe W. Brown
Secretary

April 1, 2015

unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any issuer, broker, or dealer in an accountancy or a financial management capacity, and for any issuer, broker, or dealer that knew, or in the exercise of reasonable care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission."