

**PROCEEDINGS BEFORE THE
WASHINGTON STATE BOARD OF ACCOUNTANCY**

In the Matter of the Certified Public
Accountant (CPA) Certificate and/or
Licenses to Practice Public Accounting of:

Laura P. Messenbaugh
License No. 26326

Respondent.

No. ACB-1456

CONSENT AGREEMENT

The Washington State Board of Accountancy (Board) and Laura P. Messenbaugh (Respondent), stipulate and agree as follows:

Section I: Procedural Stipulations

- 1.1 Respondent understands that the Board has issued a statement of charges in this matter and may proceed to a hearing before the Board upon the merits of said charges. This Consent Agreement is in order to facilitate resolution of this matter in accordance with the legislative intent endorsed in RCW 34.05.060 and the provisions of WAC 4-30-140.
- 1.2 Respondent understands that should the Board prevail at hearing based on a statement of charges that the Board has the power and authority to deny, suspend, revoke, or refuse to renew the Respondent's CPA certificate or any individual or firm licenses to practice public accounting as a CPA or CPA firm in Washington and may impose a fine plus the Board's investigative and legal costs in bringing charges or impose conditions precedent to renewal of the certificate or license, or impose full restitution to injured parties.
- 1.3 Respondent has the right to defend against a statement of charges by demanding a hearing and presenting evidence on the Respondent's behalf. Respondent voluntarily waives the

Consent Agreement

Laura P. Messenbaugh

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right to a hearing and all other rights which may be accorded the Respondent by the Administrative Procedures Act, chapter 34.05 RCW, and the laws of Washington, including the right to petition the courts for judicial review.

- 1.4 Respondent, without admitting or denying the allegations/violations, wishes to expedite the resolution of this matter by means of this Consent Agreement and does not desire to proceed to a formal hearing based on the issuance of a statement of charges.
- 1.5 Respondent understands that the terms of this Consent Agreement are not binding unless approved by the Board and fully executed.

The parties further stipulate to the following Stipulated Facts, Conclusions of Law, and Agreed Order:

Section 2: Stipulated Facts

- 2.1 At all times material hereto, Laura P. Messenbaugh, the Respondent herein, held an individual Certified Public Accountant (CPA) certificate and individual license to practice as a CPA in the state of Washington, License No. 26326.
- 2.2 On September 25, 2015, the Securities and Exchange Commission (SEC) filed a complaint in the United States District Court, Southern District of Florida, listing Respondent as one of four defendants. The SEC alleged twenty (20) violations against Respondent.
- 2.3 On November 15, 2015, Respondent provided a completed "Notification of a Reportable Event" form to the Board. WAC 4-30-036 requires CPAs notify the Board of such actions within 30 days of its issuance.
- 2.4 On April 5, 2016, the Southern District of Florida entered Order Granting Plaintiff Securities and Exchange Commission's Motion for a Final Judgment of Permanent Injunction and Other Relief Against Defendant Laura P. Messenbaugh ("Order"). The

Order, in part, required Respondent to pay disgorgement of \$11,010 with prejudgment interest of \$1,408, pay a civil fine of \$60,000, and permanently barred Respondent from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or that is required to file reports pursuant to Section 15(d) of the Exchange Act.

- 2.5 On April 20, 2016, the SEC implemented Order Instituting Administrative Proceedings Pursuant to Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions, which is attached as Exhibit A.

Section 3: Conclusions of Law

- 3.1 The Board has jurisdiction over the Respondent and the subject matter of this proceeding.
- 3.2 These violations arise out of the facts contained in the attached document, Exhibit A.
- 3.3 Failure to remain honest and objective, not misrepresent facts, not subordinate their judgment to others, and remain free of conflicts of interest unless such conflicts are specifically permitted by board rule or professional standards listed in WAC 4-30-048 is a violation of WAC 4-30-040.
- 3.4 Failure to comply with required rules, regulations and professional standards is a violation of WAC 4-30-048.
- 3.5 Committing, or allow others to commit in their name, any act that reflects adversely on their fitness to represent themselves as a CPA which violate the rules of conduct is a violation of WAC 4-30-052.
- 3.6 Failure of a licensee to timely notify the Board of charges filed by the SEC, in the manner prescribed by the board is a violation of WAC 4-30-036, and basis for discipline under WAC 4-30-142(16)(b).

- 3.7 Dishonesty, fraud, or negligence while representing oneself as a licensee is grounds for discipline under WAC 4-30-142(5).

Section 4: Agreed Order

- 4.1 Respondent consents to the entry of this Agreement and has waived any right to a hearing.
- 4.2 Pursuant to RCW 18.04.295, the Board has the power to impose discipline. Based on the preceding Stipulated Facts and Conclusions of Law, the Board and Respondent agree that:
- 4.2.1 Respondent's CPA license is suspended for five (5) years.
- 4.2.2 Prior to the Board considering any reinstatement application from Respondent, Respondent shall:
- 4.2.2.1 Pay a fine of five thousand dollars (\$5,000).
- 4.2.2.2 Reimburse the Board five hundred dollars (\$500) for legal and investigative costs.

I, Laura P. Messenbaugh, certify that I have read this Consent Agreement in its entirety, and that I fully understand and agree to all of it and that it may be presented to the Board without my appearance. If the Board accepts the Consent Agreement, I understand that I will receive a signed copy.

DATED this 13th day of June, 2016.

RESPONDENT

Laura P. Messenbaugh

Laura P. Messenbaugh

The Board accepts and enters this Consent Agreement.

DATED this 15th day of June, 2016.

WASHINGTON STATE
BOARD OF ACCOUNTANCY

Thomas Neill, CPA
Thomas G. Neill, CPA
Chair

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 77657 / April 20, 2016

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3768 / April 20, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17215

In the Matter of

Laura P. Messenbaugh, CPA

Respondent.

ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO RULE
102(e) OF THE COMMISSION'S RULES OF
PRACTICE, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted against Laura P. Messenbaugh ("Respondent" or "Messenbaugh") pursuant to Rule 102(e)(3)(i) of the Commission's Rules of Practice.¹

¹ Rule 102(e)(3)(i) provides, in relevant part, that:

The Commission, with due regard to the public interest and without preliminary hearing, may, by order, . . . suspend from appearing or practicing before it any . . . accountant . . . who has been by name . . . permanently enjoined by any court of competent jurisdiction, by reason of his or her misconduct in an action brought by the Commission, from violating or aiding and abetting the violation of any provision of the Federal securities laws or of the rules and regulations thereunder.

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer"), which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over her and the subject matter of these proceedings, and the findings contained in Section III 3 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that

1. Messenbaugh, age 51, is and has been a certified public accountant licensed to practice in the State of Washington. She served as Chief Accounting Officer and Vice President of Finance and Accounting of SMF Energy Corp. ("SMF") from approximately 2007 until at least March 2012.

2. SMF was, at all relevant times, a publicly-held Delaware corporation, headquartered in Fort Lauderdale, Florida, whose primary businesses were commercial mobile-fueling and lubricant distribution. At all relevant times, SMF's common stock was registered with the Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and traded on the NASDAQ under the symbol "FUEL".

3. On April 6, 2016, by consent, a Final Judgment was entered against Messenbaugh, permanently enjoining her from future violations of Section 17(a) of the Securities Act of 1933 ("Securities Act") and Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13b2-1, and 13b2-2 thereunder; and from aiding and abetting violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11, and 13a-13 thereunder, in the civil action entitled Securities and Exchange Commission v. Laura P. Messenbaugh, et al., Civil Action Number 15-62028-CIV in the United States District Court for the Southern District of Florida. Messenbaugh was also barred from serving as an officer or director; ordered to pay disgorgement of \$11,010 and \$1,408 of prejudgment interest thereon; and ordered to pay a \$60,000 civil money penalty.

4. The Commission's complaint alleged, among other things, that Messenbaugh, and the other defendants, participated in a fraudulent billing scheme involving SMF. The Commission further alleged that from approximately June 2010 through mid-March 2012 this scheme misled investors by materially overstating SMF's financial performance and falsely attributing SMF's purported improved financial results to legitimate business factors, while not disclosing that in reality the purported improvement in its financial results was due to the fraudulent billing scheme. Additionally, the Commission alleged that this scheme caused SMF to

provide financial statements to the investing public that were not in compliance with Generally Accepted Accounting Principles, and that Messenbaugh and other provided false information to SMF's independent auditors.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanction agreed to in Respondent Messenbaugh's Offer.

Accordingly, it is hereby ORDERED, effective immediately, that:

Messenbaugh is suspended from appearing or practicing before the Commission as an accountant.

By the Commission.

Brent J. Fields
Secretary