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SUMMARY

Jose A. (“Tony”) Santana, CPA/CFF is a Managing Director at Berkeley Research Group. Mr. Santana has more than twenty-five years of experience applying accounting, auditing and financial principles to financial investigations and litigation matters. He specializes in the analysis of complex accounting issues, the investigation of alleged frauds, and the determination of damages. Mr. Santana has extensive experience in the areas of funds tracing, revenue recognition, adequacy of reserves, and the evaluation of compliance with internal controls. He has also dealt with a wide range of litigation matters including acquisition disputes, breach of contract, breach of representations and warranties, fraud, and lost earnings and he has testified in state and federal court.

Mr. Santana holds a B.S. in Accounting from Loyola Marymount University and is a Certified Public Accountant. He has also earned the Certified in Financial Forensics (CFF) and Chartered Global Management Accountant designations from the American Institute of Certified Public Accountants. Prior to joining BRG, Mr. Santana held Director-level positions with LECG, Navigant Consulting and FTI in Los Angeles. Previously, he was a Partner of Simpson LLP, a firm of certified public accountants specializing in litigation services. Mr. Santana came to Simpson from Coopers & Lybrand, now known as PricewaterhouseCoopers, where he performed audits, due diligence reviews and litigation services. Mr. Santana also served as a Senior Audit Officer for California Commerce Bank in Los Angeles.

PROFESSIONAL EXPERIENCE

Representative Forensic Accounting Matters

- Purchase Price Dispute: Analyzed internal financial records and audit work papers to evaluate claim that the purchase price of a nationwide health provider was based on materially misstated financials. Determined that pre-transaction management used improper revenue recognition methodology that resulted in materially overstated revenues and receivables.
- Mortgage Backed Securities Litigations: Evaluated compliance with representations and warranties related to the origination and sale of thousands of residential mortgage loans. This involved the evaluation of underlying loan documentation so as to determine compliance with applicable underwriting guidelines.

- **Punitive Damages:** Analyzed information relating to the financial condition and results of operation related to a large financial institution accused of violations of the Fair Credit Reporting Act. Critiqued the report of Plaintiff's PhD economist related to punitive damage considerations. Plaintiff subsequently withdrew their expert.
- **Contract Liquidation Analysis:** Quantified the termination payments due following the early termination of a five-year contract for the servicing of communications equipment. Analyzed voluminous data related to the installed base of covered products deployed at a worldwide financial institution.
- **Lost Profits Analysis:** Analyzed claim for lost profits brought by the founder of a fashion-related business against a high net worth individual that had purportedly breached a commitment to invest. Critiqued the speculative nature of the damage claim prepared by plaintiff's expert.
- **Compliance Investigation:** Investigated the compliance with account opening and safety deposit box access policies and procedures by bank branch personnel in connection with potential money laundering claims.
- **Breach of Lease Agreement:** Analyzed claim for lost profits related to the operation of a restaurant following the plaintiff's eviction after one month of operation. Evaluated tax information related to other ventures operated by the plaintiff and identified inconsistencies and potential discrepancies in the financial records.
- **Funds Tracing Investigation:** Analyzed claims of breach of fiduciary duty brought by an investor against the former officers of a defunct mortgage company. Traced transaction activity between the investor and the mortgage company for purposes of evaluating whether the investor's funds had been improperly diverted.
- **Royalty Dispute:** Analyzed defendant's compliance with royalty-sharing provisions of a joint development agreement for wireless communication technology and rebutted defendant's claims for deductions from amounts due to plaintiff.
- **Fraud / Breach of Contract:** Analyzed defendant's profits earned from the manufacturing and sale of personal watercrafts, investigated compliance with royalty agreement and critiqued plaintiff's claims for lost profits and lost royalties.
- **Trademark / Patent Infringement:** Analyzed lost profits, lost royalties and diminished goodwill on behalf of plaintiff, a manufacturer of machined-aluminum miniature flashlights.
- **Fraud / Breach of Contract:** Analyzed whether an internet search engine had properly tracked and paid for advertising revenues generated by a traffic provider pursuant to the terms of a revenue sharing agreement. Also analyzed and critiqued plaintiff's lost profits from the early termination of the agreement.

- Evaluation of Internal Controls: Evaluated the adequacy of and compliance with internal controls over cash receipts in connection with the diversion and misappropriation of customer payments.
- Acquisition Dispute: Analyzed claims of fraud and breach of contract brought by purchaser of a construction company. Evaluated representation and warranties related to status of key customer contracts, reasonableness of forecasts, and whether accounts payable disbursements just prior to the acquisition were consistent with historical practices.
- Financial Statement Representations: Analyzed the propriety of financial statement disclosures related to revenue recognition and adequacy of reserves in connection with a securities class action case brought against the former executives of an internet provider.
- Insurance Contract Dispute: Analyzed loan transaction data (e.g., payments, payoffs, and foreclosure recoveries) related to thousands of loans in a dispute over whether the underlying insurance contracts were subject to rescission due to the alleged underwriting misrepresentations.
- Compliance Look Back Analysis: Analyzed activity related to over 3,000 high risk accounts and transactions for the purpose of assessing a financial institution's compliance with regulatory obligations and internal policies.
- Acquisition Dispute: Analyzed claims of fraud and breach of contract brought by sellers of a medical device manufacturer. Evaluated whether acquirer had operated the division in a manner that negatively impacted potential earn-out payments to sellers.
- Business Partner Dispute: Analyzed whether assets and liabilities of an international long distance company were allocated between former business partners in a manner consistent with the dissolution agreement.
- Earnout Computation Dispute: Analyzed the revenues and margins earned on baked goods by consumer products retailer in connection with computing the earnout payments due to a senior executive with the company.
- Breach of Contract: Analyzed plaintiff's claims for lost profits in connection with the alleged breach of a celebrity endorsement agreement associated with the attempted launch of a prepaid debit card. This involved analysis of contemporaneous business records and projections and critiquing opposing experts' lost profits calculations as being inconsistent with these documents.
- Funds Tracing Investigation: Analyzed the flow of funds related to special purpose entities which used bond proceeds to finance billions of dollars of healthcare receivables.

- **Revenue Recognition Investigation:** Conducted an investigation on behalf of the audit committee of a publicly traded online media and information company. Reviewed documentation and conducted interviews of various individuals to analyze the propriety of revenue recognition on numerous transactions entered into over a two-year period. Several of these transactions were determined to be advertising barter transactions not eligible for revenue recognition under EITF 99-17. Communicated findings and participated in discussions with SEC and NASD officials.
- **Channel Stuffing Allegations:** Analyzed whether the CEO and CFO of a public company had conspired to inflate reported earnings through activities such as channel stuffing and other revenue recognition schemes. Reviewed accounting work papers and other financial records related to revenue recognition, inventory, accounts receivable and materiality assessments. Prepared reports and declarations summarizing findings.
- **Revenue Recognition Analysis:** Analyzed the propriety of the historical accounting treatment for certain transactions that were entered into by a publicly traded software provider. The company's new auditors questioned whether consideration provided by the software provider to customers impacted the amount of revenues to be recognized. Assisted the company in communicating with the SEC's Office of the Chief Accountant for the purpose of obtaining an interpretation of the appropriate accounting treatment.
- **Stock Option Investigations:** Conducted investigations into the propriety of the measurement dates for stock options granted by companies in a variety of industries including high technology, defense, internet, and pharmaceuticals. Created models to quantify compensation expense resulting from options granted with intrinsic value and assisted with the restatement of previously filed financial statements. Presented findings to boards of directors, outside auditors, the SEC and the IRS.
- **Accounting Analysis:** Advised counsel for the former CEO of a public company in responding to inquiries from the company's Audit Committee that was considering past revenue recognition practices. This involved analyzing available documentation for the transactions at issue and advising regarding the propriety of the accounting treatment.
- **Breach of Contract:** Analyzed claims for lost profits and increased costs brought by numerous payroll processing business against the licensor of payroll processing software used by plaintiffs. Prepared more than 20 Federal Rule 26 reports detailing opinions regarding plaintiffs' damages and critiquing the opinions of plaintiffs' damages expert.
- **Antitrust:** Analyzed damages on behalf of eleven independent service organizations in a claim for violations of Section 2 of the Sherman Act by a manufacturer of photocopiers and micrographic equipment. Quantified lost profits on lost servicing, refurbishment and sales of used equipment.

Expert Witness Testimony

- In Re: California Commerce Bank: Before the American Arbitration Association, Los Angeles, California. Retained by plaintiff's counsel to investigate fraudulent manipulation of consumer credit lines by former bank employee.
- McManus v. Simmons, et al.: Before the Superior Court of California, County of Los Angeles, Case No. LC 042758. Retained by defendant's counsel to analyze plaintiff's claim for lost earnings.
- Brouelette v. Yamaha Motor Corp.: Before the Superior Court of California, County of Orange, Case No. 810062. Retained by defendant's counsel to analyze plaintiff's claim for lost earnings.
- Beucard v. Weldon: Before the Superior Court of California, County of Los Angeles, Case No. BC 205633. Retained by plaintiff's counsel to calculate damages from the breach of contract for the sale of real property.
- McCarty v. Siemens Solar Industries, Inc.: Before the American Arbitration Association, Los Angeles, California. Retained by defendant's counsel to analyze plaintiff's claim for damages from the breach of a consulting contract.
- Aldec, Inc. v. Xilinx, Inc.: Before the American Arbitration Association, Case No. 74-117-01000-02-GAP. Retained by plaintiff's counsel to analyze damages for the infringement of copyrighted software used in designing Field-Programmable Gate Arrays.
- Hillman Capital Partners v. Paul Williams, et al.: Before the Superior Court of California, County of Los Angeles, Case No. SC 080500. Retained by defendants' counsel to analyze allegations of improper use of funds loaned for the development of an independent film.
- ClearOne Communications, Inc. and Edward Dallin Bagley v. National Union Fire Insurance Company of Pittsburgh, Pennsylvania: Before the United States District Court, District of Utah, Case No. 2:04-CV-00119 TC. Retained by defendants' counsel to analyze allegations of financial reporting improprieties by a public registrant.
- Nordstrom FSB v. Stella Marie Aparicio: Before the United States Bankruptcy Court, Central District of California, Case No. LA04-35784-MT (Chapter 7). Retained by debtor's counsel to analyze debtor's income and expenses prior to the date of bankruptcy petition.
- June Bug Enterprises, Inc. v. Magic Cards International, Inc.: Before the Judicial Arbitration and Mediation Service, Case No. 1220033126 and No. 1220033474. Retained by Claimant/Counter-Respondent to analyze Counter-Claimants claims for damages related to the prospective launch of a prepaid debit card.

- Information and Referral Federation of Los Angeles County v. Moore Iacofano Goltsman, Inc.: Before the Superior Court of California, County of Los Angeles, Case No. BC357401. Retained by plaintiff's counsel to analyze damages suffered as a result of alleged breach of software development agreement.
- Sharon Gaiser v. Christopher Powell and Randy Miller: Before the Superior Court of California, County of Los Angeles, Case No. BC416060. Retained by defendants' counsel to analyze plaintiff's claim for damages relating to a purported investment in subprime trust deeds.
- Country Hills DB, LLC v. Rite Aid Corp.: Before the Superior Court of California, County of Orange, Case No. KC061522. Retained by plaintiff's counsel to analyze damages relating to unpaid improvement costs allocable to tenant.
- Glovis America, Inc. v. JPMorgan Chase Bank, N.A.: Before the Superior Court of the State of California, County of Orange, Case No. 30-2012-005635454. Retained by defendant's counsel to evaluate plaintiff's accounting procedures and internal controls.
- TMI Products, Inc. v. Rosen Electronics, L.P.: Before the United States District Court for the Central District of California, Case No. 5:12-cv-02263-RGK-SP. Retained by plaintiff's counsel to quantify damages related to breach of contract and patent infringement claims.
- Channell Commercial Corp. v. Wilmington Machinery Inc.; Before the United States District Court for the Central District of California, Case No. 5:14-cv-02240-DMG-DTB. Retained by defendant's counsel to analyze claims for damages related to purported defects in machinery that was alleged to have resulted in disruptions to plaintiff's manufacturing process.
- United States Securities and Exchange Commission v. Sandoval Herrera, et al.; Before the United States District Court for Southern District of Florida, Case No. 1:17-cv-20301-JAL. Retained by the SEC to evaluate claims that defendants had improperly delayed the disclosure of material financial information and circumvented internal controls over financial reporting.
- Neutron Holdings, Inc. v. City and County of San Francisco, et al.; San Francisco Municipal Transportation Administrative Hearing, Case No. CPF-18-516368. Retained by Neutron Holdings to analyze the SFMTA's evaluation of its application related to a powered scooter share pilot program and whether the SFMTA had abused its permitting discretion in a matter that disadvantaged Neutron.
- Thoughtful Media Group, Inc. v. Mark Ingrouille, Le Ngoc Linh, Tran Trung Kien; Before the United States District Court for the Central District of California, Case No. Case 2:18-cv-03306-FMO-MRW. Retained by plaintiff Thoughtful Media Group to analyze claims for damages against former executives.

PROFESSIONAL DESIGNATIONS

- Certified Public Accountant
- Certified in Financial Forensics
- Chartered Global Management Accountant

PUBLICATIONS

- Chapter titled “Defending Today’s White Collar Cases: Understanding Current Issues and Trends” in *Managing White Collar Legal Issues*. Thomson Reuters/Aspatore, 2013 Edition. Print. With Michael Attanasio and Koji Fukumura.
- “Financial Restatement Investigations Present Opportunities for CPAs.” *The Witness Chair*, Summer 2003.