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**BEFORE THE ARIZONA STATE BOARD OF ACCOUNTANCY**

In the Matter of Certified Public Accounting )  
Accounting Certificate No. 5789-E issued to: )  
ANN M. McGRATH, )  
Respondent )

Docket No. 00A-98230C-ACY

**DECISION AND ORDER  
(By Consent)**

**I. INTRODUCTION AND JURISDICTION**

1. The Arizona State Board of Accountancy ("Board") is the state agency authorized pursuant to A.R.S. § 32-701 *et seq.* to regulate the profession of Certified Public Accountants in the State of Arizona.

2. On December 4, 2000, the Board filed a Notice of Hearing and Public Complaint ("Notice") against Arthur Andersen, LLP ("Andersen"), Certified Public Accountant Ann M. McGrath ("Respondent"), and others regarding services they provided to the Baptist Foundation of Arizona ("BFA"). The Notice was issued pursuant to A.R.S. § 32-701 *et seq.* and A.R.S. § 41-1061 *et seq.* The Board and Respondent have agreed to a full and final settlement of the matters alleged in the December 4, 2000 Notice as reflected in this Decision and Order By Consent ("Consent Order"). Separate consent orders have been entered with the other named respondents under Docket Nos. 00A-98230D-ACY; 00A-98230B-ACY and 00A-98230-ACY.

3. Respondent disputes that the Factual Findings set forth below are complete and accurate, denies any wrongdoing with regard to the matters set forth herein, and denies that any violations of professional standards have occurred. The Consent Order represents a compromise of disputed matters and is the result of good faith settlement negotiations regarding issues that are disputed by the parties. The Findings of Fact and Conclusions of Law set forth herein are only for purposes of settlement of this disputed matter, and shall have no application or effect outside any proceedings initiated by the Board, including as evidence from which any liability or wrongdoing could be inferred. The Board has not made a determination on the merits contained herein. This Consent Order is based upon the following Findings of Fact and Conclusions of Law and entered in lieu of an administrative hearing.

1 **II. FINDINGS OF FACT**

2 4. Respondent is a Certified Public Accountant who holds Arizona Certificate No. 5789-E.  
3 This Certificate was issued on October 19, 1987, and was in full force and effect since the date of  
4 issuance. McGrath was an audit manager in Andersen's Phoenix, Arizona office assigned to the audit  
5 engagements described herein. For certain of these audit engagements, Respondent was the sole audit  
6 manager on the engagement.

7 5. BFA was an Arizona religious non-profit 501(c)(3) organization that was incorporated  
8 in 1948 for the purpose of providing financial support for Southern Baptist causes. BFA was an  
9 institution of the Arizona Southern Baptist Convention ("Convention") which elected BFA's Board of  
10 Directors. BFA's senior management consisted of William Crotts, President; Thomas Grabinski, Vice  
11 President and Legal Counsel; and Donald Deardoff, CPA, Treasurer and Controller. In this Consent  
12 Order, "BFA Senior Management" will refer to these three individuals who directed the operations of  
13 BFA.

14 6. Since 1984<sup>1</sup>, BFA engaged Andersen as its independent auditor of BFA's combined  
15 financial statements. From 1984 to 1997<sup>2</sup>, Andersen issued unqualified audit opinions on BFA's  
16 combined financial statements. During these years, BFA or BFA's attorneys also engaged Andersen  
17 to perform other accounting and auditing, management consulting and tax services. The engagements  
18 that are the subject of this Consent Order include: (1) the audits of BFA's 1992-1997 combined  
19 financial statements and (2) a special tax risk assessment review in 1997 and 1998 ("Tax Risk  
20 Assessment").

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24 <sup>1</sup>When years are used in this Consent Order, the reference is to the calendar year ending December 31 and  
the audit Andersen performed for that year.

25 <sup>2</sup>Andersen was engaged to conduct the 1998 audit, but did not issue an opinion on BFA's combined financial  
26 statements. Andersen issued, but later withdrew, unqualified opinions on the separate 1998 financial statements of certain  
entities within the BFA combined group.

1           7.       Respondent was on the BFA audit engagement team from 1988-1998. Commencing in  
2 1991, she was a manager on the audit engagements. For audit years 1992-1998, along with the  
3 engagement partner and any other manager on the engagement, Respondent had responsibility for the  
4 planning of the audit and field work, identifying areas of exposure, and supervising and reviewing the  
5 audit.

6           8.       BFA's structure included a complex maze of for-profit subsidiary corporations and  
7 controlled non-profit affiliates through which it engaged in investment activities and the sale of  
8 securities. BFA operated a trust department and was authorized to serve as a non-bank passive trustee  
9 for individual retirement accounts ("IRAs"). BFA also managed affiliates and their subsidiaries  
10 including Arizona Southern Baptist New Church Ventures, Inc. ("New Church Ventures"), and A.L.O.,  
11 Inc. ("ALO"). BFA employees sold investment products on behalf of New Church Ventures which  
12 included IRAs.

13           9.       BFA invested directly in real estate. BFA also raised funds through the sale of securities  
14 such as investment agreements ("IAs") and mortgage backed notes ("MBNs") and invested those funds  
15 in real estate loans, real property, and operating businesses. BFA claimed to be exempt from Arizona  
16 statutes requiring registration of securities. BFA's 501(c)(3) tax-exempt status helped support the  
17 availability of such an exemption. In 1997, the IAs and MBNs were sold through offering circulars and  
18 supplements thereto which included BFA's "unaudited" financial statements which were similar to the  
19 1997 financial statements upon which Andersen opined. Andersen's name did not appear in these  
20 offering circulars, but investors may have had access to Andersen's audit reports.

21           10.       BFA and its attorneys claimed that BFA was exempt from Arizona banking regulations.  
22 As Andersen acknowledged in the audit workpapers, BFA operated in a manner similar to a financial  
23 institution in some respects. Respondent planned the approach to consider these similarities.

24           11.       Because of its bank-like operations and products, BFA faced several risk factors that  
25 affect banks and savings institutions such as liquidity and asset quality risk. Because of the lack of  
26

1 regulatory oversight of BFA's operations and sales of securities, BFA's offerings were not subject to  
2 the same scrutiny as a financial institution's products.

3 12. On August 12, 1999, the Arizona Corporation Commission issued an Order to Cease  
4 & Desist and Other Affirmative Action and Consent to Same prohibiting BFA and New Church  
5 Ventures from offering to sell or selling securities in violation of the Arizona Securities Act, A.R.S. §  
6 44-1801 *et seq.* Shortly thereafter, on November 11, 1999, BFA filed protection under Chapter 11 of  
7 the United States Bankruptcy Code.

8 13. BFA's Senior Management was responsible for the preparation of BFA's financial  
9 statements in conformity with Generally Accepted Accounting Principles ("GAAP"). GAAP are the  
10 conventions, rules and procedures necessary to define accepted accounting practices at a certain time.

11 14. Respondent, a manager employed by Andersen and working under the supervision of  
12 the engagement partner, was required to conduct her work on the audit engagements in accordance with  
13 Generally Accepted Auditing Standards ("GAAS"). GAAS required Andersen to obtain a reasonable  
14 basis to opine as to whether BFA's financial statements fairly presented, in all material respects, the  
15 financial position, results of operations, and cash flows of BFA in conformity with GAAP and to  
16 disclose, if material, circumstances in which GAAP had not been observed in BFA's preparation of its  
17 financial statements. Respondent, as a manager working under the supervision of the engagement  
18 partner, had a responsibility for assisting the partner in identifying any material departures from GAAP.

### 19 III. CONCLUSIONS OF LAW

20 15. The Board has personal and subject matter jurisdiction over Respondent pursuant to  
21 A.R.S. § 32-701 *et seq.* and A.A.C. R4-1-101 *et seq.* The Board has the authority to discipline  
22 Respondent pursuant to A.R.S. §§ 32-741(A)(4); (A)(6) and (A)(9), and 32-742.

23 16. Pursuant to A.R.S. § 32-741, after notice and opportunity for hearing, the Board may  
24 revoke or suspend Respondent's registration to practice public accounting and take additional  
25 disciplinary action concerning Andersen for engaging in dishonesty, fraud or gross or continuing  
26 negligence in the practice of accounting (A.R.S. § 32-741(A)(4)) and for violating any provisions of

1 Title 32, Chapter 6, Arizona Revised Statutes (A.R.S. § 32-741(A)(6)). This Consent Order is in lieu  
2 of an administrative hearing set for August 19, 2002.

3 17. While Respondent denies that any violations of professional standards have occurred  
4 in connection with the engagements in issue, and disputes that the Findings of Fact are accurate and  
5 complete, if this matter proceeded to hearing, the State would introduce evidence it contends would  
6 show that Respondent's conduct, in connection with the audits and services described in the Findings  
7 of Facts, constitutes a failure to comply with applicable professional standards set forth in A.A.C. R4-1-  
8 455.01 and the A.A.C. R4-1-455.03, and violates A.R.S. § 32-746.

9 18. With respect to disclosure of related parties and BFA's conduct as a non-bank passive  
10 trustee of IRAs and its noncompliance with Treasury regulations, the State contends that BFA's 1992-  
11 1994 financial statements were not prepared in conformity with GAAP and Respondent's conduct was  
12 not in accordance with GAAS.

13 19. The State contends that BFA's 1995-1997 financial statements were not prepared in  
14 conformity with GAAP and Respondent's conduct was not in accordance with GAAS and would  
15 introduce evidence to support its contentions:

- 16 a) Disclosures regarding related parties ALO and New Church Ventures;
- 17 b) Recognition of losses on BFA's notes receivable due from ALO and New  
18 Church Ventures;
- 19 c) Overstated gains on year-end transactions with related parties;
- 20 d) Overstated assets of the Trusts;
- 21 e) Disclosure of contingency issues regarding BFA's tax exempt status and lack  
22 of compliance with state and federal securities laws;
- 23 f) Disclosure of contingency issues regarding BFA's noncompliance with  
24 Treasury regulations pertaining to non-bank passive trustees.

25 20. With respect to BFA's 1997 financial statements, the State contends that Respondent's  
26 work on the SAS No. 82 analysis and her response to the subsequent discovery of facts that existed on  
the date of Andersen's report was not in accordance with GAAS.

1 **IV. ORDER**

2 Based upon the aforementioned Findings of Fact and Conclusions of Law, IT IS HEREBY  
3 ORDERED THAT:

4 21. Respondent's Certificate No. 5789-E is relinquished pursuant to A.R.S. § 32-741.01.  
5 Respondent shall return her certificate to practice as a public accountant to the Board within 10 days  
6 of the effective date of this Order.

7 22. Contemporaneous with Respondent's execution of the Consent to Order, Respondent  
8 shall sign a written Declaration of Relinquishment as set forth in A.R.S. § 32-741.01(C) which is  
9 attached and incorporated herein by reference as Exhibit "A".

10 23. The effective date of this Order is the date it is signed by the Board President. Based  
11 upon Respondent's avowal in the Consent to this Order, that Respondent has no clients, the Board's  
12 notice requirement to current clients shall be deemed satisfied.

13 24. Within 10 days of the effective date of this Order, Respondent shall destroy all  
14 stationary, cards, signage and any other business paraphernalia indicating she is a CPA.

15 25. In the event that Respondent applies for a new certificate, the Board agrees to consider  
16 and review the merits of the application, considering all remedial activities and post-relinquishment  
17 conduct, and to not presumptively deny her application based upon the circumstances surrounding the  
18 engagements that are the subject of this Order.

19 26. This Order is a full and final settlement of the disputed matters alleged in the December  
20 4, 2000 Notice.

21 27. No other proceeding will be initiated by or before the Arizona State Board of  
22 Accountancy against Respondent as a result of her professional activities as a Certified Public  
23 Accountant through the date of this Order.

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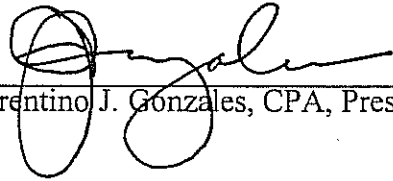
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1 28. No other relief will be ordered by the Arizona State Board of Accountancy against  
2 Respondent as a result of her professional activities as a Certified Public Accountant through the date  
3 of this Order.

4 DATED this 31<sup>st</sup> day of July 2002.

5 ARIZONA STATE BOARD OF ACCOUNTANCY

6  
7 By:   
8 Florentino J. Gonzales, CPA, President

9 **CONCURRING:**

10 William D. Baker, Esq.  
11 Richard M. Gardner, CPA  
12 Loretta Peto, CPA  
13 Lehman William Williams

14 **CONSENT TO BOARD DECISION AND ORDER**

15 I, Ann M. McGrath, being duly sworn, state under oath the following:

16 I have read and understand everything contained in the foregoing Findings of Fact,  
17 Conclusions of Law and Order. If this Consent Order is approved by the Board, without admitting  
18 the allegations contained therein, I agree to its immediate issuance and to be bound by its terms.

19 I am aware of my right to an administrative hearing in this matter and hereby waive the same.  
20 I waive all my rights to challenge the foregoing Consent Order on appeal, or otherwise, to the Board  
21 or any other court or tribunal. However, nothing in this Consent Order shall preclude me from giving  
22 evidence and testimony, if called upon to do so, in any proceeding.

23 I understand that a violation of the Consent Order will constitute grounds for further action.  
24 I understand that the Consent Order may be considered in any future disciplinary action against me.  
25 I understand that the Consent Order may be considered by the Board in the event I apply for a new  
26 certificate to practice in Arizona as a CPA.

I consent to this Consent Order for the sole purpose of entering into a full and complete  
settlement of the disputed matters alleged in the December 4, 2000 Notice. I deny any wrongdoing

1 with regard to the matters set forth herein and deny that any violations of professional standards have  
2 occurred, and believe that BFA management deceived me and the other Andersen personnel.

3 I understand that this Consent Order and the related investigation is a matter of public record.  
4 Since January 2001, I have not engaged in auditing or tax preparation services. I have not engaged  
5 in any business consulting services. I have no clients to notify of the relinquishment of my certificate.

6 By my signature, I verify that I have read and understand everything contained in the  
7 foregoing Consent Order.

8 Dated this 7 day of August, 2002.

*Ann M. McGrath*

Ann M. McGrath

11 SWORN AND SUBSCRIBED BEFORE ME, this 7<sup>th</sup> day of August 2002, to certify  
12 which witness my hand and seal of office.



C. TULIPANA  
Notary Public - Arizona  
Maricopa County  
My Commission Expires  
May 26, 2004

*C. Tulipana*  
Notary Public in and for the State of Arizona

13 SEAL

15 Copy of the foregoing mailed Certified Mail  
16 this 16 day of September 2002, to:

Certified Mail No.  
7000 1670 0006 43886695

17 J. Jorge deNeve, Esq.  
18 Carolyn J. Kubota, Esq.  
19 O'Melveny & Myers LLP  
400 South Hope Street, Suite 1060  
Los Angeles, CA 90071-2899  
Attorneys for Ann M. McGrath

20 Copy of the foregoing mailed  
21 this 16 day of September 2002 to:

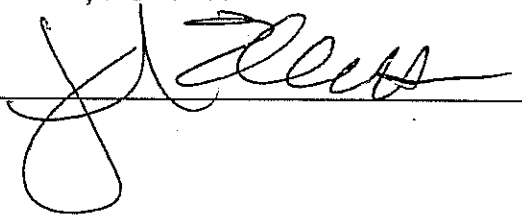
22 Felecia A. Rotellini, Chief Counsel  
23 Joel P. Nordquist, Assistant Attorney General  
24 Accountancy Enforcement Unit, LES/Civil Division  
25 Arizona Attorney General Office  
1275 W. Washington  
26 Phoenix, Arizona 85007  
Attorneys for Arizona State Board of Accountancy

1 ORIGINAL filed this 16 day of September 2002 with:

2 Arizona State Board of Accountancy  
3 100 N. 15<sup>th</sup> Avenue, Suite 165  
4 Phoenix, AZ 85007

5 Copy of the foregoing mailed this 16 day  
6 of September 2002 to:

7 Cliff Varnell, Director  
8 Office of Administrative Hearings  
9 1400 W. Washington, Suite 101  
10 Phoenix, AZ 85007

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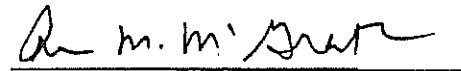
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**BEFORE THE ARIZONA STATE BOARD OF ACCOUNTANCY**

In The Matter of Certified Public )	No. 00A-98230C-ACY
Accountant Certificate No. 5789-E, )	
Issued To: )	
ANN M. McGRATH, )	
Respondent )	<b>RELINQUISHMENT OF CERTIFICATE</b>
)	
)	

Pursuant to paragraph 22 of the Decision and Order by Consent in this matter, I, Ann M. McGrath, acknowledge that disciplinary proceedings have been initiated against me pursuant to Title 32, Chapter 6, Article 3, Arizona Revised Statutes, and I relinquish my right to practice accounting as a certified public accountant in the State of Arizona. I understand that if I choose to apply for a new certificate, I must meet all requirements for initial certification pursuant to Section 32-721, Arizona Revised Statutes. I further understand that, in deciding whether to issue a new certificate to me, the board will consider all disciplinary actions currently pending against me and any other matters it determines to be appropriate.

DATED this 7 day of August, 2002.

  
 \_\_\_\_\_  
 Ann M. McGrath

**EXHIBIT "A" TO DECISION AND ORDER**