State of California – Department of Financial Protection and Innovation	1	CLOTHILDE V. HEWLETT	
	2	Commissioner MARY ANN SMITH	
	3	Deputy Commissioner	
		AMY J. WINN	
	4	Assistant Chief Counsel AFSANEH EGHBALDARI (State Bar No. 250107)	
	5	Senior Counsel	
	6	Department of Financial Protection and Innovation	
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	9	Attorneys for Complainant	
	10	BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION OF THE STATE OF CALIFORNIA	
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	14	In the Matter of:) CITATION AND DESIST AND REFRAIN) ORDER
		THE COMMISSIONER OF FINANCIAL))
	15	PROTECTION AND INNOVATION,	
	16	Complainant,))
	17)
	18	V.)
	19	BRENDA ROXANNE SAMANIEGO, AND	,)
	20	ROXIE SAMANIEGO, CPA, P.C.,	
		Respondents.))
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	22	Complainant, the Commissioner of Financial Protection and Innovation (Commissioner), is	
	23	informed and believes, and based on such information and belief, finds as follows:	
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	25	<u>Introduction</u>	
	26	1. The Commissioner is the head of t	he Department of Financial Protection and
	27	Innovation (Department) and is responsible for administering and enforcing the California	
	28	Franchise Investment Law (FIL) (Corp. Code, § 31000 et seq.).	
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- 2. Brenda Roxanne Samaniego, and Roxie Samaniego, CPA, P.C. (collectively, Respondents) were licensed certified public accountants in the state of Texas until their credentials were revoked on March 11, 2021 by the Texas State Board of Public Accountancy (Texas Board).
- 3. Brenda Roxanne Samaniego held an individual certificate and Roxie Samaniego, CPA, P.C. held a firm license in the state of Texas.
- 4. A franchisor seeking to offer and sell a franchise in California must first register the franchise with the Department. Respondents provided accounting services to franchise businesses offering and selling franchises in California. These services included preparing audited opinions on the financial condition of franchisors required to be filed with the Commissioner. These accounting services were performed after Respondents' licensing credentials had been revoked by the State of Texas.

II. Violations of FIL Section 31200

- 5. To register a franchise, a franchisor must file an application which includes a Uniform Franchise Disclosure Document (FDD) with the Department for review and approval, in accordance with Corporations Code sections 31111 and 31114. The FIL requires franchisors to disclose certain material information which is intended to provide prospective franchisees with facts upon which to make an informed decision to purchase a franchise, as stated in section 31001.
- 6. Franchisors are required to include financial statements in the FDD, prepared in accordance with Generally Accepted Accounting Principles (GAP).
- 7. Franchisors' financial statements must be audited by either an independent certified public accountant or an independent public accountant (collectively, CPA) using Generally Accepted Auditing Standards. The CPA must attest to the accuracy of the audit report under GAP and must expressly consent to the use of the audit report in the FDD.
- 8. The Texas Board is a state agency that licenses persons and firms to practice public accountancy.
- 9. Both Texas and California laws prohibit persons or firms from engaging in the practice of public accountancy or representing themselves as a certified public accountant or as

having an expertise in accounting unless they are licensed to provide such services.

On November 20, 2020, the Texas Board filed an action against the

- 10. On November 20, 2020, the Texas Board filed an action against the Respondents and mailed a notice of hearing to the Respondents. The Texas Board alleged that Respondents lacked fitness to serve the public as professional accountants, failed to provide due professional care when performing professional services, engaged in dishonesty, fraud, or gross negligence in the practice of public, and breached their fiduciary responsibility, among other violations.
- 11. On March 11, 2021, the Texas Board revoked Respondents' CPA certificate and firm license.
- 12. Multiple franchise business entities (Franchisors) retained Respondents to perform CPA duties, including, but not limited to, performing financial audits on Franchisors; producing Franchisors' financial statements, balance sheets, related statement of operations, members equity, and cash flows and related notes; and producing an auditor's report containing an audited opinion on the financial condition of these Franchisors (collectively, Audit Reports).
- 13. Between March 14, 2021, and July 12, 2021, after revocation of their licenses on March 11, 2021, Respondents signed and attested to these Audit Reports as being true, correct and certified by the Respondents in their capacities as a duly licensed CPA and CPA firm. Respondents expressly consented to the inclusion of these Audit Reports in the Franchisors' FDDs. The consent letters were signed by the Respondents after March 11, 2021, after their CPA certificate and license were revoked by the Texas Board.
- 14. These Audit Reports were used by about a dozen Franchisors to file franchise registration with the Commissioner in 2021.
- 15. Based on the foregoing, the Commissioner finds that the Respondents willfully made material misstatements about their qualifications and licensure as CPAs in Audit Reports and consent letters that were filed with the Commissioner. Respondents were neither licensed nor qualified to issue these Audit Reports that were used in the franchise registration applications to the Commissioner.

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III. Citation and Desist and Refrain Order

- 16. Corporations Code section 31200 states that it is unlawful for any person willfully to make any untrue statement of a material fact in any application, notice or report filed with the commissioner under this law, or willfully to omit to state in any such application, notice, or report any material fact which is required to be stated therein, or fail to notify the commissioner of any material change as required by Section 31123.
- 17. Based on the foregoing findings, the Commissioner finds that Respondents willfully made untrue statements of material facts in reports filed with the Commissioner that falsely represented that they were licensed and qualified as CPAs, in violation of Section 31200.
- 18. Pursuant to Corporations Code section 31406, Brenda Roxanne Samaniego, and Roxie Samaniego, CPA, P.C. are hereby cited and ordered to desist and refrain from further violations of the Franchise Investment Law, including Corporations Code section 31200.
- 19. This order is necessary, in the public interest, for the protection of investors and franchisees and consistent with the purposes, policies and provisions of the Franchise Investment Law.

Dated: May 4, 2023 Sacramento, California



CLOTHILDE V. HEWLETT
Commissioner of Financial Protection & Innovation

By______ MARY ANN SMITH Deputy Commissioner Enforcement Division