BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: Case No. AC-2017-79
HAGEN, STREIFF, NEWTON & OSHIRO, OAH No. 2019030628
ACCOUNTANTS, P.C.
2415 Campus Drive Suite 225
Irvine, CA 92612
Certified Public Accountancy
Corporation Certificate No. COR 202
CHRISTOPHER KENT MONEY
2415 Campus Drive Suite 225
Irvine, CA 92612
Certified Public Accountant
Certificate No. 48019

and

JEFFREY BOYDEN GEORGE
7887 E Belleview Ave, Suite 1200
Denver, CO 80111
Certified Public Accountant
Certificate No. 112486

Respondents.

STIPULATED SETTLEMENT AND
WITHDRAWAL OF ACCUSATION AS
TO CHRISTOPHER KENT MONEY,
ONLY, AND ISSUANCE OF CITATION

Stipulated Settlement by Christopher Kent Money, Only (A-2017-79)
IT IS HEREBY STIPULATED AND AGREED by and between Patti Bowers (Complainant), Executive Officer of the California Board of Accountancy (CBA), and Respondent Christopher Kent Money (Respondent), that the following matters are true:

PARTIES

1. Complainant is the Executive Officer of the CBA. She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Carl W. Sonne, Supervising Deputy Attorney General, and by Theodore S. Drear, Deputy Attorney General.

2. Respondent is represented in this proceeding by attorney M. Bradley Wishek of Rothschild Wishek & Sands LLP, whose address is: 765 University Avenue, Sacramento, CA 95825.

3. On or about May 29, 1987, the CBA issued Certified Public Accountant Certificate Number 48019 to Respondent. The Certified Public Accountant Certificate was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. AC-2017-79 and will expire on March 31, 2020, unless renewed.

JURISDICTION

4. Accusation No. AC-2017-79 was filed before the CBA, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 12, 2018. Respondent timely filed his Notice of Defense contesting the Accusation. A First Amended Accusation and all other statutorily required documents were properly served on March 7, 2019. A copy of First Amended Accusation No. AC-2017-79 is attached as Exhibit A and is incorporated by this reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. AC-2017-79. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement.
6. Respondent is fully aware of his legal rights in this matter, including the right to a
hearing on the charges and allegations in the First Amended Accusation; the right to confront
and cross-examine the witnesses against them; the right to present evidence and to testify on his
own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
production of documents; the right to reconsideration and court review of an adverse decision;
and all other rights accorded by the California Administrative Procedure Act and other
applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
every right set forth above.

**CONTINGENCY**

8. Respondent understands and agrees that this stipulation shall be contingent upon the
CBA’s approval of a separate stipulation by Respondent Hagen, Streiff, Newton & Oshiro,
Accountants, P.C. (HSNO) that provides for surrender of its Certified Public Accountancy
Corporation Certificate. This stipulation is also contingent upon HSNO’s payment of the
administrative penalty and costs of investigation and enforcement specified in its stipulation. If
HSNO does not enter its stipulation, if the CBA decides not to issue a Decision and Order
adopting HSNO’s stipulated surrender, or if HSNO fails to pay the administrative penalty and
costs of investigation and enforcement specified in its stipulation, then this stipulation shall be
void, unenforceable and inadmissible in any legal action between the parties, and this stipulation
shall not disqualify or inhibit CBA from further action against Respondent.

9. By signing this stipulation, Respondent understands and agrees that he may not
withdraw his agreement or seek to rescind the stipulation.

10. The parties understand and agree that Portable Document Format (PDF) and
facsimile copies of this Stipulated Settlement, including PDF and facsimile signatures thereto,
shall have the same force and effect as the originals.

11. This Stipulated Settlement is intended by the parties to be an integrated writing
representing the complete, final, and exclusive embodiment of their agreement. It supersedes
any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and
commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

12. The parties agree on the following resolution of the matter:

RESOLUTION

13. Subject to and within 30 days of the effective date of CBA’s Decision and Order accepting the surrender of HSN O’s Certificate, and payment to CBA of the administrative penalty and costs of investigation and enforcement specified in HSN O’s stipulation, Complainant shall withdraw the pending First Amended Accusation as to Respondent only and issue a citation to Respondent under Business and Professions Code section 125.9 and California Code of Regulations, title 16, section 9 5, in the form attached as Exhibit B hereto, the terms of which are incorporated herein. (Pursuant to Business and Professions Code section 125.9, subdivision (b)(4), the payment of the fine shall not constitute an admission of the violations charged.)

14. The Citation will become final on the date of issuance and Respondent shall not contest or appeal the Citation.

ACCEPTANCE

I have carefully read and understand the above Stipulated Settlement and have fully discussed it with my attorney, M. Bradley Wishek. I enter into this Stipulated Settlement voluntarily, knowingly, and intelligently, and agree to be bound by its terms.

DATED: 11/22/19

CHRISTOPHER KENT MONEY

Respondent

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Stipulated Settlement by Christopher Kent Money, Only (A-2017-79)
ENDORSEMENT

I have read and fully discussed with Respondent Christopher Kent Money the terms and conditions and other matters contained in the above Stipulated Settlement. I approve its form and content.

DATED: 11/22/19

M. BRADLEY WISEK, ESQ.
ROTHSCHILD, WISEK & SANDS LLP
Attorney for Respondent

COMPLAINANT'S ACCEPTANCE OF STIPULATION

As Executive Officer of the California Board of Accountancy, I hereby agree to the Stipulated Settlement and Withdrawal of Accusation as to Christopher Kent Money, Only, and issuance of Citation, subject to the contingency described above in paragraph 8 of the Stipulation.

DATED: 11/22/19

PATTI BOWERS
Executive Officer, California Board of Accountancy
Complainant

ENDORSEMENT

I have read and fully discussed with Complainant Patti Bowers the terms and conditions and other matters contained in the above Stipulated Settlement and approve its form and content.

DATED: 11/22/19

XAVIER BECERRA
Attorney General of California
CARL W. SONNE
Supervising Deputy Attorney General

THEODORE S. DRCAR
Deputy Attorney General
Attorneys for Complainant
Exhibit A- First Amended Accusation No. AC-2017-79

Stipulated Settlement by Christopher Kent Money, Only (A-2017-79)
BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

HAGEN, STREIFF, NEWTON & OSHIRO,
ACCOUNTANTS, P.C.
2415 Campus Drive Suite 225
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Certified Public Accountancy
Corporation Certificate No. COR 202

CHRISTOPHER KENT MONEY
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Certificate No. 48019

and

JEFFREY BOYDEN GEORGE
7887 E Belleview Ave, Suite 1200
Denver, CO 80111

Certified Public Accountant
Certificate No. 112486

Respondents.
Complainant alleges:

PARTIES

1. Patti Bowers (Complainant) brings this First Amended Accusation solely in her official capacity as the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs (CBA).

2. On or about February 27, 1973, the CBA issued Certified Public Accountancy Corporation Certificate Number COR 202 to the corporation now known as Hagen, Streiff, Newton & Oshiro, Accountants, P.C. (Respondent HSNO). The Certified Public Accountancy Corporation Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2019, unless renewed.

3. On or about May 29, 1987, the CBA issued Certified Public Accountant Certificate Number 48019 to Christopher Kent Money (Respondent Money). The Certified Public Accountant Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2020, unless renewed.

4. On or about June 8, 2011, the CBA issued Certified Public Accountant Certificate Number 112486 to Jeffrey Boyden George (Respondent George). The Certified Public Accountant Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2020, unless renewed.

JURISDICTION

5. This First Amended Accusation is brought before the CBA, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

6. Section 5000.1 of the Code states:

   Protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

7. Section 5100 of the Code states:

   After notice and hearing the board may revoke, suspend, or refuse to renew any
permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

(c) Dishonesty, fraud, gross negligence, or repeated negligent acts committed in the same or different engagements, for the same or different clients, or any combination of engagements or clients, each resulting in a violation of applicable professional standards that indicate a lack of competency in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

(g) Willful violation of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

(j) Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information.

8. Section 5100.5 of the Code states in part:

(a) After notice and hearing the board may, for unprofessional conduct, permanently restrict or limit the practice of a licensee or impose a probationary term or condition on a license, which prohibits the licensee from performing or engaging in any of the acts or services described in Section 5051.

9. Section 5107 of the Code states in part:

(a) The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations of this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorney’s fees. The board shall not recover costs incurred at the administrative hearing.

(b) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the executive officer, shall be prima facie evidence of reasonable costs of investigation and prosecution of the case.

10. Section 5109 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a license, practice privilege, or other authority to practice public accountancy by operation of law or by order or decision of the board or a court of law, the placement of a license on a
retired status, or the voluntary surrender of a license by a licensee shall not deprive
the board of jurisdiction to commence or proceed with any investigation of or
action or disciplinary proceeding against the licensee, or to render a decision
suspending or revoking the license.

11. Section 5116 of the Code provides, in pertinent part, that the Board may order any
licensee or applicant for licensure or examination to pay an administrative penalty as part of any
disciplinary proceeding. Administrative penalties shall be in addition to any other penalties or
sanctions imposed on the licensee or other person, including, but not limited to, license
revocation, license suspension, denial of the application for licensure, denial of the petition for
reinstatement, or denial of admission to the licensing examination. Payment of these
administrative penalties may be included as a condition of probation when probation is ordered.

REGULATIONS

12. Title 16, California Code of Regulations, section 52 (Board Rule 52) states:

(d) A licensee shall provide true and accurate information and responses to
questions, subpoenas, interrogatories or other requests for information or documents
and not take any action to obstruct any Board inquiry, investigation, hearing or
proceeding.

13. Title 16, California Code of Regulations, section 58 (Board Rule 58) states:

Licensees engaged in the practice of public accountancy shall comply with all
applicable professional standards, including but not limited to generally accepted
accounting principles and generally accepted auditing standards.

APPLICABLE PROFESSIONAL STANDARDS

14. Professional standards of practice pertinent to this First Amended Accusation and
the engagement at issue include, without limitation: the American Institute of Certified Public
Accountants (AICPA) Statement on Standards for Consulting Services (CS 100).\(^1\) CS 100
indicates that the general standards of the CPA profession, as set forth in the AICPA Code of
Professional Conduct (CPC) are applicable. These standards are as follows:

\(^{1}\) The AICPA sets ethical and professional standards for the accounting profession.
(http://www.aicpa.org/About). Statements on Standards for Consulting Services are issued by the
AICPA Management Consulting Services Executive Committee, the senior technical committee
of the AICPA designated to issue pronouncements in connection with consulting services. The
AICPA Management Consulting Services Executive Committee as a body establishes
professional standards under the “Compliance with Standards Rule” (ET sec. 1.310.001) of the
AICPA’s Code of Professional Conduct. HSNO holds itself out as compliant with the AICPA
professional standards. (See paragraph 19, infra.)
<table>
<thead>
<tr>
<th>General Standard No.</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>Professional competence</td>
</tr>
<tr>
<td></td>
<td>Undertake only those professional services that the member or the member's firm can reasonably expect to be completed with professional competence.</td>
</tr>
<tr>
<td>2</td>
<td>Due Professional Care</td>
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<tr>
<td></td>
<td>Exercise due professional care in the performance of professional services.</td>
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<tr>
<td>3</td>
<td>Planning and supervision</td>
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<td></td>
<td>Adequately plan and supervise the performance of professional services.</td>
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<tr>
<td>4</td>
<td>Sufficient relevant data</td>
</tr>
<tr>
<td></td>
<td>Obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to any professional services performed.</td>
</tr>
</tbody>
</table>

15. With respect to the standard of due professional care, AICPA ET section 56.01 states:

The quest for excellence is the essence of due care. Due care requires a member to discharge professional responsibilities with competence and diligence. It imposes the obligation to perform professional services to the best of a member's ability with concern for the best interest of those for whom the services are performed and consistent with the profession's responsibility to the public.

16. CS 100 also includes the following requirements:

Client interest. Serve the client interest by seeking to accomplish the objectives established by the understanding with the client while maintaining integrity and objectivity.

Understanding with client. Establish with the client a written or oral understanding about the responsibilities of the parties and the nature, scope, and limitations of services to be performed, and modify the understanding if circumstances require a significant change during the engagement.

Communication with client. Inform the client of (a) conflicts of interest that may occur pursuant to interpretations of Rule 102 of the Code of Professional Conduct [ET section 102.03], (b) significant reservations concerning the scope or benefits of the engagement, and (c) significant engagement findings or events.

17. CS 100 cites the AICPA Code of Professional Conduct to define the terms integrity and objectivity:

Integrity requires a member to be, among other things, honest and candid within the constraints of client confidentiality. Service and the public trust should not be subordinated to personal gain and advantage. Integrity can accommodate the inadvertent error and the honest difference of opinion; it cannot accommodate deceit or subordination of principle.

2 AICPA Code of Professional Conduct, 2.100.001.01, Integrity and Objectivity Rule: "In the performance of any professional service, a member shall maintain objectivity and integrity, shall be free of conflicts of interest, and shall not knowingly misrepresent facts or subordinate his or her judgment to others."
Objectivity is a state of mind, a quality that lends value to a member's services. It is a distinguishing feature of the profession. The principle of objectivity imposes the obligation to be impartial, intellectually honest, and free of conflicts of interest.

18. With respect to duty owed by accountants to the public, AICPA ET section 53.01 to 53.02 state:

A distinguishing mark of a profession is acceptance of its responsibility to the public. The accounting profession's public consists of clients, credit grantors, governments, employers, investors, the business and financial community, and others who rely on the objectivity and integrity of certified public accountants to maintain the orderly functioning of commerce. This reliance imposes a public interest responsibility on certified public accountants. The public interest is defined as the collective well-being of the community of people and institutions the profession serves.

In discharging their professional responsibilities, members may encounter conflicting pressures from among each of those groups. In resolving those conflicts, members should act with integrity, guided by the precept that when members fulfill their responsibility to the public, clients' and employers' interests are best served.

19. Respondent HSNO advertises on its website that: "All employees abide by strict professional standards promulgated by the American Institute of Certified Public Accountants or other nationally recognized certifying or accrediting organizations."3

THE "GREAT PARK" AND ITS KEY PARTICIPANTS

20. Individuals and entities referred to in this First Amended Accusation include the following:

a. The Great Park: Generally, the Great Park refers to the approximately 1,347 acres contributed to the City of Irvine in or about 2005 which was previously occupied by the former Marine Corps Air Station El Toro. Respondent HSNO's engagements involved review of the largest development contracts from 2005 to 2012.

b. City of Irvine (or City): Respondent HSNO's client for each of the two engagement reports prepared by Respondent HSNO for the City Council of the City of Irvine (City Council) (together, Client).

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c. The Great Park Corporation (Great Park Corp.): The Great Park Corp. was formed by the City of Irvine in 2003 to design, construct, and maintain the Great Park.

d. Great Park Board: The Great Park Board of the Great Park Corp. included the five members of the City Council. The Great Park Board votes were presented as recommendations to the City Council.

e. Great Park Design Studio (Design Studio): The Design Studio was a joint venture between Ken Smith Landscape Architect, Inc. (Ken Smith) and Gafcon, Inc. (Gafcon). The Design Studio was the primary contractor during the Great Park Master Plan phase and a major contractor during the other design phases. The Design Studio performed services under two contracts for the Great Park Corp. and the City. The first contract was an “Agreement for Master Designer Services” (Master Design Contract or Contract 1) with Great Park Corp. dated March 9, 2006. Upon completion of the work pursuant to Contract 1, the Design Studio entered into a schematic design contract, on a “Standard Form of Agreement Between Owner and Architect” with the City (Schematic Design Contract or Contract 2).

f. Gafcon (a member of the Design Studio): Respondent HSNO wrote in its report: “Gafcon is a program and construction management firm that is based in San Diego. The principal of Gafcon is Yehudi Gaffen. Gafcon was added to the Ken Smith team to add large project experience. Gafcon was responsible for Design Studio invoicing, record keeping, subcontractor management, subcontractor invoicing with related payment and general operations.”

g. Paul Najar: Paul Najar is general counsel to Gafcon, and during the course of Gafcon’s joint venture with Ken Smith, he also acted as general counsel to the Design Studio.

h. Ken Smith (a member of the Design Studio): Ken Smith is a landscape architect based in New York City, and a joint venture member of the Design Studio.

i. Forde & Mollrich: Respondent HSNO wrote in its report: “Although not a part of the joint venture, Forde & Mollrich, was a political strategy and public relations firm, was a key member of the Design Studio team and a subcontractor to the Design Studio.” Forde & Mollrich had performed services for the City of Irvine from at least 1999.
j. Bovis Lend Lease (Bovis): During the Master Design Phase and later during the Schematic Design Phase, Bovis functioned as a Program Manager, whose responsibilities included reviewing Design Studio invoices. Brian Day was a Bovis Vice President and Principal-in-Charge for the Great Park project. A firm that Respondents describe as “PBS&J,” was initially hired as a subcontractor to Bovis and replaced Bovis as Program Manager in June 2009.

k. Mike Ellzey: Mr. Ellzey was the Chief Executive Officer of the Great Park Corp. beginning in 2008. Mr. Ellzey continued to be involved with the Great Park Corp. through at least the issuance of Respondent HSNO’s first report, described below.

l. Brendan McDevitt: Mr. McDevitt was a program manager with MCK Associates LLC when he was hired in October 2008 as a subcontractor to Bovis, at the request of the Great Park Corp.’s CEO, Mr. Ellzey. He was later contracted by PBS&J, Bovis’ successor.

m. Larry Agran: Mr. Agran was the former Chairman of the Great Park Board and former Mayor and City Councilman of the City of Irvine.

n. George Urch: Respondent HSNO stated that Mr. Urch was a subcontractor to Gafcon, a claim disputed by Gafcon. Mr. Urch, a Senior Public Agency Liaison, assisted the Great Park Corporation and the Great Park Board on a “wide variety of public affairs, communications, government affairs, transportation matters, and community outreach activity.”

o. The California State Auditor (State Auditor): The California Joint Legislative Audit Committee requested that the State Auditor issue a “report concerning the city of Irvine’s management of the Orange County Great Park contract performance review.” On August 9, 2016, the State Auditor issued Report 2015-116, titled “City of Irvine Poor Governance of the $1.7 Million Review of the Orange County Great Park Needlessly Compromised the Review’s Credibility.” Among other things, the State Auditor was critical of the City of Irvine’s engagement and management of Respondent HSNO, and the City of Irvine’s failure “to follow its policies and procedures when selecting and overseeing the consultants performing the park review.” Specifically, the State Auditor noted the following: “In contracting with HSNO .... Irvine did not ensure that the park review was conducted according to the industry standards most appropriate for achieving the city’s goals for the review.” (Emphasis added.)
Marsha Burgess: Marsha Burgess was a manager of the Great Park Corp. until in or about 2008.

q. Onisko & Scholz, LLP (Onisko): Onisko was an independent public accounting firm which was engaged to perform a contract compliance review of the Design Studio’s work on the Great Park project, which substantially covered the same contracts reviewed by Respondent HSNO. In its June 2012 report, Onisko made no “material findings” against the Design Studio, who cooperated with and did not impede the completion of Onisko’s work.4

INTRODUCTION

21. This matter arises from the City of Irvine’s engagement of Respondent HSNO to prepare two reports for which the firm was paid approximately $778,000. Yet, the reports prepared by Respondent HSNO contained misleading statements and failed to meet minimum professional standards that required due professional care, objectivity, and sufficient relevant data to support many of its findings and opinions. Respondent HSNO’s findings and conclusions included falsely portraying that certain parties had failed to cooperate with Respondents HSNO’s engagement, and that one party had double billed the City.5 Respondent HSNO used its own deficient findings to justify Respondent HSNO performing further work for the City.

22. Respondent HSNO originally agreed to complete its work for a maximum price of $240,000. However, in its first report, dated January 9, 2014 (Report 1), Respondent HSNO and Money falsely represented to the City Council and the public that Report 1 was “preliminary,” because of the “lack of cooperation” of certain Great Park contractors and persons. This “lack of cooperation” claim was misleading for two reasons. First, Respondent HSNO improperly, and without the background competence or expertise, issued a legal opinion that contractors had violated their contracts with the City by declining to submit to in-person interviews with Respondents. Second, Respondents mischaracterized their interactions with the contractors and

4 The Onisko report was the second contract compliance review of the Design Studio’s work on the Great Park project. A prior accounting firm, Diehl, Evans & Company, LLP (Diehl), had previously performed a contract review of the Great Park project on or about July 28, 2009. Diehl did not claim the Design Studio impeded its work.

5 Respondents were immunized from claims of defamation from those harmed by Respondents’ false and misleading statements under Civil Code section 47.
individuals. For example, Respondents agreed to send written questions to one contractor in lieu of a personal interview. Respondents then turned around and accused that contractor of failing to cooperate, even though they never followed up by sending any questions to that contractor.

23. Despite reaching out to contractors in early October 2013, Respondents took no action for three months to send these contractors any requests for information or documents. Unable to perform their agreed upon services on time and on budget (Respondent HSNO having already internally written off approximately $100,000), Respondents blamed these contractors for its report not being completed. In fact, Respondent HSNO and Money used the claimed lack of cooperation to “recommend” to the City that it use its “full authority” to compel the contractors “to cooperate with our performance review.”

24. After receiving Respondent HSNO’s Report 1, the City of Irvine, in reliance upon Respondents’ representation of the claimed non-cooperation of the contractors, re-engaged Respondent HSNO to write a second report. For this report, the City budgeted an additional purchase order of $400,000 for Respondent HSNO.

25. When Respondent HSNO accepted that purchase order, Respondent Money knew that the budgeted amount of $400,000 would be inadequate for Respondent HSNO to complete the second report without changing its scope. Respondent Money calculations estimated that the second report would cost the City of Irvine $200,000 to $300,000 above the budgeted amount of $400,000. Respondent HSNO did not disclose to the public and the full City Council that the budget was inadequate. Ultimately, the City paid Respondent HSNO approximately $778,000 for both engagements, after being billed approximately $850,000.

26. As set below, Respondents failed to comply with professional standards, engaged in numerous acts of negligence, and disseminated false and misleadingly information. Taken together, Respondent HSNO’s two reports constitute a failure to comply with the standards set forth in CS 100, which impose an obligation to be impartial and intellectually honest.

RESPONDENT HSNO’s REPORT 1:

27. Background: On or about June 17, 2013, the City of Irvine retained Respondent HSNO to conduct a “performance review” of the largest Great Park development contracts,
including Contract 1 and Contract 2 with the Design Studio, for a maximum of $240,000.

Respondent HSNO performed this review under what it describes as the “strict professional standards” set forth in the AICPA’s Statements on Standards for Consulting Services.\(^6\)

28. Respondent Money served as the lead HSNO partner for both engagements, with Respondent George serving as the Senior Manager. From or about June 2013 through on or about January 9, 2014, the procedures performed by Respondents included reviewing documents and meeting with City staff and some of the contractors involved in the Great Park project. Respondents Money and George, and another HSNO CPA, wrote the two reports, which were signed by Respondent Money.


A. Respondents’ False and Misleading Characterization of the Contractors’ and a Former Employee’s “Lack of Cooperation” and Conclusion that their Conduct Constituted a Contract Violation:

30. In Report 1, Respondents included an opinion that Forde & Mollrich and the Design Studio (i.e., Gafcon and Ken Smith) violated the “cooperation clause” of their contracts with the City of Irvine. Respondents did not have sufficient relevant data to conclude that the contractors’ preference for a written exchange of information constituted a failure to cooperate and Respondents were not competent to render a legal opinion on the contract.

31. Prior to the issuance of Report 1 on or about January 9, 2014, Respondents’ contacts with Forde & Mollrich, Design Studio, Gafcon, and Ken Smith were as follows:

32. **Respondent George Requested an Interview with Forde & Mollrich:** On or about October 9, 2013, Respondent George, with Respondent Money’s knowledge, requested an in-person interview of Forde & Mollrich. On or about October 10, 2013, Forde & Mollrich responded by asking that it be sent “any questions or requests for document production in writing and [it] will respond promptly. It is important for all involved that your report contain full, fair

\(^6\) http://www.hsno.com/about/ (retrieved January 25, 2019).
and accurate information and providing information to you in writing is the very best way to achieve this result.”

33. With Respondent Money’s knowledge, Respondent George reached an agreement with Forde & Mollrich to provide questions in writing to Forde & Mollrich in lieu of interviews. Respondent George wrote Forde & Mollrich that he would be:

...drafting questions for [Forde & Mollrich’s] response. Please understand that our original plan was to have more of a roundtable discussion knowing that depending on your response to some initial questions, that would lead to additional questions. I will send through our initial draft of questions once they are complete, please know that based on your responses, there will probably be additional sets of questions submitted to you, so the first set will not be final.

34. However, despite the passage of three months, Respondents never provided Forde & Mollrich with any written questions or written requests for documents prior to the issuance of Respondent’s Report 1.

35. **Respondent George Requested an Interview with Ken Smith:** On or about October 9, 2013, Respondent George telephoned Mr. Smith, a member of the Design Studio joint venture, and asked that he submit to an in-person interview. Mr. Smith called Gafcon’s CEO, Mr. Gaffen, to ask if he would accompany him to the interview. Upon learning of the requested interview, Mr. Najar called Respondent George to inquire about the specifics of the interview. Respondent George told Mr. Najar that Mr. Gaffen would be allowed to attend the interview with Mr. Smith, but that Mr. Smith would not be informed in advance as to which documents and services would be the subjects of the questioning. Mr. George further stated to Mr. Najar that the interview would be “on the record.”

36. Mr. Najar answered Respondent George’s demands by explaining that it would be impossible for any witness to be prepared on such short notice to discuss a project of the magnitude of the Great Park project, particularly where the Design Studio’s contracts had ended about four years previously. Mr. Najar informed Respondent George that Gafcon had fully cooperated with the prior two accounting reviews, which included the Onisko review of June 2012. Mr. Najar offered that in view of the passage of time and complexity of the matter, Gafcon
1 would cooperate and preferred to do so by responding to written questions and providing
requested documents so Gafcon could provide complete and accurate responses.

37. Respondent George acknowledged Mr. Najar’s position, stating that he “wouldn’t do
it either” (i.e., attend an interview under Respondent HSNO’s conditions). Respondent George
said he would discuss the issue with others at Respondent HSNO and get back to Mr. Najar.

38. In an email dated on or about October 9, 2013, Mr. Najar reinforced with Respondent
George that the “Great Park Design Studio is glad to cooperate with your firm’s audit regarding
the Great Park. In keeping with the practices of the last two City audit firms, we request that your
firm’s questions or requests for documents or information [be] provided to us, in writing, so we
[can] provide you with complete responses.” Despite the offer to cooperate, Respondents neither
requested an interview of any Gafcon personnel until the eve of issuance of Report 1, nor send
any questions to or request documents from Gafcon or the Design Studio.

39. Accordingly, on or about December 26, 2013, Mr. Najar wrote the City of Irvine’s
special counsel, who was assisting Respondent HSNO. He advised the special counsel that the
Design Studio had “not received any written requests for documents or information” and assumed
no information was required at that time. Mr. Najar had no reason to anticipate that Respondent
HSNO was meanwhile finalizing its Report 1 accusing the Design Studio and Gafcon of failing to
cooperate. He asked that City of Irvine’s special counsel contact him “if any information and/or
documents” were still needed.

40. On or about January 2, 2014, the City’s special counsel replied that Respondent
HSNO was only interested in an “in person, on the record conversation with Mr. Smith regarding
various documents and services provided by Gafcon and the Great Park Design Studio.”
(Emphasis added.) As of this time, Respondent HSNO had only requested an interview of Mr.
Smith, not Gafcon, although it would misrepresent in Report 1 that Gafcon had also failed to
cooperate.

41. On or about January 7, 2014, two days before the issuance of Report 1, the City’s
special counsel informed Mr. Najar that the “auditors believe that the City has the right to expect
your cooperation with the performance review in the manner which the auditors believe to be
appropriate” (emphasis added) without articulating any contractual or legal basis to justify its position that Respondent HSNO had the “right” to interview as it claimed.

42. During the three-month period from early October, 2013 to on or about January 9, 2014, Respondents never sent any questions or requested any documents from the Design Studio, Mr. Smith, Gafcon, or Forde & Mollich (as had been agreed to by Respondent George), to even attempt to address and resolve any issues of interest to Respondent HSNO. Neither did Respondent HSNO seek to verify its findings with the Design Studio, Mr. Smith, Gafcon, or Forde & Mollich prior to issuing them.

43. **Respondent HSNO Requests An Interview of Marsha Burgess.** In November, 2013, Respondent HSNO (apparently through the City’s special counsel) called Marsha Burgess, requesting that she agree to be interviewed about her work for her prior employer, the Great Park Corp. Ms. Burgess initially declined. However, within a few days, after speaking with employees at the City, she reconsidered and communicated to Respondent HSNO that she was willing to be interviewed. Prior to January 9, 2014, Respondent HSNO had failed to call Ms. Burgess back despite her offer to cooperate.

**B. Respondent Money’s Presentation of Report 1 on January 14, 2014 Reiterated the Misleading Lack of Cooperation Claim**

44. On January 14, 2014, Respondent Money delivered Respondent HSNO’s Report 1 to the City Council (the January 2014 Presentation), at a public City Council meeting. The City Council meeting was broadcast to the public over a webcast and video of the meeting was maintained on the City of Irvine’s website. In a presentation that took approximately two hours, Respondent Money outlined Respondent HSNO’s findings regarding the Great Park project. Respondent Money provided commentary on Respondent HSNO’s findings through a PowerPoint presentation of approximately 90 slides.

45. When Respondent Money presented Report 1 on January 14, 2014 at the Irvine City Council Meeting, he also made a misleading statement about the scope of HSNO’s review:

> [It] was a review of the City’s policies and the Great Park policies. [The] purpose and the scope was not to review the actions of any particularly contractor or subcontractor. It was not to determine whether or not expenses should or should not
have been incurred. It was not to measure the effect of any exceptions that we found and it was not to opine on value received for services rendered. It was merely a review of City's processes and where we found exceptions. It was identifying how those processes broke down and basically what happened.

46. Yet, Respondent HSNO did review the actions of particular contractors, did address expenses that Respondent HSNO indicated should not have been incurred, and did measure the effect of exceptions found, even though it failed to interview the Design Studio and Forde & Mollrich or seek documents or written responses from them.

47. In its presentation, Respondent HSNO displayed false and misleading slides on the claimed lack of cooperation by the Design Studio and Forde & Mollrich. Respondent Money presented a total of five slides titled the "Lack of Cooperation by Design Studio" and reiterated his legal opinion that "the Design Studio is not in compliance with the intent of the Contract."

48. Another slide stated: "Forde & Mollrich responded through legal counsel to our City appointed Special Counsel that they would only respond to questions in writing." These slides were false and misleading because the contractors had agreed to cooperate. Respondent HSNO made this accusation despite the fact that he knew Respondent HSNO had agreed to exchange information with Forde & Mollrich on a written basis, but failed to do so.

49. Respondent Money concluded his presentation by recommending that the City "should consider utilizing its full authority to compel individuals to cooperate with our performance review" or "to speak candidly." In response to Respondents' presentation, some members of the City Council complained that they had not received advance briefings or progress reports on Report 1. The council members commented negatively on the Design Studio’s lack of cooperation. A member of the public voiced his opinion that the Design Studio and Forde & Mollrich were being evasive and had "something to hide." Media outlets reported negatively about the Design Studio’s "lack of cooperation."

50. Respondents made the misrepresentations about the contractors' "lack of cooperation" even though (i) the Design Studio members and Forde & Mollrich had made themselves available to respond to written questions and produce documents, as they had done with prior accounting reviews, (ii) the subject contracts did not require in-person interviews, (iii) Respondents never asked the Design Studio or Forde & Mollrich written questions or asked for
documents; and (iv) Respondents never asked to interview Gafcon prior to January 7, 2014, at which point Respondents’ Report 1 was functionally final.

51. When later questioned about the Great Park engagement, Respondent Money made the following false and misleading statement to the CBA under penalty of perjury about Gafcon’s supposed “lack of cooperation:” Respondent Money stated that Gafcon “wouldn’t even provide us [i.e., Respondent HSNO] documents. We had to subpoena them.” This statement was false and misleading, in that Respondent HSNO never issued a subpoena for documents to Gafcon or even asked for documents prior to the issuance of Report 1 despite Gafcon repeatedly offering to produce documents. After issuance of Report 1, Gafcon voluntarily produced tens of thousands of pages of documents to Respondent HSNO without the documents being subpoenaed.

C. Respondent HSNO and Money Used The Lack of Cooperation Claim To Recommend that the City Compel Parties to Cooperate and Thereby Continue To Fund Respondent HSNO’s Engagement

52. In Report 1, Respondent HSNO concluded that “[b]ecause all relevant parties have not been interviewed, the findings in this report are preliminary. We therefore recommend that the City Council utilize its full authority to compel Gafcon, Ken Smith, and Forde & Mollrich to cooperate fully with our performance review.” Thus, by claiming that parties had not cooperated and its work was “preliminary,” Respondent HSNO needed the City to “compel” cooperation of parties to finish its work. This pretext served to justify the need for the City to pay Respondent HSNO for more work.

53. Consequently, in January 2014, the City of Irvine agreed to budget an additional $400,000 over and above the initial contract price of $240,000 for Respondent HSNO’s follow-on report based in part on the claimed “non-cooperation” of individuals and companies. The City relied on Respondent HSNO’s misleading lack of cooperation claim in awarding Respondent HSNO the further budget of $400,000. The City Council’s reliance was described in the “Resolution of the City Council of the City of Irvine Authorizing an Investigation Into

7 Respondent HSNO also inconsistently opined the “lack of cooperation did not impact our work related to [the] evaluation” of the City’s procedures.
Financial Management of the Orange County Great Park, Approving a Scope of Work For a
Forensic Investigation, and Authorizing the City Council Subcommittee and Retained Counsel to
Facilitate the Investigation and Issue Subpoenas,” dated January 28, 2014:

“WHEREAS HSNO...made recommendations for investigation of various
matters...because of non-cooperation by companies and individuals who billed for
and were paid for services in connection with the design and construction of the Great
Park...Based on the above, the City Council of Irvine approves the attached Scope of
Work for a forensic investigation into the financial affairs of the Irvine Great Park,
and designates HSNO to perform the investigation....” (Emphasis added.)

54. At the time Respondent Money agreed to the $400,000 purchase order, he knew the
sum was insufficient to perform the scope of services. At that time, he estimated that the work
would cost at least $600,000 to $700,000, and that he could only meet the $400,000 budget if the
scope of services were reduced.

55. Ultimately, Respondent HSNO invoiced the City of Irvine approximately $850,000
for both Report 1 and its follow-on report (Report 2), even though both reports violated
applicable standards with respect to several of their findings, as described below.

D. Respondents’ Report 1, Findings Re: Claimed Lack of Cooperation

56. In Report 1, Respondent HSNO made the following findings regarding a claimed lack of cooperation:

(i) There had been a “lack of cooperation by Design Studio” and that
“[Respondents] have attempted to have meaningful discussions with the two
principals of the Design Studio, Gafcon and Ken Smith ... We were
informed that although they offered to provide documents and respond to
written questions they declined to permit in-person interviews or
conversations.”

(ii) Respondents also wrote that “Forde & Mollrich has also refused to speak with
us” while failing to disclose in Report 1 or in its presentation that Respondent
HSNO had reached an agreement to provide questions to Forde & Mollrich
instead of in-person interviews.

57. Respondent HSNO further wrote that:
"Marsha Burgess, the Great Park employee responsible for the review of invoices relating to Forde & Mollrich, has also declined to speak with us. We understand that the City's special counsel has spoken to Marsha Burgess, and although she is not represented by an attorney, she still declines to speak with us regarding Great Park. [¶] We therefore, recommend that the City Council utilize its full authority to compel Marsha Burgess to cooperate with our performance review." [Emphasis added.]

58. In order to justify its position on the claimed lack of cooperation, Respondent HSNO's Report 1 pointed to the Onisko report. In describing the Onisko report, Respondent HSNO did not establish whether the Design Studio even possessed documents or information responsive to Onisko’s referenced inquiries, or whether an “interview” would have elicited different information. Report 1 did not include examples of the Design Studio providing written responses utilized by Onisko. Report 1 also failed to state that the Design Studio was provided an opportunity to comment on Onisko’s findings. As the Great Park Corp. staff noted:

After Onisko completed their field work, a set of questions and request for additional documentation was sent to [the Design Studio’s] authorized representative, Gafcon. Gafcon provided a written response to Onisko, which was incorporated into the final report. [Great Park] staff was also provided an opportunity to answer questions and provide a response to the issues and questions raised by the review.

59. The Onisko report “did not reveal any significant or material findings” pursuant to its contract compliance review, including with respect to the Design Studio.

60. Furthermore, Respondent HSNO did not disclose that it used written information exchanges with other parties for purposes of developing its findings in Report 1, including asking other contractors to confirm language Respondents drafted in Report 1.

61. **Conclusion:** Respondents did not exercise **due professional care** (General Standard No. 2) in reporting their findings on the claimed “lack of cooperation,” and did not act in a timely fashion to obtain relevant data when they inconsistently imposed their requirement that a written information exchange was unproductive to obtain relevant data. Finally, Respondents did not objectively characterize their interactions with the Design Studio members, Forde & Mollrich, or Ms. Burgess.
Respondents Violated Applicable Standards by Opining that a Preference for Written Information Exchanges by a Great Park Contractor Constituted a Failure to Cooperate Under the Subject Contracts:

62. Respondents violated applicable standards by opining that a preference for written information exchanges by a Great Park contractor constituted a failure to cooperate under the subject contracts.

63. In Report 1, Respondent HSNO made the following finding, rendering a legal opinion that: “the refusal to speak in person with us is not in keeping with the cooperation clause of the contract between the City and the Design Studio...”

64. Contract 2 did not require in-person interviews as requested by Respondents, and the City was not a party to Contract 1 with the Design Studio. Both Contract 1 and Contract 2, to the extent that they had not already been completed, expired, or terminated, did require in certain circumstances that the Design Studio and Forde & Mollrich provide access to documents from either the Design Studio members or Forde & Mollrich with its request for interviews pursuant to any term of any contract.

65. Conclusion: Respondents were not competent and did not have sufficient relevant data (General Standards 1 and 4) to conclude that Design Studio members not speaking in person with Respondent HSNO was “not keeping with the cooperation clause of the contract...”

66. In addition to Respondents’ violations in its report, Respondents did not rely upon any term of any contract, as was relying upon the opinions of parties opposed ‘lack of cooperation.’ Respondents did not have competing and did not have sufficient relevant data to conclude that Design Studio members were not speaking in person with HSNO.

67. Respondent HSNO made the following Finding 1 in its Report 1:

E. Respondent HSNO’s Report 1, Finding 1 Re: Missing $38 Million

The vast majority of tax increment revenue received by the PDA, a key component of the expected Great Park Financing, was not remitted to the Great Park Funds.

8. Respondent Money under penalty of perjury misrepresented to the CBA that Respondent HSNO was forced to issue subpoenas to obtain documents from Gafcon.

9. In addition to Respondents’ findings, Respondents did not request interviews as required by the cooperation clause of the contract between the City and the Design Studio.

10. Contract 1 and Contract 2 did not require in-person interviews as requested by Respondents and the City was not a party to Contract 1 with the Design Studio. Both Contract 1 and Contract 2, to the extent that they had not already been completed, expired, or terminated, did require in certain circumstances that the Design Studio and Forde & Mollrich provide access to documents from either the Design Studio members or Forde & Mollrich with its request for interviews pursuant to any term of any contract.

11. Respondents did not identify in Report 1 any terms of either Contract 1 or Contract 2.

12. Respondents did not request compliance from either the Design Studio members or Forde & Mollrich with its request for interviews prior to the issuance of Report 1.

13. In Report 1, Respondent HSNO made the following finding, rendering a legal opinion that: “the refusal to speak in person with us is not in keeping with the cooperation clause of the contract between the City and the Design Studio...”
68. Respondent HSNO's work on this Finding was outside its scope of work for the City of Irvine, and the City of Irvine's staff had instructed Respondent HSNO that its work on this Finding was outside the contract scope. Furthermore, Respondent HSNO departed from professional standards in developing and reporting this Finding as (i) Respondent HSNO failed to exercise due care in reaching its Finding, and (ii) Respondent HSNO lacked sufficient relevant data to support its Finding. Specifically:

69. **Respondent HSNO Did Not Have Sufficient Relevant Data to Support This Finding.** At the time he presented its Findings in January 2014, Respondent Money informed the City of Irvine that these funds, amounting to $38 million, “just weren’t received by the Great Park, so we don’t know where they are.” While Respondent Money informed the City of Irvine that he believed there was an explanation as to where the money was, Respondent HSNO did not know where it was, and if “it’s handled improperly, there needs to be some investigation as to where it went.” Subsequent to Respondent Money’s presentation, a city employee recounted her communication with Respondent Money that Respondent HSNO’s analysis of this issue was outside its scope of its contract, and informed the City Council that the money was in a required RDA set-aside account. Respondent Money agreed that explanation was “perfectly good.”

70. **In Reaching This Finding, HSNO failed to exercise due professional care, departing from CS 100’s requirement that it serve “the client interest by seeking to accomplish the objectives established by the understanding with the client while maintaining integrity and objectivity.”** The California State Auditor, in reviewing Respondent HSNO’s Finding, came to the same conclusion, writing in its report dated August 9, 2016 that:

Operating under standards requiring this type of communication with city staff or the city council would have helped identify a faulty conclusion that caused a great deal of unnecessary publicity. In its January 2014 report, HSNO concluded that the vast majority of tax increment revenue, a key component of the expected Great Park financing, had not been remitted to the Great Park Fund. Specifically, HSNO stated that Great Park had not received $38 million of these funds and that HSNO had attempted to determine how the funds were used, but reported that city staff told the firm that doing so was not within the scope of the park review contract. Nevertheless, HSNO reported on these funds in its January 2014 report. This finding led to numerous unnecessary reports by the media and others regarding concerns about the use of the funds. Subsequently, city staff was able to demonstrate how the city accounted for the funds. Had Irvine required HSNO to follow standards requiring it to communicate its intention to report what it believed to be missing funds as a
finding and to obtain feedback from Irvine before HSNO publicly issued its report, staff would have had the opportunity to provide the missing information, thus avoiding both damage to the credibility of the report and unnecessary criticism of Irvine and HSNO.

71. During the public comment portion of the January 14, 2014 City Council meeting, members of the public spoke to the City Council complaining about the Great Park project, with one citizen commenting on the $38 million “not being accounted for . . .” Similarly, media outlets carried stories about the unaccounted for $38 million. For example, on January 10, 2014, the Orange County Register ran a story, titled “Great Park audit questions spending,” that stated in part:

Millions of dollars spent on public relations and lobbying, contractors that weren't investigated ahead of time, $38 million of tax increment revenue that hasn't been accounted for, and a culture of political pressure of cronyism are among numerous issues raised in an audit of the Great Park released Friday to the public.

While $5.5 million worth of tax increment was transferred from the city's redevelopment agency to the Great Park, it isn't known what happened to another $38 million in revenue that should have also gone to the park, according to the auditors.

72. **Conclusion:** Respondent HSNO's Finding was not in compliance with the Second (due professional care) and Fourth (sufficient relevant data) General Standards.

**F. Respondent HSNO's Report 1, Finding 2 Re: Circumvention of Process**

73. Respondent HSNO made the following Finding 2 in its Report 1:

The Consultant Team process was circumvented when MCK was hired through PBS&J, the Program Manager.

74. Bovis functioned as the Program Manager for the City of Irvine during the Master Design phase, and later during the Schematic Design (Phase 2) from March 2006 through June 2009. During that time, Brian Day was a Bovis Vice President and the Principal-in-Charge for the Great Park project. In July 2007, Bovis retained PBS&J as a subcontractor related to the Program Manager role. Respondent HSNO's Report 1 states that Mr. Ellzey asked Mr. Day at Bovis to hire Mr. McDevitt in September 2008. Then, in October 2008, Mr. McDevitt was hired by Bovis as a sub-consultant. Subsequently, Mr. McDevitt became the principal program manager on behalf of the Great Park.
75. **Respondent HSNO Was Not Competent Regarding Mr. Ellzey’s Intent.**

Respondent HSNO identified concerns with the hiring of Mr. McDevitt, including that the Consultant Team selection process was purportedly not followed. Respondent HSNO expanded its Finding to identify the purported reason that Mr. McDevitt was hired in this way:

Mr. McDevitt was engaged in this fashion to conceal the true nature of his assignment from elected officials and the Design Studio.

76. Respondent HSNO reported on Mr. Ellzey’s purported intent in hiring Mr. McDevitt (i.e., “to conceal the true nature of his assignment …”). Respondent HSNO was not qualified to communicate this Finding because Respondent HSNO was not competent regarding, and did not possess any data concerning, Mr. Ellzey’s intent in hiring Mr. McDevitt. Until Respondent HSNO obtained sufficient relevant data to confirm the existence of a restriction, the alternative conclusion could have been drawn: Mr. McDevitt was hired in an appropriate manner (i.e., no circumvention had occurred).

77. **Respondent HSNO Did Not Adequately Consider Relevant Data.** Respondent HSNO’s Finding is either incorrect or at least incomplete. Respondent HSNO was not aware of any restrictions in the City of Irvine’s policies that prevented Bovis or PBS&J from hiring Mr. McDevitt as a subcontractor. Without the existence of such a restriction, Respondent HSNO had no data sufficient to support its finding that City of Irvine policy had been violated. Respondent HSNO’s Finding also included that Mr. McDevitt’s hourly rate was inflated to accommodate Mr. McDevitt’s travel costs, which were otherwise not reimbursable by City of Irvine policy. This aspect of the Finding indicates that the establishment of Mr. McDevitt’s rate circumvented City of Irvine policy. The data Respondent HSNO cited was a declaration by Mr. Day. But, Mr. Day’s declaration did not state that Mr. McDevitt’s rate was inflated. At a minimum, conflicting data was available on this Finding. Mr. Ellzey, for example, testified that Mr. McDevitt’s rate was not inflated, for travel costs or otherwise. Since Mr. Ellzey was the individual responsible for hiring Mr. McDevitt, Respondent HSNO should have sought data from Mr. Ellzey to establish whether its interpretation of Mr. Day’s views were objective.
78. **Respondent HSNO’s Finding Did Not Objectively Present Data Available From Mr. Ellzey Regarding Mr. McDevitt’s Retention.** Respondent HSNO’s scope of services referenced the prior contract compliance reviews performed by other accounting firms. In particular, the scope of Respondent HSNO’s work for Report 1 was to explore the findings in the July 2009 Contract Compliance Review. In the presentation of that report, Mr. Ellzey stated it was customary for the client to receive discussion drafts prior to the final report for several reasons, including to identify further information needed and to confirm the accuracy of factual matters—a process complied with by the prior accountants.

79. Respondent HSNO should have been aware of its Client’s expectation. Even if it was appropriate for Respondent HSNO to report upon Mr. Ellzey’s intent with respect to the retention of Mr. McDevitt, to exercise *due professional care* in conformance with the AICPA General Standard No. 2, Respondent HSNO should have determined whether other data was available to confirm or reject its hypothesis. As described below, Respondent HSNO failed to do so in a reasonable manner.

80. Mr. Ellzey’s written statement indicates that Respondent HSNO met with Mr. Ellzey on this issue. Therefore, Respondent HSNO had available to it, yet did not gather *sufficient relevant data* to present this Finding objectively (*i.e.*, it did not obtain, or at least did not report, data available from Mr. Ellzey, who was the subject of this Finding). Ultimately, Respondent HSNO was aware that Mr. Ellzey did not believe Respondent HSNO’s report objectively presented the circumstances surrounding Mr. McDevitt’s retention.

81. **Respondent HSNO Did Not Clarify This Finding In Report 2.** On or about June 4, 2014, Mr. Ellzey provided a written statement that, in part, addressed the circumstances surrounding the retention of Mr. McDevitt. Mr. Ellzey’s explanations contradicted Respondent HSNO’s finding that Bovis did not have a need for a subcontractor such as Mr. McDevitt. Although this data would have contributed to an objective presentation of this Finding, Respondent HSNO did not include such information in its reports. In Report 2, Respondent HSNO provided two citations to Mr. Ellzey’s above-referenced statement and one citation to Mr. Ellzey’s deposition; however, it is unclear whether Respondent HSNO withdrew some or all of its
Report 1 Finding with respect to the retention of Mr. McDevitt. Thus, a user of Report 1 would be left with the impression that Mr. Ellzey had, in fact, circumvented City policy despite the fact that Respondent HSNO possessed significant data indicating otherwise.

82. **Conclusion:** Respondent HSNO departed from CS 100 in multiple ways related to this Finding. First, Respondent HSNO was not competent to make a finding regarding Mr. Ellzey’s intent in hiring Mr. McDevitt (General Standard No. 1). Second, Respondent HSNO failed to gather sufficient relevant data regarding this Finding (General Standard No. 4). That is, additional data was readily available, including from the individual that was the subject of this Finding, but Respondent HSNO failed to obtain or communicate it. As a result, Respondent HSNO’s Finding was not an objective portrayal of the events. Thus, Respondent HSNO failed to apply due professional care in the performance of its work (General Standard No. 2).

G. **Respondent HSNO’s Report 1, Finding 7 Re: Gafcon Not Being Vetted**

83. Respondent HSNO made the following Finding 7 in its Report 1:

- City policy was not followed when Gafcon was not vetted.

84. **City Policy Did Not Require Gafcon’s References To Be Checked.** This Finding states unambiguously that Gafcon was not vetted. Respondent HSNO’s specific Finding was that the City of Irvine did not check Gafcon’s references, which was a purported violation of the City of Irvine’s policies. During its investigation of this issue, Respondent HSNO sought clarification regarding the City of Irvine’s policy in consideration of the fact that the Design Studio was comprised of multiple entities, including Gafcon (i.e., were references required in this situation, and if so, were references required for all entities?). However, Respondent HSNO did not obtain data sufficient to demonstrate that City of Irvine policy was not followed. In fact, Respondent Money later informed the CBA that the City of Irvine’s policy did not require Gafcon’s references be checked. Respondent HSNO’s failure to understand the City’s policy was remarkable in consideration of Respondent Money’s claim that Respondent HSNO’s work focused on the City’s policies. (See paragraph 45, supra.)

85. Ultimately, Respondent HSNO obtained data indicating that the City of Irvine, in 2013, could not locate the project file from approximately 2005 to provide documentary evidence...
that the references of all of the members of the Design Studio team (i.e., including Gafcon) had been checked. In the absence of the project file, Respondent HSNO assumed that Gafcon’s references had not been checked, and, therefore, Gafcon had not been vetted. Respondent HSNO’s conclusion, however, was contradicted by the data in its own files. Specifically, Respondent HSNO’s files indicate that Gafcon was a member of the Design Studio when the representatives of the City of Irvine performed a site inspection in New York during 2005. In fact, in Report 2, Respondent HSNO cites Gafcon’s presence during that site inspection in 2005 (prior to the selection of the Design Team in January 2006). Thus, Respondent HSNO’s Finding, which was expressed as a matter of fact, was not supported by either sufficient relevant data or consistent with HSNO’s own standards for presentation of findings (i.e., if data was inconclusive it was later withdrawn).

86. **Respondent HSNO Did Not Describe Whether Other Apparent Vetting of Gafcon Caused This Finding To Be Inconclusive.** Other available evidence, not addressed by Respondent HSNO, also existed that Gafcon was vetted by the City of Irvine. At the March 23, 2006 Great Park Board Meeting, Christina Lo (Templeton), the Great Park Corporation’s Manager of Engineering, indicated that reference checks were made on the firms that had submitted proposals to become the Program Manager for the Great Park, including Gafcon. As part of that process, Gafcon was recommended by the CEO of Heritage Fields, a Lennar entity, and others.

87. **HSNO Transformed This Finding in Report 2, But Continued to Lack Sufficient Relevant Data.** Report 2 augmented Finding 7 in Report 1 with a December 2005 statement by Diane Ghirardo, one of seven members of the design jury formed by the City of Irvine, as well as an interview with Ms. Ghirardo in 2015 (i.e., 10 years later). Respondent Money told the CBA that Ms. Ghirardo had not recommended the Ken Smith Design Team. This data, however, was not relevant to the Finding that Gafcon was not vetted or whether an exception to City of Irvine policy had occurred. Further, Respondent HSNO failed to reconcile Ms. Ghirardo’s opinion with, for example, the opinions of actual Great Park Board Members, including Councilwoman Shea, who described her assessment of Gafcon as follows:
Just to comment on Director Ray's comment about Gafcon, I will say that when I was back in New York [in December 2005], that the one, they provided the, the presentation to us, at least a portion of presentation, I was nothing but, blown over by the fact that they knew what they were doing and they really have a history of putting together a budgetary process that made me feel very comfortable.

88. Councilwoman Shea’s contemporaneous views indicate that Gafcon was vetted prior to the approval of the Design Studio in January 2006. Finally, this data contradicted Respondent Money’s assertion that HSNO’s work did not focus on a specific contractor.

89. **Conclusion: Respondent HSNO Departed from CS 100 in Finding 7 in Report 1:**
First, in reaching Finding 7 in Report 1, Respondent HSNO did not apply *due professional care*, because Respondent HSNO did not understand the City policy and a violation had not objectively occurred (General Standard No. 2). Second, Respondent HSNO had relevant data indicating that Gafcon was an entity known to the selection team, but Respondent HSNO did not adequately communicate this contradictory data in Report 1. In this way, Respondent HSNO failed to obtain *sufficient relevant data* to present the Finding objectively (General Standard No. 4).

**Respondent HSNO’s Report 1, Finding 12 Re: Contractor Being Over Paid**

90. Respondent HSNO made the following Finding 12 in its Report 1:

The Design Studio received payments for the same services twice.

91. This Finding communicated that Gafcon, a component entity of the Design Studio, was paid twice for the same services. In particular, Respondent HSNO observed that certain expenses were billed pursuant to Change Order 35 on a time and materials basis. Respondent HSNO’s concerns related to billings associated with a receptionist as well as reimbursable expenses, professional liability insurance premiums, and office supplies. Respondent HSNO considered these items to be fixed fees pursuant to Contract 5759.

92. **The Data Respondent HSNO Gathered Was Inconclusive to Support This Finding.**
Respondent HSNO asserted Report 1 was preliminary to the extent that it had not interviewed Gafcon. Here though, Respondent HSNO did not need to interview Gafcon. This Finding was a “contract interpretation issue,” where Respondent HSNO questioned whether Gafcon could bill these items on a time and material basis or whether these items were, instead, incorporated in the fixed fee component. Respondent HSNO acknowledged that this Finding was, in fact, a question.
Respondent HSNO, however, communicated the Finding as a declarative statement that Gafcon had been paid twice for the same services, and Respondent HSNO’s Client understood this Finding to communicate that Gafcon had been paid twice. Later, in Report 2, Respondent HSNO acknowledged, “We [HSNO] cannot conclude that Gafcon had duplicate billings on Contract 5759.” Thus, Respondent HSNO withdrew its Finding 12.

93. Conclusion: Respondent HSNO Departed from CS 100 In Reaching Finding 12 in Report 1. Respondent HSNO’s expression of this Finding exhibited a departure from the standard of due professional care (General Standard No. 2). That is, Respondent HSNO was focused on its subjective view that the City’s contract was a “bad contract.” Therefore, this Finding was not based on an objective evaluation of the available data.

94. Further, at the time Respondent HSNO’s Report 1 was issued, Respondent HSNO did not have sufficient relevant data to express this Finding. As described above, this Finding was still a question. Respondent HSNO therefore departed from CS 100 when it failed to acquire sufficient relevant data to support this Finding (or withhold expression of the Finding because it was uncertain about its reliability) (General Standard No. 4). Finally, Respondent HSNO’s communication of this Finding contradicted Respondent Money’s statement that Respondent HSNO did not “review the actions of a particular contractor.”

H. Respondent HSNO’s Report 1, Finding 13 Re: Inappropriate Subcontractor Services

95. Respondent HSNO made the following Finding 13 in its Report 1:

For the period July 2005 to December 2012, Forde & Mollrich received from the Great Park over $7.2 million for services related to Strategy and Public Relations. Of this amount, $6.3 million was included under contracts for design. Strategy and Public Relations do not appear to be consistent with design functions.

96. The entity relevant to this Respondent HSNO Finding was Forde & Mollrich. Report 1 also stated: “The involvement of Forde & Mollrich as a subcontractor to the Design Studio seems inappropriate.”
97. **Respondent HSNO Did Not Have the Expertise to Evaluate Forde & Mollrich’s Services and, Therefore, Was Not Competent to Reach This Finding.** Respondent HSNO did not possess the expertise to evaluate the work performed by Forde & Mollrich. Respondent HSNO’s lack of expertise on the relationship between public relations services and project design was noted by Respondent HSNO’s Client, the City Council, at the January 2014 Presentation. Further, prior to the inclusion of Forde & Mollrich in the Schematic Design contract, the then-CEO of the Great Park, Sharon Landers, described Forde & Mollrich’s strategy and communications services as a significant piece of the scope of that contract. Moreover, the specific nature of Forde & Mollrich’s services were articulated in a submission to the Great Park Board of Directors. Thereafter, the City Council and the Great Park Board approved the inclusion of Forde & Mollrich in the Schematic Design contract. Consequently, the request to include Forde & Mollrich was transparent and expressly connected to the Great Park project, and the CEO of the Great Park and Great-Park Board of Directors, who were knowledgeable about Forde & Mollrich’s services, contemporaneously approved the inclusion of its services.

98. **Respondent HSNO Did Not Identify Any City Policy Violated When Forde & Mollrich Was Retained as a Subcontractor.** Respondent Money informed the CBA that Finding 13 was actually limited to the fact that Forde & Mollrich should not have been a subcontracted member of the Design Team (i.e., a separate contractual arrangement should have been established for Forde & Mollrich’s services). Yet, Respondent HSNO did not identify any City of Irvine policy violated by the method in which Forde & Mollrich was retained.

99. **Conclusion: Respondent HSNO Departed from CS 100 In Reaching Finding 13 in Report 1:** The available data indicates that Respondent HSNO’s Client contemporaneously recognized that Forde & Mollrich’s services were related to the design process. In fact, the relationship between those two services had been expressly documented at the time Forde & Mollrich had been retained. In consideration of the data supporting the Great Park Board of Directors’ contemporaneous decision-making, Respondent HSNO was not competent to assert otherwise (General Standard No. 1).
100. In addition, Respondent HSNO did not exercise due professional care when it expressed this Finding 13 based on its subjective view (General Standard No. 2). That is, to support Finding 13, Respondent HSNO should have acquired sufficient relevant data to demonstrate that Forde & Mollrich was not appropriately retained as a subcontractor. Yet, Respondent HSNO did not identify any City of Irvine policy that had been violated by the retention of Forde & Mollrich in this way (i.e., a departure from General Standard No. 4).

I. **Respondent HSNO’s Findings Related To Mr. Urch**

101. Report 1 contains two Findings, 14 and 15, both of which are related to George Urch, a claimed subcontractor to Gafcon. Mr. Urch’s services relevant to Respondent HSNO’s Findings were specified and approved in Change Order 35, the largest change order (approximating $3.5 million) associated with the Design Studio’s Contract 5759. Within this Change Order, Mr. Urch’s services were described by Respondent HSNO as assisting the Great Park and its Board on a “wide variety of public affairs, communications, government affairs, transportation matters, and community outreach activity.” As alleged above, the Great Park Board included each of the members of the Irvine City Council.

J. **Respondent HSNO’s Report 1, Finding 14 Re: Mr. Urch’s Improper Services**

102. Respondent HSNO made the following Finding 14 in its Report 1:

   Mr. Urch’s services did not appear to be consistent with the scope of Change Order 35.

103. Respondent Money explained that Respondent HSNO was not calling into question the services provided by Mr. Urch, just the capacity of the individual with whom he was interfacing. Instead, Respondent Money stated that this Finding conveyed Respondent HSNO’s concern that Mr. Urch’s services should have been approved in a separate change order (i.e., distinct from Change Order 35).

104. **Respondent HSNO Did Not Effectively Report This Finding To Its Client.**

   Respondent HSNO’s reports do not appear to contain a description of the services Mr. Urch actually provided, an explanation as to why Mr. Urch’s services were incompatible with the other aspects of Change Order 35, or what City of Irvine policy required Mr. Urch’s services to be
documented in a separate change order. In Report 1, Respondent HSNO recommended further action on this Finding. Specifically, Respondent HSNO indicated that additional work should be done to determine whether Mr. Urch’s services were: 1) outside the scope of the actual contract, or 2) duplicative of other work. But, Respondent HSNO had not identified the presence of these issues. In fact, as to the first issue, Respondent Money informed the CBA that Respondent HSNO did not question whether Mr. Urch’s work was inconsistent with the scope of Change Order 35.

105. At the January 2014 Presentation, City Councilman and Great Park Chairman Agran described the services he witnessed performed by Mr. Urch that appeared to conform to the description of the services that were approved in Change Order 35. He stated:

“This business about George Urch...Whatever he reported, 367 or 380 hours. I’m sure it was true, but it wasn't for me as City Council Member, it was in support of my activities and other board members' activities, promoting the plan, promoting the design. I gave more than 50 presentations on the Great Park throughout Orange County. I gave at least five of them in Laguna Woods, our neighboring city and in other cities and for each and every one and they were all different, there was a group that wanted to hear more about this and more about that and I asked the Design Studio and I asked George Urch who was working for them, can you make sure that I have a decent PowerPoint, that I have new maps, that I have new handouts, will you help me on this, that or the other...I felt it was my duty to give a comprehensive annual report and those are all on tape and I got a lot of help putting those together. I wrote them, but I asked for a lot of help from staff so we could tell the story, year after year after year. In state of the park presentations and in separate presentations throughout Orange County. Frankly it surprises me that Mr. Urch did not list more hours for me. I appreciated his help.”

(Emphasis added.)

106. On the other hand, other City Council members interpreted Respondent HSNO’s finding to state Mr. Urch provided services to City Council members in a capacity other than as members of the Great Park Board. For example, Mayor Choi commented that Mr. Urch’s services raised questions regarding potential “unethical” conduct: “Why and what kind of work did he [Mr. Urch] do for our city council members, and who were they, and what kind of work did they do. If they did, what kind of violation was that and was that unethical.”

107. In these circumstances, Respondent HSNO did not effectively communicate its specific Finding (i.e., that Respondent HSNO did not take issue with the nature of his services but rather the apparent form of the agreement documentation). But, Respondent HSNO did not do so in January 2014 or thereafter, including in Report 2. In fact, this Finding was not addressed in
Report 2. Respondent Money informed the CBA that it was not significant enough to include at that time, which was inconsistent with Respondent HSNO’s inclusion of this Finding in Report 1.

108. **HSNO’s Finding Is Subjective.** Respondent Money informed the CBA that this Finding addressed the “real scope of the contract.” In other words, Respondent HSNO viewed the scope of its work to encompass an assessment of the purpose of the parties’ contracting. Respondent HSNO’s engagement, however, was to focus on compliance-related aspects of actual contracts. Respondent HSNO was contracted to analyze whether an exception to the City of Irvine’s policy occurred when Mr. Urch’s services were approved as a component of Change Order 35. Respondent HSNO did not perform this step. Respondent HSNO’s scope of services did not require Respondent HSNO to report concerns regarding the nature of services that could be bundled into a single contract approval. To the extent Respondent HSNO’s Finding was that Mr. Urch’s retention required a separate Change Order or other form of agreement, Respondent HSNO failed to state the basis for reaching that conclusion.

K. **Respondent HSNO’s Report 1, Finding 15 Re: Improper Services for City Council Members**

109. Respondent HSNO made the following Finding 15 in its Report 1:

> Descriptions on Mr. Urch’s time sheets under Change Order 35 indicated that he performed work for individual City Council members and billed the time to the Great Park.

110. Based on a review of Mr. Urch’s invoices, Respondent HSNO identified $33,840 that contained some reference to work that appeared to have been performed for individual City Council members. This amount comprised less than one percent of the amount incurred in Change Order 35.

111. **Respondent HSNO Did Not Have Sufficient Relevant Data to Support This Finding.** The only data Respondent HSNO cited in Report 1 in support of Finding 15 was Respondent HSNO’s review of the line-item descriptions on Mr. Urch’s invoices. This data source was insufficient for Respondent HSNO to report to its Client that Mr. Urch’s work was performed for City Council members acting in that capacity, as compared to the same individuals operating as Great Park Board Members (i.e., the nature of Respondent HSNO’s Finding).
112. **Respondent HSNO’s Report Did Not Effectively Communicate This Finding To Its**

**Client.** Respondent Money later stated to the CBA that this Finding was applicable even if Mr. Urch performed services for City Council members acting in their capacity as Great Park Board Members. Respondent Money told the CBA that this Finding was a “governance” issue; Respondent HSNO was apparently concerned about either Great Park Board members or City Council members directing the work of contractors. Respondent HSNO’s reports did not adequately communicate the nature of this Finding to its Client. Respondent HSNO’s Report 1 does not contain a reference to “governance,” including as it related to Finding 15. Similarly, Respondent HSNO’s Report 2 does not reference “governance” as a concern. In fact, as it relates to Mr. Urch, the relevant Finding in Report 2 appears limited to the statement “Mr. Urch was hired at the recommendation of Mr. Agran.” Thus, Respondent HSNO did not report this Finding in such a way that it communicated the apparent nature of Finding 15.

113. Further, this Finding was not communicated in a reasonable manner because it was prone to misinterpretation by Respondent HSNO’s Client. That is, a reasonable interpretation of this Finding was that City Council members had used Mr. Urch to divert Great Park resources for purposes unrelated to the Great Park. To be objective, as required by professional standards, Respondent HSNO’s report should have, at a minimum, included additional data to enable its Client to have a sufficient understanding of Finding 15.

114. **Conclusion: Respondent HSNO Departed from CS 100 Related to Findings 14 and 15:**

*First,* Respondent HSNO did not employ *due professional care* to communicate these Findings to its Client objectively (General Standard No. 2). As a result, different Client recipients interpreted Respondent HSNO’s Findings in significantly different ways. Respondent HSNO did not reconcile these interpretations either when Report 1 was presented in January 2014 or any time thereafter, including when Respondent HSNO issued Report 2. *Second,* Respondent HSNO’s reported Findings were not based upon *sufficient relevant data* (General Standard No. 4). *Third,* Respondent Money characterizes this Finding as a governance-related issue. But, governance was not an issue communicated in Respondent HSNO’s Report 1. Further, assuming this issue was adequately communicated in Respondent HSNO’s Report 1, such a Finding was not supported by
sufficient relevant data (General Standard No. 4). Fourth, this issue appears to be a legal concern rather than a matter within the competence of HSNO (General Standard No. 1).

**RESPONDENTS’ REPORT 2 ALSO VIOLATED APPLICABLE STANDARDS**

115. **Background re Respondent HSNO’s Report 2:** On or about March 23, 2015, Respondent HSNO issued its second report related to the Great Park Forensic Contract Performance Review (i.e., Report 2). Respondent HSNO described Report 2 as follows:

On January 29, 2014, HSNO was engaged by the City to perform additional services under the June 17, 2013 contract. This report is our final report and supersedes our preliminary report dated January 9, 2014.

116. Report 2 further stated:

... documents have been reviewed. Some areas of inquiry did not result in clear enough information needed to reach conclusions for a final report. Some of the information and documents obtained appeared to warrant further investigation and inquiry. Where the performance review has ultimately lead to an inconclusive determination, the preliminary findings and areas of inquiry are hereby withdrawn from this analysis.

117. Thus, Respondent HSNO’s Report 2 suggests that unless a particular Finding from Report 1 was also addressed in Report 2, the Finding was no longer applicable. Respondent HSNO later informed the CBA, however, that all of its Findings in Report 1, except where specifically modified in Report 2, remain intact, despite having characterized the findings in Report 1 as “preliminary.” Report 2, however, contains only seven specific Findings (as compared to at least 21 Findings in Report 1). Yet, the Findings in Report 2 are not linked or referenced to the Findings in Report 1, and, in at least some instances, appear unrelated to the Findings in Report 1. Thus Respondent HSNO never corrected or clarified the “preliminary” findings in Report 1.

I. **Respondent HSNO’s Report 2, Finding 1 Re: Mayor Agran Misleading the Public**

118. Respondent HSNO made the following Finding 1 in its Report 2:

Mr. Agran mislead [sic] the public on January 23, 2006, when he said the Great Park could be built for $401 million, when he had been previously told in November 2005 it would cost approximately $1 billion.
119. Respondent Money stated that this Finding constituted a significant allegation against a public official.

120. Respondent HSNO departed from professional standards in developing and reporting this Finding as (i) Respondent HSNO was not competent to make the Finding, (ii) Respondent HSNO failed to exercise due care in reaching its Finding, and (iii) Respondent HSNO lacked sufficient relevant data to support its Finding. Specifically:

121. **First, Respondent HSNO Was Not Competent Regarding Mr. Agran’s Intent.**

Respondent HSNO was not *competent* (as required by General Standard No. 1), and did not possess *sufficient relevant data* (as required by General Standard No. 4), regarding Mr. Agran’s intent to make Finding 1.

122. **Second, Respondent HSNO Did Not Objectively Report Mr. Agran’s Statement.** The context of Mr. Agran’s January 23, 2006 speaking points concerned the rationale for the selection of the Ken Smith Design Team to prepare the Great Park master design (*i.e.*, providing the basis for an update to the then-existing 2004 Plan associated with the Great Park). Specifically, the agenda for this Great Park Board meeting called for a vote to approve the Ken Smith Design Team. Mr. Agran’s comments commenced at about 3 hours 4 minutes into the meeting, after Mr. Agran had been speaking for nine minutes about the selection process. There was no budget attached to this vote by the Great Park Board. There was also no fixed design plan that had been drafted whereby Ken Smith expressed the Great Park could only be developed for $1 billion.

123. Further, Respondent HSNO’s finding that Mr. Agran was misleading the public that the Great Park “could be built for $401 million” misstated Mr. Agran’s comment, which was:

> What I also learned on the visit to New York is that within the $401 million available to us, $201 million buried, for the most part, in the ground in backbone infrastructure, and $200 million above ground, we can expect to see a master design that comfortably fits within the $200 million above ground and includes ...

124. Thus, Mr. Agran’s statement continued to address elements of the possible master design for the Great Park that could be expected. Mr. Agran did not, however, commit to the public that all of the hoped-for design elements “could be built for $401 million” as Respondent HSNO reported.
Third, Respondent HSNO's Report Did Not Address Other Plausible Data Underlying Mr. Agran's Statement. For example, on or about December 16, 2004, a little over a year before Mr. Agran's statement, a Business Plan for the Great Park was developed that projected sources of funds including $401 million from Lennar and community facility district bonds, as well as $15 million of annual operating revenue (the 2004 Plan). Thus, the 2004 Plan contemplated other sources of funds to develop the Great Park, including Redevelopment Agency (RDA) funds. In fact, HSNO stated in Report 2 that the "planned source of funds at this time was projected to be $672 million." By September 2006, the funding sources were projected to be $1.45 billion. Given the discrepancy between the $401 million figure cited by Mr. Agran and the then-current outlook for funding (i.e., more than $600 million), Respondent HSNO should have determined whether its Finding objectively reported the facts associated with the statement.

Further, Respondent HSNO lacked sufficient relevant data to rule out other plausible explanations for Mr. Agran's comment. For example, in his statement, Mr. Agran uses language, such as "likely" and "possibly," that suggests design elements as options rather than predetermined features. Accordingly, Respondent HSNO also could not have known whether Mr. Agran had continued to operate on the approximate $400 million funding and cost assumption in the then-current 2004 Plan, but allow the Ken Smith Design Team to conduct the work necessary to create an informed cost estimate to be presented for public disclosure. Other Great Park Board members and city staff had been presented with the same $1 billion estimate, but did not object to Mr. Agran's statement. Mr. Agran could have concluded the cost estimate of the Great Park would evolve as the master design process proceeded as articulated in the 2004 Plan. However, unless and until Respondent HSNO resolved these potential ambiguities, Respondent HSNO had not gathered sufficient relevant data to conclude Mr. Agran's statement was inaccurate, which was necessary before Respondent HSNO could reasonably conclude that Mr. Agran had misled the public.

Further Evidence That Respondent HSNO Did Not Have Sufficient Relevant Data to Report That Mr. Agran Believed the Cost of the Elements Described in His Statement Would Be $1 Billion. In its Report 2, Respondent HSNO cited all the data it had acquired to support its
finding, but failed to reconcile the cost of the elements described by Mr. Agran with the claimed contradictory $1 billion "very preliminary cost" estimate. Absent a reconciliation, Respondent HSNO lacked sufficient relevant data to conclude the nature of the two amounts were identical. Consequently, Respondent HSNO did not validate that its hypothesis of what Mr. Agran was communicating was consistent with what Mr. Agran was actually attempting to communicate (e.g., through interview or deposition).

128. Respondent HSNO’s Finding Is Also Flawed Because It Did Not Have Data Indicating That the Public Had Been Misled. Despite Report 2 having been prepared more than nine years after Mr. Agran’s statement, Respondent HSNO failed to identify any data, including, contemporaneous media reports, supporting its finding that the public had been misled by Mr. Agran’s comment. In contrast, there were press reports in August 2005—months prior to the statement at issue—similarly characterizing the Great Park project as a $1 billion project.

129. Therefore, Respondent HSNO Departed from CS 100 In Making This Finding.

First, Respondent HSNO reached this finding regarding Mr. Agran, despite it being outside the scope of work which HSNO was engaged to perform. Second, Respondent HSNO was not qualified to make the finding because Respondent HSNO was not competent regarding, and did not possess sufficient relevant data concerning, Mr. Agran’s intent in making the statement. Third, Respondent HSNO faulted Mr. Agran for asserting that the Great Park “could be built for $401 million.” But, Mr. Agran did not state that the Great Park “could be built for $401 million.” Respondent HSNO did not resolve the ambiguity regarding the nature of Mr. Agran’s actual statement prior to expressing this Finding. As such, Respondent HSNO’s Finding was not an objective presentation of Mr. Agran’s statement. Fourth, Respondent HSNO did not gather sufficient relevant data to support this Finding. Specifically, Respondent HSNO did not gather any data to ascertain whether the public had, in fact, been misled—and the evidence available to Respondent HSNO indicated that the public was aware, prior to January 2006, that the cost to develop the Great Park would reach $1 billion.

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130. **Conclusion:** Respondent HSNO's Finding was not in compliance with the First (competence), Second (due professional care), and Fourth (sufficient relevant data) General Standards.

**FIRST CAUSE FOR DISCIPLINE**

*(Failure to Comply with Professional Standards against Respondents HSNO, Money and George)*

131. Respondents HSNO, Money and (for those matters set forth in subparagraph a.1 to 3 below only) George, and each of them, are subject to disciplinary action under Business and Professions Code section 5100, subdivision (g), in connection with Board Rule 58, in that Respondents, and each of them, failed to comply with applicable professional standards, and, specifically, the following, each of which violated CS 100 and the AICPA Code of Professional Conduct:

As to Respondents HSNO, Money and George:

a. Report 1, pages 8 to 10 re “lack of cooperation” finding and opinion:
   1. Respondents did not objectively report this finding.
   2. Respondents were not competent to offer an opinion that a preference for written information exchanges by a Great Park contractor constituted a failure to cooperate under the terms of the contracts at issue.
   3. Respondents did not have sufficient relevant data to offer an opinion that a preference for written information exchanges by Great Park contractors constituted a failure to cooperate.

As to Respondents HSNO and Money:

   5. Respondents lacked sufficient relevant data.

   6. Respondents were not competent.
   7. Respondents did not exercise due care.
8. Respondents lacked sufficient relevant data.


d. Report 1, Finding 7 10. Respondents lacked sufficient relevant data.


e. Report 1, Finding 12 12. Respondents lacked sufficient relevant data.

f. Report 1, Finding 13 13. Respondents were not competent.


g. Report 1, Finding 14 16. Respondents were not competent.

g. Report 1, Finding 14 17. Respondents did not exercise due care.

g. Report 1, Finding 14 18. Respondents lacked sufficient relevant data.

h. Report 1, Finding 15 19. Respondents were not competent.


i. Report 2, Finding 1 22. Respondents were not competent.


132. Cumulatively, the above violations of professional standards in Respondents’
engagements with its Client constitute a failure to comply with the objectivity standards set forth
in CS 100 of the AICPA Code of Professional Conduct, which imposes an obligation to be
impartial and intellectually honest.

133. The circumstances are set forth above.

SECOND CAUSE FOR DISCIPLINE

(Repeated Acts of Negligence in Failing to Comply with Professional Standards
against Respondents HSNO, Money and George)

134. Respondents HSNO, Money and George (for those matters set forth in paragraph 131
a.1 to 3 above), and each of them, are subject to disciplinary action under Business and
Professions Code section 5100, subdivision (c), in that Respondents, and each of them, engaged
in repeated acts of negligence that indicate a lack of competency in the practice of public accountancy.

135. The circumstances are set forth above.

THIRD CAUSE FOR DISCIPLINE

(Dissemination of False or Misleading Information Against Respondents HSNO and Money)

136. Respondents HSNO and Money, and each of them, are subject to disciplinary action under Business and Professions Code section 5100, subdivision (j), in that Respondents, and each of them, knowingly prepared, published or otherwise disseminated a materially misleading report or information.

137. The circumstances are set forth above, particularly in connection with:

a. Respondents HSNO and Money’s misleading “opinion” that “the refusal to speak in person with us is not in keeping with the cooperation clause of the contract between the City and the Design Studio”; and

b. Respondents HSNO and Money’s misleading representations that “Forde & Molrich has also refused to speak with us” and that “Forde & Molrich responded through legal counsel to our City appointed Special Counsel that they would only respond to questions in writing.”

c. Respondents HSNO and Money’s misleading representations that Gafcon would not cooperate were false and misleading, in that Respondents had only expressly requested to speak with Mr. Smith, at least up until January 7, 2014, two days before Report 1 was issued.

d. Respondents HSNO and Money’s Report 1, Finding 1, that: “The vast majority of tax increment revenue received by the RDA, a key component of the Great Park financing was not remitted to the Great Park funds”; e. Respondents HSNO and Money’s Report 1, Finding 7, that “City policy was not followed when Gafcon was not vetted”; f. Respondents HSNO and Money’s Report 1, Finding 12, that: “The Design Studio received payments for the same services twice”;
138. Respondents HSNO and Money knew or should have known that it was materially misleading to issue a legal "opinion" that "the refusal to speak in person with us is not in keeping with the cooperation clause of the contract between the City and the Design Studio" when they were not competent to render an opinion beyond their expertise and the subject contracts—to the extent the limited obligations thereunder had not ended—did not require in-person "on the record" meetings as demanded by Respondent HSNO.

139. Respondents HSNO and Money knew or should have known that their statements that "Forde & Mollrich has also refused to speak with us" and Respondents HSNO and Money's presentation statement that "Forde & Mollrich responded . . . that they would only respond to questions in writing" were false and materially misleading in that Respondents HSNO and Money knew that Forde & Mollrich had in writing agreed to cooperate with Respondent HSNO pursuant to their mutual agreement that written answers were acceptable.

140. Furthermore, Respondents HSNO and Money knew their representations in Report 1 that Gafcon would not cooperate were false and misleading, in that Respondents had only expressly requested to speak with Mr. Smith, at least up until January 7, 2014, two days before Report 1 was issued.

141. Respondents HSNO and Money knew or should have known that Report 1, Finding 1 was materially misleading. Respondents HSNO and Money did not know at the time whether the funds had been handled properly or improperly, yet worded the finding in a way that misled readers into believing that $38 million in funds were missing.

142. Respondents HSNO and Money knew or should have known that Report 1, Finding 7 was materially misleading. Respondents HSNO and Money did not know at the time that Gafcon had not been vetted in violation of City policy, and, in fact, Respondent Money later informed the CBA that the City of Irvine policy was not violated. Furthermore, Respondents HSNO and Money knew or should have known that at the March 23, 2006 Great Park Board Meeting Christina Lo (Templeton) indicated that reference checks were made on the firms that submitted proposals to become Program Manager for the Great Park, including Gafcon.
Respondents HSNO and Money knew or should have known that Report 1, Finding 12 was materially misleading. For example, City of Irvine Councilperson Christina Shea stated on January 14, 2014: “The issue of double payments to contractors, that’s public money, no one should be paid double for anything.” Respondents HSNO and Money did not possess sufficient relative data to find that the Design Studio, which included Gafcon, in fact received payments for the same services twice. In Report 2, written 14 months later, Respondents HSNO and Money admitted that “We [Respondents] cannot conclude that Gafcon had duplicate billings in Contract 5759.”

FOURTH CAUSE FOR DISCIPLINE
(Violation of Board Rule 52 Against Respondent Money Only)

144. Respondent Money is subject to disciplinary action under Business and Professions Code section 5100, subdivision (g), in connection with Board Rule 52, subdivision (d), in that Respondent Money provided untrue and inaccurate information and responses to questions by the CBA when he falsely asserted that Gafcon “wouldn’t even provide us [i.e., Respondent HSNO] documents. We had to subpoena them.” This statement, made under penalty of perjury to convey to the CBA how uncooperative Gafcon had been, was false and materially misleading, in that Respondent HSNO never issued a subpoena for documents to Gafcon, or even asked for documents from Gafcon, prior to the issuance of Report 1. This statement was made despite Gafcon repeatedly offering to produce documents to Respondent HSNO prior to Report 1. After issuance of Report 1, Gafcon voluntarily produced tens of thousands of pages of documents to Respondent HSNO without those documents being subpoenaed.

FIFTH CAUSE FOR DISCIPLINE
(Dissemination of False or Misleading Information Against Respondent Money Only)

145. Respondent Money is subject to disciplinary action under Business and Professions Code section 5100, subdivision (j) in that Respondent Money provided untrue and inaccurate information and responses to questions by the CBA when he falsely asserted that Gafcon “wouldn’t even provide us [i.e., Respondent HSNO] documents. We had to subpoena them.” This statement, made under penalty of perjury to convey to the CBA how uncooperative
Gafcon had been, was false and materially misleading, in that Respondent HSNO never issued a
subpoena for documents to Gafcon, or even asked for documents from Gafcon, prior to the
issuance of Report 1. This statement was made despite Gafcon repeatedly offering to produce
documents to Respondent HSNO prior to Report 1. After issuance of Report 1, Gafcon
voluntarily produced tens of thousands of pages of documents to HSNO without those documents
being subpoenaed.

SIXTH CAUSE FOR DISCIPLINE
(Dissemination of False or Misleading Information Against All Respondents)

146. Respondents HSNO, George and Money are subject to disciplinary action under
Business and Professions Code section 5100, subdivision (j), in that Respondent George with
Respondent HSNO and Money’s knowledge and consent, knowingly prepared, published or
otherwise disseminated a materially misleading report or information when Respondent George
wrote Forde & Mollrich that Respondent HSNO agreed to prepare, and that he would send,
written questions to Forde & Mollrich rather than conduct an in-person meeting. Respondent
George failed to send the written questions as represented, and then concurred in the false
assertion of Respondent HSNO and Money that Forde & Mollrich had failed to cooperate with
Respondent HSNO, when he knew that assertion to be false and misleading.

SEVENTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct Against All Respondents)

147. Respondents HSNO, George and Money are subject to disciplinary action under
Business and Professions Code section 5100, in that the aforementioned conduct, alleged above,
constitutes unprofessional conduct.

DISCIPLINARY CONSIDERATIONS

148. In determining the appropriate level of discipline, Complainant requests that
consideration be given to the harm caused by Respondent HSNO’s Report 1 and Report 2.
Specifically:

a. As a result of Respondents’ unprofessional conduct described herein, Gafcon
suffered millions of dollars in damages, including lost profits and out-of-pocket
expenses, attorneys' and public relations fees, and increased insurance fees and premiums.

b. Respondents' erroneous findings were widely reported in the press, harming the public and persons whose conduct was misleadingly characterized by Respondents in violation of the applicable standards, as alleged above.

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the California Board of Accountancy issue a decision:

1. Revoking or suspending, restricting, limiting or otherwise imposing discipline upon Certified Public Accountancy Corporation Number COR 202, issued to Respondent Hagen, Streiff, Newton & Oshiro, Accountants, P.C.;

2. Revoking or suspending, restricting, limiting or otherwise imposing discipline upon Certified Public Accountant Certificate Number 48019, issued to Respondent Christopher Kent Money;

3. Revoking or suspending, restricting, limiting or otherwise imposing discipline upon Certified Public Accountant Certificate Number 112486 issued to Respondent Jeffrey Boyden George;

4. Ordering Respondents Hagen, Streiff, Newton & Oshiro, Accountants, P.C., Christopher Kent Money, and Jeffrey Boyden George to pay the California Board of Accountancy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 5107;

5. Ordering Respondents Hagen, Streiff, Newton & Oshiro, Accountants, P.C., Christopher Kent Money, and Jeffrey Boyden George to pay the California Board of Accountancy an administrative penalty pursuant to Business and Professions Code section 5116; and,

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(HAGEN, STREIFF, NEWTON & OSHIRO, ACCOUNTANTS, P.C. CHRISTOPHER K. MONEY, JEFFREY B. GEORGE) FIRST AMENDED ACCUSATION
6. Taking such other and further action as deemed necessary and proper.

DATED: March 7, 2019

PATTI BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

Christopher K. Money, Jeffrey B. George

(HAGEN, STREIFF, NEWTON & OSHIRO, ACCOUNTANTS, P.C.)

FIRST AMENDED ACCUSATION
Exhibit B- Citation against Respondent Christopher Kent Money
(Business and Professions Code section 125.9 and title 16, California Code of Regulations § 95)
CALIFORNIA CODE OF REGULATIONS
TITLE 16. Professional and Vocational Regulations
DIVISION 1. Board of Accountancy Regulations
ARTICLE 9. Rules of Professional Conduct

SECTION 58. Compliance with Standards.
Licensees engaged in the practice of public accountancy shall comply with all applicable professional standards, including but not limited to generally accepted accounting principles and generally accepted auditing standards.

Description of Violation:
On or about January 9, 2014 and March 23, 2015, Respondent Christopher K. Money was the engagement partner when Hagen, Streiff, Newton & Oshiro, Accountants, P.C. (HSNO) issued reports titled “Orange County Great Park Forensic Contract Performance Review.” The reports issued by HSNO and prepared by Christopher K. Money failed to comply with applicable professional standards, specifically, the American Institute of Certified Public Accountants (AICPA) Statement on Standards for Consulting Services and the AICPA Code of Professional Conduct, specifically, General Standard No. 1 – Professional Competence, General Standard No. 2 – Due Professional Care, and General Standard No. 4 – Sufficient Relevant Data.

Order of Abatement:
• Comply with all CBA statutes and regulations

Time to Correct:
• 30 days / By DATE

Administrative Fine:
• $5,000
• Due by DATE.
• Make payable to the CBA by Cashier's Check, Personal Check or Money Order and remit to the CBA at the following address:

California Board of Accountancy
2450 Venture Oaks Way, Suite 300
Sacramento, CA 95833