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The Accounting Court: Some Speculations on Why Not?

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Abstract The accounting court proposed by Spacek (Account Rev 33(3):368, 1958) was a potent and controversial idea. The court would provide a venue to which auditing firms and clients could bring disputes over the application of accounting principles and over time would build a database of casework illustrating the court's decisions on proper application and interpretation of accounting principles. In this paper, we contribute to the literature on the accounting court and on standard setting by analyzing group value orientations and motivations that should promote the likelihood of an accounting court appearing in these times. We base our analysis in value group theory (Shakun 1988 Evolutionary systems design: policymaking under complexity and group group decision support systems. Holden-Day, Oakland, CA.), an analysis rooted in an examination of operational and terminal values of key participants. The analysis brings to light a contradiction between the terminal values of the key players and the actions of those players. We argue that common conditions of existence came between the operational goals and terminal values in the accounting domain and key actors willingness to seek the specified values. This analysis provides a flexible but powerful tool for analyzing motivations that may influence behavior of key organizations in the accounting domain.

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1 Introduction

The public accounting profession is in a singularly challenging position. The accountant must prepare financial statements that are true and fair, address the demands of the client and the duty owed to the public while making the most of an incomplete conceptual framework, a plethora of accounting principles, and rules created by both public and private bodies. In no other profession is there a work product that has a greater impact on the capital markets and yet the conditions under which accountants must account are difficult at best. The accounting firm must continually seek equilibrium between client demands, professional responsibility and self-preservation.

Professional responsibility requires that the public accountant affirm that company financial statements are free from material misstatement and contain relevant and reliable financial information. The corporations that employ public accountants are under pressure to present financial statements that protect stock value and corporate reputation. The pressure could encourage the use of a variety of loopholes in accounting regulation to adjust financial statement accounts and to manipulate the company's financial position so that the company appears more stable or liquid than it is in reality.

Spacek (1958) noted that existing shareholders want the facts about their investments, but they also want these facts to be presented in the best possible light. This is because investors want the highest value for their investments. Spacek stated that users of financial statements want the financial statements to be prepared on a basis that is comparable with other companies in the same industry or in similar industries. Financial statement users require transparency and consistency to make resource allocation decisions and accounting principles must meet this test of public needs. However, in many cases accounting principles are not consistently applied and routinely violate the objectives for which accounting principles were founded, namely to provide decision useful information upon which stakeholders can rely to make capital allocation choices.[1] Spacek, in a key note speech at the 1958 American Accounting Association Annual conference held at the University of Wisconsin (subsequently published in the July issue of the Accounting Review in the same year), raised a critical point, namely, accountants must be able to give reasons for the accounting procedures adopted by a client. The usefulness of accounting principles as they are applied to corporate financial statements should be evaluated on a case-by-case basis. Where there is doubt with respect to the applicability of an accounting principle, the justification should be discussed and argued cogently to ensure that the principle corresponds to the objectives of proper accounting. There is no place where the application (or misapplication) of accounting principles can be brought to issue.

[1] It has been argued recently that accounting standards do not to produce decision useful information either at the individual or macro level.Williams and Ravenscroft (2015) state that there is incoherence in the standard setting process and that accountability and economic facts, not decision usefulness, should be the objective of accounting standards.

Spacek gave a well-reasoned argument to establish an accounting court. However, establishing the court in the US is an elusive goal. Research is generally supportive of building a body of casework upon which accounting principles could be evaluated and revised as economic conditions warrant (Spacek 1958; Friedland 2004; Kleinman et al. 2012) although not all agree that the accounting court is the vehicle by which to achieve this goal (Pye 1960). This seems a perfectly good idea, with general support in the past and a favorable, well-reasoned argument in support of the creation of the court.

Why doesn't the accounting court exist? The answer may lie in the tension that exists between the various groups responsible for financial standards and the content of published financial statements. The groups include regulators (Financial Accounting Standards Board [FASB], Securities and Exchange Commission [SEC]), professional organizations (American Institute of Certified Public Accountants [AICPA], State Societies), the market (clients, public stakeholders, analysts) and the public accountant. Arguments for the creation of an accounting court have been proffered before (e.g., Friedland 2004; Spacek 1958). Previous literature has not provided grist for thought as to why such a court has never been implemented.

In this paper, we contribute to the literature on both the accounting court and on standard setting in accounting—to which the accounting court concept is intricately tied—by analyzing group value orientations and motivations that should promote the likelihood of an accounting court appearing in these times. We root our analysis in value group theory (Shakun 1988) as originally applied in the accounting domain by Kleinman and Palmon (2000). Uniquely in the literature, Shakun's value group analysis, an analysis rooted in an examination of the so-called operational and terminal values of key participants (here organizations), provides a flexible but powerful tool for analyzing motivations that may influence behavior of key organizations in the accounting domain.

In Sect. 2 we describe the accounting court, as originally propounded in Spacek (1958).[2] In Sect. 3, we present the argument as to why having an accounting court should be useful in addressing current accounting issues Without a strong argument *for* having an accounting court, there would be no need to explore why different value groups may not be supportive of the installation of such a court. In Sect. 4, we describe the current situation and why it is so complicated. In Sect. 5, we describe various value groups and the operational goals and terminal values (Shakun 1988) that they are presumed to harbor, and how or why these values may not comport well with the creation of an accounting court in these times. Finally, in Sect. 6, we conclude with both a summary of the paper and recommendations for research in this domain.

2 What is an Accounting Court

Public accountants have a responsibility to select the accounting treatment that gives the most accurate depiction of company capital and income. Company management

[2] Note that Spacek maintained the need for an accounting court for the remainder of his life (see, for example, Spacek 1969, 1973). His description of the court and the reasons for creation of such an entity changed over time. The institutions that Spacek fought against (e.g., see Zeff 2001) have changed over the years. Thus, they do not serve as motivation for an accounting court now, so we ignore them.

can argue for an alternative accounting treatment that is equally a part of Generally Accepted Accounting Principles (GAAP), even if the difference between the two methods is material. An auditor cannot force the company to apply one GAAP method over another.

Spacek felt that management had too much discretion in the application of GAAP and that this did not always produce financial statements that were truthful and fair. Spacek suggested the accounting court as a way to mitigate creative use of accounting principles. The accounting court, as visualized by Spacek (1958), would promote fair reporting of economic facts; provide reasoning for application of accounting principles, and settle disputes between companies and stakeholders interested in the company financial statements. According to Spacek, the accounting court would be a venue where corporate managers, external auditors, investors, creditors, and other stakeholders could bring a question about the application of an accounting principle. The facts of each situation would be heard by accounting experts and scrutinized. The accounting court would apply accounting theory and accounting case history and determine (rule on) the proper application of accounting principle on a case-by-case basis. This case-based process, Spacek argued, would build up a body of reasoning that would be useful in the standard-setting process, thereby improving on the standard setting system the Committee on Accounting Procedure (CAP) used at the time Spacek gave his speech. The latter system, Spacek held, resulted in ad hoc rules applied to immediate accounting circumstance, not the broad-based theory development he is said to have favored at the time (Zeff 2001).

3 Is There a Need for an Accounting Court in Today's Environment

The public accountant's responsibility is to express an opinion on the fairness of the results of the operation of a corporation and its related financial position. Spacek pointed out that nowhere do we find a definition or explanation of the criteria of what "fair presentation" of income means and this is still true today. In 1958, Spacek said he could not find a single bulletin issued by an accounting organization that defined fair presentation of income and criteria that should be applied to determine what fair presentation looks like. There are no standards to measure fairness and if it has been achieved. Instead, attention is on rule ticking and rules-based accounting (Ball 2009). Most standards were, in Spacek's opinion, overburdened with comments on procedures on how to handle specific transactions, including journal entries. Standards continue to be prescriptive. For example, Ball (2009) noted that there were at least 78 FASB Statements, Interpretations, and Emerging Issue Task Force documents or commentaries that relate to accounting for leases. This number continues to increase as accounting for leases is revisited again (as recently as December 16, 2014) by the FASB and the International Accounting Standards Board. There is virtually no discussion on what effect we are trying to seek or and more importantly, why we desire it. Spacek wrote succinctly "The accounting profession should ask itself what ends are we trying to achieve and what criteria should be applied to achieve those ends."

The notion that the practice of accounting is cut and dried is fallacy. Pollock (2007) refers to a report by the Institute of Chartered Accountants in England and Wales (ICAEW), that recognizes the ambiguous nature of accounting. Pollock states that "upon close inspection, many accounting concepts are fuzzy, obscure, and subjective. Accounting debates are often hard to follow, resembling metaphysical disputes in an odd dialect of English ('an assumption of no ineffectiveness' is one of my favorite phrases), and are carried out with a surprising level of emotion." Pollock also notes, "accounting rules are not just matters of numbers and techniques; they are necessarily matters of politics, philosophy, and fundamentally imprecise ideas." It could be argued that there is no need for an accounting court, because there are regular courts, such as the courts that deal with questions of medical practice. The accounting court proposed in Spacek's (1958) article is not a court of law, but a court of theory and practice, a court in which specific constellations of fact are married to accounting theory and rules. In a way, this is done by any court. A major difference is that having a specialized court well-versed in arcane accounting rules, theories, philosophies, and the like would provide expert ears and an appropriately-trained mind to the difficult task of deciding on preferable accounting practice. Such a 'specialized court' would not be new in the United States. In the United States, specialized courts exist. Among these are the Court of International Trade, the Foreign Intelligence Surveillance Court, the Alien Terrorist Removal Court, Immigration courts, and—of greater relevance to an accounting court specifically, the US Tax Court, Bankruptcy Courts, and the Court of Federal Claims. A difference would be that the Accounting Court, at least as specified in Spacek (1958), a specification that differed from his later writings, would not be a creature of the government. Its exact funding and placement in the constellation of regulatory organizations or information providers would need to be determined. Nevertheless, as with the other courts, it would draw on those with specific expertise to address the interplay of complex questions of fact and accounting rules.

Such guidance provision has a distinct value. Public accountants are so preoccupied by methodology that we fail to correctly articulate the principle involved (Spacek 1958). For example, a user of financial statements assumes that each transaction is recorded to reflect the true economic substance. The financial statement user has the right to make comparisons among companies without having to complete difficult, if not impossible, mental adjustments to make the figures comparable. The comments made by Spacek in 1958 are applicable (in fact more so) in today's environment.

Friedland (2004) revisited Spacek's call for an accounting court. He observed that the issues identified by Spacek continue to exist, in spite of the passage of nearly a half century since Spacek's article. Friedland (2004) noted that an endemic problem in accounting resulting from alternative treatments for identical transactions is as prevalent today as it was in Spacek's time. With the option for alternative treatments, clients pressure accountants for more favorable (i.e. higher income or lower expense) treatment, especially when GAAP is open ended and there are insufficient criteria upon which to base the decision. The accounting court could set precedent by rejecting and challenging arguments and establish sufficient criteria for GAAP.

This research contributes to the accounting court and standard setting literature in several ways. First, an analysis of group terminal values and operational goals, based on Shakun's (1988) value group theory, informs as to the motivations that drive the decisions of key accounting organizations. Second, this research investigates the likely reasons why key accounting organizations, based on the aforementioned values that can be said to be a proper motivation for their behavior, do not and have not supported the creation of the accounting court. Finally, this paper adds to the body of current research that calls for accounting professionals and groups to revisit the methods by which accounting standards are created and how those standards are applied in practice. Whereas Friedland (2004) presented arguments as to the continuing need for an accounting court, we examine potential reasons why an accounting court did not come into being, given the desirability of such a court.

The accounting profession depends on transparency and comparability. Yet, a black box exists where accounting firms and clients make decisions regarding complex accounting transactions. Negotiation between the client and firm commence and the prevailing accounting treatment may or may not reflect the economic substance of the transaction. The details of the negotiation are not revealed unless there is an inquiry from an authoritative body. The profession relies on transparency, comparability and clarity, yet, "…many of the most difficult issues are raised, addressed and resolved in secrecy" (SEC Advisory Committee on Improvements to Financial Reporting 2008) The accounting court is a venue by which firm and client can address the substantial complexity of accounting transactions in the light of day. In 2007, the Institute of Management Accountants submitted a comment letter to the SEC Advisory Committee Standard Setting Subcommittee that advocates for the accounting court to resolve issues between firms and the SEC noting the "…diminished use of professional judgement" in the accounting profession. In 2009, the accounting court was again suggested as an a means to an end—the end being a "…simpler financial reporting model based on principles" (Sunder 2009).

Why do we need an accounting court today? Professional judgment is becoming an exercise in risk-taking. Accountants are stymied by the regulatory and legal environment, transaction variation and complexity, voluminous standards, rules, interpretations and guidance, and an incomplete conceptual framework (Desroches 2007). The FASB states that all standards have to be comprehensible to readers with a reasonable level of knowledge and sophistication (Financial Accounting Standards Advisory Council 2006). Beresford cites FASB Interpretation No. 46, Consolidation of Variable Interest Entities (FIN 46) to illustrate. Apparently, auditors and financial executives admit that few individuals in the United States know how to apply FIN 46 and those few individuals do not agree and argue amongst themselves! Beresford observes that such complications make it difficult to get decisions, particularly on issues such as derivatives and securitization transactions that frequently need clearance from "national experts" in an accounting firm. Even the experts vary in their decisions. An accounting court could be a forum to deliberate these and other complicated issues and decide the best application of principle. A judge or panel of judges could weigh evidence from both sides and come to a decision, which could then be applied to similar circumstances. The decision is binding, as precedent, and creates consistency and comparability.

4 What Caused the Present Imbroglio and Why is it so Complicated?

In the late 1950s, the Accounting Principles Board—the successor to the Committee on Accounting Procedure that had so irked Spacek—had not yet issued standards and the Financial Accounting Standards Board (FASB) did not yet exist.[3] Today, under the aegis of the FASB, there are countless procedures (relative to the late 50s). For example, ten years ago, the rules and guidance on derivative financial instruments totaled over 800 pages (Beresford 2004). The FASB continues to discuss exposure documents and final standards and met as recently as October 29, 2014 to continue the decade's long discussion of the rules and guidance on this topic. Beresford (2004), former head of the Financial Accounting Standards Board, noted that the totality of authoritative Generally Accepted Accounting Principles (GAAP) in the late 50s and early 60s could fit in one softbound booklet. To put in context, this softbound booklet was one-third the size of the guidance on derivatives alone. In addition, he noted that 50 years ago, the SEC did not interfere with accounting issues; neither mandatory quarterly reporting nor management's discussion and analysis had yet come into being. The annual report then could be read in less than half an hour. He noted that accounting standards and proposals are getting increasingly complicated and harder to apply, thus even the best-intentioned accountants have difficulty keeping up with the changes from FASB, the American Institute of Certified Public Accountants (AICPA), the SEC, the Emerging Issues Task Force (EITF) and the International Accounting Standards Board (IASB). Some individual standards are now so complicated (such as those on derivatives and variable interest entities) that these standards are almost impossible for professionals, let alone lay people, to decipher. This is solely attributable to accounting regulators. Beresford (2004) cites a famous line from the comic strip Pogo: "We have met the enemy, and he is us."

According to Beresford, the situation now is more complicated than before, especially relative to the fifties, because companies are subject to what he refers to as quadruple jeopardy. While companies have to apply GAAP as best they can, they remain subject to as many as four levels of second-guessing of their judgments. Beresford, in particular, notes the following sequence: after the external auditors have completed the audit, the SEC reviews all public companies' reports at least once every three years. Then the Public Company Accounting Oversight Board (PCAOB) will look at a sample of accounting firm's audits, which could include any company's financial reports. Finally, the plaintiff's bar in any lawsuit (and there is a plethora of lawsuits) will be looking for opportunities to challenge accounting judgments to exact substantial settlements. All this second-guessing is what leads companies and auditors to ask for detailed accounting rules. Ball (2009) summarized the current financial reporting system as an endogenous result of market, political and regulatory forces

[3] Zeff (2001) described the history behind Spacek's original proposal for an accounting court. He notes that it arose from Spacek's anger toward the Committee on Accounting Procedure, with the speech also emerging during a period of angry confrontation between Spacek and Arthur Andersen on the one hand and the AICPA on the other, with Spacek threatening to withdraw Arthur Andersen from the AICPA. Given that the nub of the conflict was over the quality of accounting standard setting at the time, it is not surprising that the AICPA preferred another solution—the creation of the Accounting Principles Board—rather than to buy into Spacek's Accounting Court.

unlikely to change in substance unless the forces at work change (p. 312). As accounting rules become more prevalent, accountants continue to sacrifice the substance of a transaction for the form. Thus, the quagmire that Spacek complained about half a century ago continues into present day, only now the situation is infinitely more complex.

Beresford indirectly makes a case for an accounting court by pointing out that procuring clarifying information from one's auditor is even harder with the advent of section 404 of the Sarbanes Oxley Act (SOX) and concerns regarding auditor independence. In the past, companies would consult with their auditors on difficult accounting matters. According to Beresford, there is apparently a reluctance to consult the auditor on difficult matters, because of the perception that the PCAOB would view this as a control weakness under the assumption that the company lacks adequate internal expertise. According to Beresford, the irony is that if the auditors get involved in vital technical decisions before a complex transaction is completed, there is a possibility that the SEC or PCAOB could intervene, deciding that the auditors are not independent because they are auditing their own decisions. Therefore, companies are not willing to ask auditors for technical advice in a complex transaction and auditors, too, may be unwilling to step in.

Responding to criticism in a PCAOB report regarding misapplication of EITF issue 95-22 by three Big Four audit firms, KPMG noted, "Three knowledgeable informed bodies, one big four audit firm, the PCAOB and the SEC had reached three different conclusions on proper accounting with respect to a complex derivative transaction." Beresford wrote that when things become this complicated, there is a need for a new approach. In our opinion, this vacuum should be filled by an accounting court. Another important reason for an accounting court is the advent of fair value accounting. It makes sense to use fair value accounting for marketable securities, derivatives and other financial instruments. However, because of the International Accounting Standards Board (IASB) the fair value concept will be extrapolated to many other assets and liabilities. There will be a need for an impartial arbiter, such as an accounting court, to apply accounting principles in order to make complex decisions that can be uniformly applied. Fair value issues now arise with SFAS 142 (requiring goodwill impairment losses for intangible assets upon decline of fair value); SFAS 143 (requiring asset retirement obligations be recorded at fair value); SFAS 146 (calling for fair value of exit liabilities rather than the amount expected to be paid); SFAS 147 (requiring fair value on guarantees). In none of these cases has the FASB provided clear guidelines on how to estimate fair value; rather, they have given different techniques firms could adopt for determining fair value. Obviously, subjective judgment will be applied in each case and pressure will be applied to present the company financials in the most favorable light. Beresford points out three major concerns about the future pervasive use of fair value accounting. First, in many cases determining fair value in any kind of objective way will be difficult, if not impossible. Second, the resulting accounting will produce answers that will not benefit users of financial statements. Third, those answers will be very difficult to explain to business managers, with the result that accounting will be further discredited in their minds. This issue can be effectively resolved with the establishment of an accounting court where all fair value issues are resolved after expert testimony and deliberation on both sides. Once a judge or

panel of judges makes a ruling, that ruling can be used as precedent and guidance by auditors and firms in similar circumstances. Why, then, do we not have an accounting court? We develop these thoughts further in Sect. 5 and offer an interest group-based theory for the failure of an accounting court to appear in the current environment in Sect. 6.

5 Issues to Ponder

At this point, we discuss the virtues and flaws of the existing standard setting system. This will provide a setting to discuss how the accounting court should aid in improving the system.

In 1973, the SEC issued Accounting Series Release (ASR) No. 150 that made clear that the pronouncements issued by the FASB had substantial authoritative support and that the FASB should be the organization to develop accounting standards in the private sector. FASB statements represent the accounting profession's authoritative pronouncements on financial accounting and reporting practices. The FASB replaced its predecessor, the Accounting Principles Board (APB), because the opinions of the APB did not have substantial authoritative support. It was believed that the FASB statements would carry greater weight because (1) the FASB has a smaller number of full-time compensated members; (2) the FASB has been given greater autonomy and increased independence; and (3) the FASB has broader representation than the APB. However, the SEC has the authority to override and veto the FASB should conflicts arise with regard to accounting practices and principles employed by corporations.

The FASB is constantly under pressure to change accounting standards and influence new standards. This pressure comes from individual companies, industry associations, and governmental agencies, practicing accountants, professional accounting organizations and public opinion. This is because there are economic consequences of standard setting. Accounting information impacts users and new standards can change wealth positions of users by transferring wealth. Many have noted that currently politics plays an important role in the development of accounting standards and there are accusations that standards are subject to manipulation despite supervision and "oversight" by the SEC (e.g., Kleinman and Hossain 2009). Notwithstanding the good intentions of the standard setters, if information indicates that investing in a particular enterprise involves less risk than it actually does, or is designed to encourage investment in a particular segment of the economy, there is always potential for immense pressure on standard setters. The perceived threat could result in a loss of credibility. There is also an expectations gap, which is the difference between what people think accountants should be doing and what accountants think they can do.

The problems with the standard setting process are, therefore, many. There are problems with the standards themselves, with standards often requiring application of vague definitions to real life occurrences with the result that no one is satisfied These are areas in which, as the late legal philosopher Ronald Dworkin would have it, the law runs out, where the standard fails to explicitly cover circumstances of a transaction

(Kleinman et al. 2012). In this case, what is one to do? An accounting court is one alternative—one favored by many academics but one that has received scant attention in the practitioner literature.[4] Why, then has an accounting court not appeared? Why is there a continued reliance on the FASB/SEC for the provision of GAAP for publicly listed companies? In the next section, we present our analysis.

6 Value Networks, Practical Impediments, the Dark Side and the Accounting Court

There is a history of research about potential political and pressure group influence on FASB decision making. Theories regarding the nature of this relationship are summarized in Palmon et al. (2011). The authors note that the relationship between the standard setter and the interested parties may be influenced by capture theory. Capture theory holds that regulators may become captive to the industries that they regulate, with regulators favoring the private regulated, and not the public, interest. The Palmon et al. paper argues, and finds, that ultimately the FASB is responsive to the SEC. Previous literature cited in the paper establishes weak links between the interests of the then Big 8 firms and FASB decisions (e.g., Hussein and Edward Ketz 1980; U.S. Congress 1976). Kleinman and Hossain (2009, drawing on Kleinman and Palmon 2000) develop a richer theory of the motivations of various groups to influence the FASB standard setting process.

The theory developed by Kleinman and Hossain does not rely largely on regulatory capture theory. Nor does it rely on or incorporate discussions of social accountability theory. Rather, it explores the rich organizational and professional environment of the FASB and examines how the operational goals and terminal values (see Shakun 1988, for a more complete description) of organizational constituents of the FASB's environment may motivate behavior toward the FASB. Table 1 is an adaptation of Kleinman and Palmon's (2000) description of terminal values and operational goals (see Shakun 1988) held by key organizations described here.

Applying the theory developed by Kleinman and Hossain (2009) to the primary groups responsible for the accounting profession and its standards allows for an in depth analysis of group values and operational goals not addressed in prior literature. Understanding group values and operational goals provides an intellectual framework to develop theories of 'right action', that is, an expectation as to what the different groups could be expected to do. Without such a theory of 'right action', it is difficult to develop a good understanding of what the group should be expected to do versus what it has been found to be doing. Understanding the differences between the two provides insight into the rationale and motivation for decisions made by critical players on the behalf of the accounting profession. It also provides a richer understanding of the warp and woof of accounting life, as seen through the play of attention on the values versus

[4] We conducted an extensive search of the professional and academic literatures, including searches of Google books using Google's https://books.google.com/ngrams/info book search facility, searching for mentions of Spacek's (1958) accounting court proposal. We found next to none in the practitioner literature. There was a good bit more in the academic literature, with the key articles cited here.

Table 1 Formal specifications of the participants, their values and operational goals

	Values	Operational goals
Values group A		
1. Investors	1. Optimize allocation of capital in the capital markets	1. Have a comprehensive set of financial reporting standards aimed at promoting both financial statement comparability between companies, and financial statement consistency across time for the same company
2. Creditors	2. Maximize wealth of shareholders	2. Have independent auditor certify financial statements with respect to their conformity to GAAP
3. Congress	3. Ensure fairness in access to information	3. Enact laws that punish behaviors that hinder equal access to information about companies
4. SEC	4. Minimize the economic gains to perpetrator of information asymmetry	4. Have monitoring systems in place to police auditor and client behaviors with respect to laws governing publicly traded securities
Values Group B		
1. AICPA	1. The autonomy of the accounting profession should be maintained	1. Create program of self-regulation (e.g., FASB, ASB)
	2. The public image of the accounting profession should be preserved from damage	2. Have active program to promote positive views of accounting profession
	3. The existence of the accounting profession should be maintained	3. Enact laws to diminish the possibility that audit firms will be sued; promote availability of the limited liability partnership for CPA firms; enact standards of conduct that can be used as defensible guidelines for behavior by CPAs and constitute the 'state of the art' in auditing; promote 150 h rule for certification as a CPA
	4. The financial prosperity of major accounting firms should be promoted	4. Seek expanded markets for CPA firm services
Values Group C		
1. Peer auditing firms	1. Gaining a competitive edge over other auditors	1. Look for weaknesses in other CPA firm's client lists
2. Focal auditing firm	2. Retaining own client base	2. Burnish one's reputation for excellence in provision of services
	3. Being prosperous	3. Avoid damage to one's own reputation
	4. Fostering a positive professional reputation	4. Create incentive schemes that foster individual activity aimed at fulfilling operational goals and values

Table 1 continued

	Values	Operational goals
	5. Acting in accordance with professional values	
	6. Fostering the well-being of members of the firm	
	7. Promoting the stature of the profession	
Values Group D		
1. Focal client	1. Survive	1. Have financial statements that look good to potential investors and creditors
	2. Maximize returns of management as well as shareholders	2. Attract new investments and resources
	3. Maximize size of firm	3. Find profitable outlets for corporate resources available for investments
	4. Protect employment of employees	4. Discourage purveyors of potentially bad or negative news about the company
		5. Have an auditor whose imprimatur lends credibility to the financial statements
		6. Not receive qualified or adverse audit opinion
		7. Be an attractive takeover target for other companies
Values Group E		
1. Potential clients of focal audit firm	1. Have a positive reputation in the community	1. Have financial statements that look good to potential investors and creditors
2. Other clients	2. Maximize the size of the firm	2. Attract new investments and resources
	3. Protect employment of employees	3. Find profitable outlets for corporate resources available for investments
	4. Maximize the well-being of management as well as shareholders	4. Discourage purveyors of potentially bad or negative news about the company
		5. Have an auditor whose imprimatur lends credibility to the financial statements

Table 1 continued

Values	Operational goals
	6. See a competitor suffer from mishaps, including negative audit reports
	7. Attract capital away from competitors
	8. Be attractive takeover target for other firms

Adapted from Kleinman and Palmon (2000)

actions of key accounting institutions and players.[5] A key outcome, then, is a better understanding of any contradiction between the values and actions of key players.

The key players in the financial field (e.g., the SEC, AICPA, FASB, and investors and creditors) have values that should be supportive of the establishment of an accounting court. For example, according to this categorization, they all have values that state that the quality of financial reporting is important. Yet, our review of the literature revealed that there has been little or no comment by any of these individuals in support of the accounting court. It is possible, of course, that the Kleinman and Hossain (2009) specification of values and goals is incomplete. Perhaps additional considerations would include the economic efficiency of adding an accounting court to the regulatory mix and/or the potential threat to the supremacy and ultimate authority of each of these institutions that an accounting court would introduce. Group A in the Kleinman/Palmon rendering, for example, consists of investors, creditors, the SEC and Congress.[6] We do not address Congress in this paper since it has an all-encompassing power over the standard setting process and is so driven by internal power and party conflicts, as well as by internal differences generated by lobbying and home district-based interest groups, that it cannot be analyzed meaningfully (Kleinman and Hossain 2009). All three remaining component groups within this subjective collectivity formally have commitments to greater financial transparency. One of these components, however, the SEC, may regard the institution of an accounting court as a potential threat to its dominance over the field of financial reporting. The existence of such a court would allow an independent body of experts to issue opinions that might contradict findings of the SEC's Division of Corporate Finance. While, as Palmon et al. (2011) found, the SEC has the power to influence the workings of the FASB, this might not be the case with the accounting court, an entity over which the SEC would have no formal power. Unlike the SEC, populated by politically appointed commissioners,

[5] The development of such a richer understanding should, of course, be useful to later scholars of accounting institutions, seeking to understand in even greater depth how various actors within the accounting world are motivated and behave.

[6] We relied on the values groupings of Kleinman and Palmon (2000) rather than Kleinman and Hossain (2009) because Kleinman and Palmon's value groupings were more compact and to the point. Kleinman and Hossain (2009), however, do provide valuable information as to how to derive values for value groupings in the accounting domain. The theory behind the value groupings, of course, is rooted in Shakun (1988).

the accounting court might possess greater moral authority given a (hoped for) lack of ties to politics and politicians.[7,8]

6.1 Financial Accounting Standards Board

While the FASB does, and the accounting court would, consist of experts in the field, the institutional imperatives of each may differ. The FASB officially sets 'the rules' for corporate accounting going forward after seeking broad input through its due process procedure. Such input comes, in part, from comment letters provided by interested parties. Those comment letters, it should be noted, often consist of letters proffered by those who would be negatively affected by any proposed change, with the provision of the letters to the FASB instigated by interest groups or commercial associations believing their members or constituents likely to be injured by a proposed change (e.g., Kleinman and Hossain 2009). As Palmon et al. (2011) show, the SEC also provides substantial input into the FASB decision process. In the United States, it is the SEC that has the formal grant of authority to set accounting standards, an authority that it exercises by vetting FASB standards and putting its authority behind them. Special cases, as it were, are not the subjects of the FASB standard setting unless comment letters raise specific issues that the FASB is willing to address.

Such a procedure differs from what would be expected with an accounting court, a court in which the matching of specific fact patterns to standards would be the heart of the issue. The remit of the accounting court, unlike the FASB, would be to find logical consistency between the specific situation and the broader area. Ronald Dworkin, writing in the area of the philosophy of the law (Kleinman et al. 2014), notes that judges are often in the position of having to decide cases in which there is no law. That is, there are no statutes or prior case law upon which the judge can base a decision. Dworkin calls this deciding (in an area) where the law runs out. While Spacek had argued that the accounting court could amass evidence and theory enabling broader understanding and application of extant standards to future fact patterns, less broad constructions are also possible. Having an accounting court make decisions in areas where the law runs out seems a particularly apt use of the accounting court. It is one that does not necessarily conflict with the remit of the FASB or the SEC. Yet, to the extent that we can determine, the FASB has been silent about the accounting court.

The FASB includes among its goals the fostering of transparency in financial reporting. Would not the exploration of how, or whether, specific fact patterns (that would be the province of an accounting court) relate to FASB standards generate useful information that would help the FASB as it researches updating of its standards? Even if the accounting court was not used to fill in the gaps in GAAP, or make 'law' where the 'law' runs out, would not its exploration of fact patterns and their relationship to

[7] The devil, of course, may lie in the details as to how the members of such an accounting court are selected!

[8] Issues as to the consistency of professional judgments across time or across experts are beyond the scope of this paper. Studies of expert judgment both within accounting and out have demonstrated that even the judgments of identified experts reviewing identical stimuli differ markedly (for a literature review, see Kleinman et al. 2010). Conflicting court decisions in 2013 as to the legality of key components of the Affordable Care Act (a.k.a., Obamacare) are an instance of this.

adopted standards add information to later FASB deliberations? In funded contests of fact and standards argued before accounting courts, the brightest and hardest working minds in accounting academia might be brought to bear, arguing on either side for the outcome desired. Whereas the FASB, through the Financial Accounting Foundation, is funded through fees paid by issuers per the Sarbanes-Oxley Act of 2002, using the accounting court to generate transcripts enables recruitment of academics (paid by one side or the other) to develop evidence supportive of the respective positions of the parties. Unlike FASB due process procedures, this enables the search for the 'truth' supposedly redolent of actual court procedures to take place through the contest of adversaries, each seeking their preferred outcome. Academic researchers, by contrast, rarely contribute comment letter responses to FASB exposure drafts (e.g., Kleinman and Hossain 2009, a finding reinforced by our perusal of more recent standards than those perused in Kleinman and Hossain). Partisans of specific practices, for example, bank CEOs and board members, often do participate, seemingly in response to interest group campaigns. It would seem that having the accounting court available to explore contentious issues involving the application of standards would be useful to the FASB, yet, there is no word from them on this.

A potential objection from the FASB's point of view could be that the existence of an accounting court might set up an additional, alternate, center of standard-setting power. The FASB's world, accordingly, may become more complicated with the imposed greater accountability and the need to think through issues even more thoroughly. It is not clear that this would be a bad thing to have happen. Also, to the extent that the FASB's values include information transparency and provision to the market of accounting numbers that promote accurate accountability, why would the FASB not welcome the challenge?

Self-interest may play an important part in FASB's lack of reported interest in the accounting court proposal. In our research on the history of the accounting court, this has not been remarked upon. What might form the unspoken fundaments of a FASB rejection of the accounting court? Such objections might include:

- The role of the Emerging Issues Task Force (EITF) as a body that vets new ideas for further exploration by the FASB, vitiating the perceived need for an accounting court (Golden and Ucuzoglu 2013)
- A desire to maintain control of the standard-setting process by stifling potential contestants for the role that the FASB already occupies. That is, a wariness of creating a triangle between the SEC, the FASB and an accounting court
- A belief that the contests of will, facts and theory that would take place in the accounting court, do not materially improve on the process currently used by the FASB.

A question for the field is: if the FASB were truly committed to transparency of the standard-setting process and were truly interested in fostering the best possible accounting standards, would it not support the accounting court concept? If the FASB conducted two separate cost-benefit analyses with respect to the accounting court, one analysis based on benefit/cost to accounting standard setting itself, and the other analyses undertaken with regard to whether the FASB, as an institution, would be hurt, would the points in the two analyses completely overlap? Would the same result hold

if the thumb-on-the-scale of motivated reasoning, reasoning influenced by one's own interests and how these could be hurt or furthered by coming to a certain conclusion could be filtered from the mix?

6.2 Securities and Exchange Commission

The SEC also has been silent on the accounting court question. The SEC has the specific power to set accounting standards. The SEC is accountable to the US Congress for the resultant standards, even if the FASB wrote the standards and these standards were given SEC approval (e.g., Kleinman and Hossain 2009; Palmon et al. 2011). Kleinman and Hossain (2009) and Palmon et al. (2011) note that the US Congress (or members thereof) has used its power to interfere with SEC/FASB operations. As with our comments on the FASB, it seems that the SEC's goal of fostering greater corporate reporting transparency would be aided by the airing of issues in an accounting court. We find no evidence, though, that the SEC has taken these considerations into account—based on discoverable public statements. One explanation for both the FASB's and the SEC's reluctance to voice support for the accounting court concept could be the not-invented-here syndrome.

Surely proposed better standards should be welcomed! The problem, though, is not whether current standards are great, but whether future versions of the standards would be better. Should the FASB and its overseer, the SEC, sit with a pat hand or explore further changes? There is no opportunity to try out alternate standards and see if they perform better than current standards, although there is obviously some opportunity to explore the impact of alternate allowed methods on the value relevance of earnings. If this is true, the impact of accounting research is limited to testing whether a new standard outperforms an old one, using the criterion of choice. Repealing new standards that have failed to outperform, or even perform as well as, old standards, is unheard of. Rather, according to the FASB 'Rules of Procedure', the standards are updated or amended or replaced.

Compustat and other databases provide enormous opportunities to test current and prior standards against stock prices in order to determine the value relevance of separable parts of them. For example, the value relevance of earnings computed according to current standard A vis a vis former standard B.[9] Yet research based on these databases is not used. Why then would we expect the SEC and FASB to support the creation of an accounting court? The accounting court would provide a venue to which auditing firms and auditing clients could bring disputes for airing and decision. Over time, it would build a database of casework illustrating the pitfalls of application and interpretation of specific standards to specific fact patterns. It would, in the process, bring to bear the adversarial 'search for truth' ideally sought in the US court system (e.g., Kleinman et al. 2012). The process of argument and disputation, use of expert witnesses, and well-honed in-house and hired-external audit and client experts would bring further intellectual clarity to the standard-at-issue's application. The existence of an accounting court might help defeat the baleful effects of groupthink (Janis 1982)

[9] Assuming, to the extent possible, controls for time period or other relevant factors.

on decision-making by the FASB or the SEC itself. While the notion of an outside 'challenge' might trigger in-group defensiveness, it might also trigger even greater scrutiny as to the sense and probable impact of existing standards and proposed standards. One never knows until one tries.

Accounting researchers, like other researchers, are cautioned against generalizing from anecdotal evidence. An old cliché is that hard cases make bad law (http://www.phrases.org.uk/meanings/hard-cases-make-bad-law.html). That is, cases that are very difficult in and of themselves, do not provide great grist for the creation of a law to cover entities and behaviors which do not have the particularly difficult configuration of the difficult case.

In addition, it may be the case that the SEC—staffed by lawyers and accountants—has the ability to vet corporate accounting reporting practice itself and therefore may see no need for an accounting court. What such a court may do, though, is expose the corporate and auditor reasoning behind disputes to the public eye and, in the process, bring an independent view to the SEC's own consideration of the matter, should the matter rise to its attention. We know of no study that has looked at the operation of the SEC's Division of Corporate Finance (DCF). There is no information regarding the consistency or quality of DCF decisions, if the Division works according to the relevant schedule. Freedom of Information Act requests might produce evidence from internal reports. We have seen no evidence of such requests in the public record. The accounting court has been characterized as potential sand in the oyster, an irritant that can give rise to something of great value. Such an outcome would stem from the independent point of view the judge or panel would bring to evaluating cases brought to the court. Such an independent view may not be welcomed. In addition, institutional imperatives may interfere with the willingness of the SEC, along with even more critical regulatory institutions, to seek to become more effective. Little (2012) describes the work of a leading organizational researcher, Charles Perrow, on the inability of large regulatory organizations to deal with the challenges before them. Little states: "…large regulatory organizations… have proven politically inept…" in accomplishing the tasks assigned them. Perrow is said to attribute these failures to (a) economic and political power's influence on the regulatory process, resulting in regulatory capture; (b) the impact of Congress on the process, including fears that committee chair people will lose oversight responsibilities for important societal/economic functions; (c) the continuing controversy as to the role of government in regulating the economy; and more generally, (d) the ability of business to push back against attempts to regulate it. At the organizational level, therefore, there may be many impediments to the SEC pursuing effective implementation of its operational goals in order to achieve its terminal values of transparency and accurate disclosure.

Organizations are composed of constituent individuals influenced by the organizational control systems, culture, climate and sense-making apparatuses to act generally in accordance with organizational diktat (e.g., Kleinman and Palmon 2001). That said the organization's behavior is also the culmination of the behavior of its constituent individuals. As these individuals are exposed to influences outside the remit of the organization, the so-called web within which Kleinman and Palmon (2001) claimed professionals are immersed, the incentives of these individuals matter too. For example, the individual incentives of SEC staffers have come under

much criticism of late. It has been argued that the SEC (e.g., Smith, 4/9/14 at http://www.nakedcapitalism.com/2014/04/sec-lawyer-on-goldman-cdo-case-describes-how-the-agency-wimped-out.html) has been the victim of regulatory capture, with the once feared agency now staffed by individuals who have their eyes on the exits, and on the lucrative careers that await staffers who transit to the corporate venue or to white-shoed law firms. With popular disdain for government and government staffers, as well as the relative impoverishment of life on government salaries, such movement is understandable. This reality, though, does not bode well for aggressive enforcement. Further, in an age when SEC aggressiveness may lead to SEC staff and commissioners being called before congressional committees, avoiding the limelight may seem advisable. Having an independent entity like the accounting court raises an additional independent voice whose opinions may embarrass the SEC. Such an independent court may imply that the SEC does not have the intellectual firepower, will and drive to explore needed issues in depth. Accordingly, why would the SEC support the creation of an independent accounting court? In the contest between operational and terminal values on the one hand, and the survival instinct on the other, values of transparency and disclosure may not prevail.

6.3 Investors and Creditors

Investors and creditors, like the SEC and FASB, are presumed to have an interest in corporate reporting transparency. In this regard, though, we take exception to Kleinman and Hossain's (2009) categorization and note the more nuanced discussion of Kleinman et al. (2012). According to Kleinman and Palmon's, and then later Kleinman and Hossain's, value/goal analysis (Shakun 1988), investors and creditors are interested in accurate financial disclosure. The more nuanced discussion in Kleinman et al. (2012), however, holds that investors and creditors' wishes may bifurcate based on whether they already hold the stock or bond—and may be damaged by a disclosure or change in accounting method, or whether they are potential purchasers of the stock or bond and may choose to either drop plans to buy the security in reaction to the information or decide to buy it at the lower price even given the new information. Such individuals, especially if they enjoy 'getting into the weeds' of a company's information, may wish to see the disclosures that may be released from the accounting court. Such disclosures may provide them with a richer information set to use in making their investment decisions.

In effect, one part of the investor community may have interests at variance with the other part. No one in the investor community is likely to stand up and state that they prefer less information rather than more because their investments would suffer should a richer information set be made available. This is contra-normative for a market capitalist society, especially one embedded in a larger philosophical project of 'free speech.' Accordingly, there would be a lack of unanimity within the investor community. Need there be uniformity behind, or opposition to, an accounting court? No. Still, in our research we find no expressions of support for the concept. Perhaps investor organizations were, and still are, unaware of Leonard Spacek's concept. Or, perhaps, the investor organizations were, or are, aware of the concept but believe that

it fails some cost-benefit test. We have seen no specification in the literature of what such a test would be. Given that the funding for an accounting court may come from foundations or the disputants, it is difficult to see what exactly is encompassed by the 'cost' side of the ledger. In addition, the party bringing the case seemingly is choosing to provide the information relevant to the proceeding and the counterpart party—not resigning from the audit or firing the auditor as the case may be—is choosing to provide the information as well, in order to remain in the case.

It seems, therefore, the information provided would be for most the equivalent of a free lunch. It could be argued that the investors are not making the decision to participate in the court proceeding, yet their investment's proprietary information is being released and hiring accounting experts is costly. Ergo, the investors ultimately pay the bill. The current investor group may fear public disclosure of information damaging to the worth of their investments or they may feel that pursuing the case would help avert potentially nasty consequences from an auditor-initiated writedown or adjustment. In addition, since the accounting court case decision presumably will be needed *before* the corporate financials are 'put to bed', the timing aspects of solicitation of investor input, tallying of results, conducting an authorized accounting court venture, and then completion of the financials will be a problem. In this regard as well, what of the interests of the potential shareholder group? How would their interests' best be (a) served and (b) discovered? Never having owned the stock, they could not 'vote with their feet' in a detectable manner. Even observations of short selling and put/call activities may indicate changes in expectations for the firm, but not necessarily the reasons for these changes. While the financial press will frequently state that a stock price drop occurs due to some information release, the press cannot actually know this. All it does know is that information was released—and the stock price dropped. Assertions as to causation may reflect a post hoc, ergo, propter hoc, analytic flaw. It seems, therefore, that the groups (potential future investors) who have the greatest interest in ascertaining the 'truth' of the would-be investment's financial value could not express that interest.

Our review of published remarks of the accounting court revealed its reference in academic work and in publications of Arthur Andersen, a firm now functionally defunct for some 14 years. We did not find mention of it in the investor, nor practitioner, press. This suggests that an additional explanation for the accounting court proposal failing to be seriously considered in recent years is that the investors are unaware of its existence. The world of the Internet is vast, extraordinarily well populated with information. Regrettably, unless one knows something exists, it is difficult to know to search for it. Also, as the Internet operates, information seekers are bubbled based on the search engines' prior knowledge of their searches. Accordingly, the world an information seeker sees differs from that seen by another with a different search history. The upshot, then, is a lack of information on old stories that might be relevant in a more modern age.

Perhaps, though, all of these parties believe the current arrangements work well. We do not know. The political effort that would be required to establish an accounting court probably would be very costly. This would be the result of not only the need to generate a popular understanding at least within the political and economic elites—of what the accounting court would do and why it would be needed, but also in terms of

making enemies of whichever groups might have opposed the accounting court. Even if all investor/creditor groups supported the establishment of an accounting court, however, the nature of the court, with the need for perhaps only episodic activities, suggests that the effort to overcome potential opposition of the SEC and the rest of the regulatory establishment would become too costly and might endanger other interests that these investor groups possess.

6.4 American Institute of Certified Public Accountants

The AICPA is the sole organization in Kleinman and Palmon's (2001) Value Group B. Its operational goals are said to include creating a program of self-regulation and promoting positive views of the accounting profession. These operational goals are presumed to lead to the value goals of maintaining the autonomy of the profession, preserving the profession's good image in the eyes of the public and taking steps to help ensure that it would be difficult to sue profession members. In the wake of the Enron and Worldcom financial reporting fiascos, self-regulation of public company auditing was taken by Congress from the profession and handed to the Securities and Exchange Commission, the overseer of the new Public Company Accounting Oversight Board (PCAOB). If self-regulation is a key aspect of being a profession, then the profession lost a key aspect of its ability to self-regulate its auditing function. Instead of so much decision-making taking place within the halls of the profession, it was moved to the marble corridors of the SEC and the newly-created PCAOB. Decision-making over private company standards, however, remained with the AICPA. Since private companies are typically the least remarkable companies in the US, particularly with regard to size, this marks quite a comedown for the profession. A great deal of autonomy was lost as Congress sought to use the new PCAOB and updated SEC to avert future auditing and financial accounting-based scandals. Concomitant with the loss of autonomy, the public image of the profession was severely damaged.

Under these circumstances, then, it may have seemed to be natural for the AICPA to work hard to achieve the third value goal, protection of the profession from litigation. Such an expectation is even more insistent due to the destruction of Arthur Andersen at the hands of law enforcement and later the punishments delivered to KPMG for its forays into apparently illicit tax shelter provision (e.g., BloombergBusinessWeek, 8/31/2005). Regulation is sometimes said to provide a shield to practitioners because proven adherence to regulatory requirements shows the practitioner's good faith and documented adherence to the state of the art, as embodied in the regulations (e.g., Anderson and Wolfe, 9/1/2002). Fitting the accounting court into such a scheme is more difficult. If the AICPA's goal is to avoid litigation against auditors and to promote a positive view of the profession, then one potentially positive role that an accounting court could play would be to have an additional source of scrutiny of auditor behavior upon whose lap the auditor could leave judgment as to the proper course of action in unclear circumstances. Whichever way the accounting court ruled, the auditor would be protected just as long as it went along with the ruling. If, for example, the auditor preferred a more conservative accounting treatment than did the client and the accounting court ruled for the client, then the auditor could safely give up its opposition and

look to the ruling of the accounting court as its justification. However, if the accounting court ruled for the auditor, then the auditor's position would be strengthened and client resistance to the ruling might place the client in legal jeopardy should it insist on the court-denied accounting treatment. Given the fortification of the auditor's position and the position of the court, client opinion shopping would be more difficult in that potential new auditors would be under an implied threat of sanction should they give into the desires of a client which has just been told it is wrong by the accounting court. Kleinman and Palmon (2000, 2001) had argued that the existence of a known SEC negative position on a matter of importance to the client, a client position that the auditor itself disdained, led to the conflict between the auditor and the client being reframable as a conflict between the client and the SEC. Given that even more unsophisticated clients would know of the power of the SEC, the true conflict becomes one between the SEC and the client, not the client and the auditor. Thus, the auditor becomes spared the obloquy that the client might render, with the incumbent auditor's position becoming stronger because rival audit claimants would be hesitant to buck a known SEC position.

The accounting court itself could come to occupy that SEC position. If a matter is brought before it and it rules, then that ruling becomes public knowledge and reinforces the position of the auditor or the client, on whosoever's behalf the judgment was rendered. Why then do we not see AICPA advocacy for the accounting court? It is possible that the history of Spacek's accounting court proposal stands in the way. According to Zeff (2001), Spacek launched the accounting court proposal because he was angry at a wrong opinion rendered by a particular AICPA body, this in addition to Spacek's rejection of the narrow, ad hoc, nature of Committee on Accounting Procedure standard-setting. According to Zeff's accounting, the AICPA took steps to expel Spacek from the institute, a threat lifted when Spacek agreed to join the AICPA committee that ultimately led to the creation of the Accounting Principles Board.[10] It is unlikely that, even if remembered, this affected the AICPA in relation to the accounting court.

One issue for the AICPA may be that of control. As the accounting profession's public face and dominant private organization, it has historically wielded a great deal of control over the happenings within the profession and heavily influenced discourse about the profession. Accepting a new external body, such as an accounting court, that would influence both accounting standards and auditing practice would provide that body with a great deal of influence on the further development of the profession. Influence garnered by the accounting court would not redound to the benefit of the AICPA's hope to control discourse on the future of the profession. There would, therefore, be both plusses and minuses to the accounting court from the AICPA's point of view. On the one hand, the accounting court would help protect AICPA constituents from litigation or destructive internal-to-the-profession competition, as well as support AICPA

[10] Spacek was later to say of this board that "...The accounting profession should be establishing appropriate standards to give true purpose and meaning to the much used term 'generally accepted accounting principles.' Instead, we continue to receive a flood of unrelated and unsupported directives from the APB which further pollute fair financial reporting to the public. ...the system is so involved in trivia that it can't identify simple, basic, and honest principles".

constituents in their struggles with clients. On the other hand, the accounting court would be a creature of its creators and while the AICPA might number among these, it might not control the process. It is also possible, given the nature of a proposed body—the accounting court—that would have to draw on a variety of expertise to meet the challenges of its caseload, that the accounting court itself may be completely outside the AICPA's influence. If so, it would further diminish the stature of the AICPA, much as the creation of the PCAOB under, ultimately, federal aegis, diminished the control of the AICPA over auditing standards (Carmichael and Graham 2012). The declared goal of harmonization of AICPA Auditing Standards Board standards with those of the International Federation of Accountants' International Standards on Auditing also marks a reduction in the ability of the AICPA to unilaterally affect the course of the profession in the United States.

6.5 Audit Firms

According to the Kleinman and Palmon (2000), audit firms constitute Value Group C. The audit firm terminal values include developing a positive professional reputation, acting in accordance with professional values, fostering the well-being of firm members, and promoting the stature of the profession. Our normative supposition is that developing a positive professional reputation is most consistent with living up to the values of the profession. Those values are always described in textbooks, and leader of the profession speeches as acting in the public interest (e.g., Hanson, 12/9/2014). The controversies over auditor independence of clients and quality of services that have dogged the auditing firms for years can hardly be said to be conducive to promoting the stature of the profession (e.g., The Economist, 12/13/14). One might expect, therefore, that the auditing firms would seriously consider how an accounting court would influence the stature of the profession and whether it would promote their own positive professional reputation.

The auditing firms have largely been silent with respect to the creation of the accounting court. In one respect, this might be regarded as odd given that the original impetus for the creation of the accounting court came from Leonard Spacek, the managing partner of Arthur Andersen in 1958, the year Spacek proposed the court. Now, with both Spacek deceased and Arthur Andersen existing largely as a memory of a once prestigious firm gone awry, there is no one in practice to urge the idea. Academics, like Friedland (2004), may urge the notion, but as the Pathways (2012) commission notes, academic research (and, we add, enthusiasm) frequently fail to impact the practitioner world. In another respect, the rationale for the accounting court is the need for a forum within which accounting firms and their clients can contest their differences, enabling the judge(s) to discern from the conflicting accounting theories and facts what would be the appropriate treatment of problematic transactions.

Having such a court exposes the inner life of the auditor-client firm relationship. Such exposure, certainly in the wake of the FTC effort in the 1970s to promote auditor solicitation of clients from other auditing firms, may provide nonincumbent auditing firms with information that may lead the incumbent audit firm to lose the client involved. Unless issues are cut-and-dried, auditing firms may fear that nonincumbent

auditing firms may tailor their approaches to the client by presenting arguments for the client's position. The accounting court, therefore, may make it easier for the non-incumbent auditing firm to engage in artfully-phrased opinion proferring instead of the client engaging in opinion shopping.

Thus, while the Kleinman and Palmon (2000) rendition of the terminal values of auditing firms includes acting in accordance with professional values, other elements of the auditing firm's values may be in conflict with that. For example, the auditor does want to retain its own client base, be prosperous and foster the well-being of members of the firm. Taking a case to an accounting court may, or may not, foster the professional reputation of the firm. It may foster the professional reputation of the firm if the step of confronting the client in front of an accounting court demonstrates the auditor's independence. The same act, however, given the nature of litigation, may result in damaging accusations against the auditing firm by a client anxious to have its will prevail. This argument may not hold if other auditing firms restrain themselves or could be expected to restrain themselves should another auditing firm be challenged. After all, 'there but for the grace of God go I'.

Solidarity of such a sort might prevail if auditing firms saw themselves as sharing a common fate. After all, the Big 4 (then 5) was united in opposing the reforms to the provision of consulting services advocated by then SEC Chairman Arthur Levitt in 2000 (e.g., SEC, 5/15/2000). The proposed reforms would have limited the ability of the auditing firms to provide certain consulting services. In that sense, the loss to one would be the loss to all. That, however, would not be the case with the accounting court. In its presence, each firm might hope to be relatively more successful poaching clients from the other engaged in 'litigation' with its client. Thus, each may hope to be the 'winner' in a contest of all-against-all. Whether any of them would have been a net winner in this contest is unknown. Winning means taking a client dissatisfied with its current auditor's position and then accepting the client's position on the accounting question. It could be argued that cases that come before the accounting court are likely to be cases in which the weight of the arguments between the parties is somewhat equal. Would not a good adviser, perhaps one not paid by the hour, advise a client to drop a contest with the auditor if the auditor possessed a clear advantage in the logic and substance of the argument against the logic and substance of the client's argument? That may very well be so, but human behavior is known to be difficult and often—to an outsider—can be considered irrational. Individuals become wedded, invested, in their particular positions and view the arguments of the other through a funhouse mirror. Each side, therefore, may view its opposite as irrational, or at least oddly incapable, of matching the facts to the standard.

From an initial disagreement, the conflict may build due to the escalation of commitment phenomenon, giving the conflict a life of its own.[11] An outside audit firm, reviewing the issues at stake and less ego-involved in the dispute may be able to bring a fresh eye to the dispute and avoid a seemingly irrational buildup of commitment to a position that the client finds objectionable, and that the other auditing firm finds unnecessary. The phenomenon of inter-expert disagreement is well known (for a lit-

[11] Escalation of commitment is defined as the tendency to pursue a failed course of action despite evidence of such failure (e.g., Bazerman et al. 1984).

erature review, see Kleinman et al. 2010). Accordingly, even apart from pecuniary motivations to support a rival auditor's client in a dispute with the auditor, the non-incumbent auditor may indeed agree with the client. Such agreement may exist even apart from motivated reasoning to gain a client.

In addition, the focal audit firm and its competitors need to be cognizant of the impact of taking action in the accounting court on competitors of the client the audit firm is 'suing' or is being 'sued by.' Taking a client to court may result in current, other, clients of the litigating audit firm reappraising their willingness to continue with the auditor. This would be true to the extent that the auditor had not previously signaled its position on an important accounting issue affecting the client. Clearly, this would be more likely with a new client in the same industry as the litigating client than a continuing client.

6.6 Current and Potential Clients

Value Group D and E of the Kleinman and Palmon (2000) paper consisted of current (Value Group D) and potential (Value Group E) clients of the auditing firm. Members of these value groups may be either attracted or repelled by the auditor's position on the litigation issue. They might be attracted if they saw the auditor's willingness to litigate a question with a current client as a sign of the auditor's integrity. They might be repelled if they disagreed with the auditor or saw the auditor's position as contrary to the potential new client's own interests. All clients, potential, new and old, though, may feel threatened by the litigation since a decision against the litigating client may provide backbone to their current auditors to also resist client importunities to support questionable accounting positions. As noted above, it is also possible that other auditing firms simply do not agree with the position of the litigating audit firm on the accounting problem at issue. The terminal values of these groups include firm survival, maximization of returns to shareholders and management, and protecting the employment of employees.

The operational goals include having good-looking financial statements capable of drawing investment resources to the firm, discouragement of purveyors of bad news and avoiding qualified or adverse opinions, as well as having a prestigious audit firm to confer an unqualified opinion on the client firm. On the one hand, conflict with the auditor for the incumbent client may draw much unwanted attention to the client's financial statements and operations. On the other, the willingness to challenge the auditor in the accounting court, to defend one's preferred accounting treatment before an independent tribunal, may generate a very positive perception of the client firm's financial statements and of the integrity of management. The display of public information about the firm, of course, may be a big negative, potentially providing proprietary information to competitors. The competing potential client firms in Value Group E, however, may enjoy the spectacle of a rival facing its auditor in the accounting court. Such a spectacle would provide them with information on the litigating auditor's viewpoint on the accounting issue, with such a viewpoint they could choose to seek out that auditor or avoid it. A critical issue here, though, is whether the accounting court's decisions are binding

on all client firms (whether of the focal audit firm or not), or just on the litigating client firm. Either way, of course, the argument and ultimate decision reached by the accounting court could feedforward into future FASB and SEC decision-making.

An important question for the focal client firm, the one presumably initiating or responding to the litigation, is whether an increased perception of the integrity of its management and financial statements is worth the cost of litigation against the auditing firm, a firm that can easily be replaced by others perhaps as competent and perhaps more pliable on the issue at hand. Focal client competitors, those not involved in the accounting litigation, of course, may gain information by carefully observing the litigation process but may also lose accounting flexibility if the accounting court rules against a position advocated by the focal client firm that its rivals also liked. In either case, it is difficult to see why potential focal client firms would be supportive of the accounting court concept. If a government agency selected auditors for clients, and auditors had a mandatory tenure as auditor, then, with so much power in the hands of the auditor, an accounting court might be useful in adjusting the balance of power between the focal auditor and the focal client. Absent tenure guarantees for the auditor or other compensation for the auditor if it challenged, or responded aggressively to a challenge from a client, it seems that the accounting court would be deemed of greater cost than benefit to both focal and potential client firms.

Our research showed that academics were most likely to advocate for the accounting court. This was a group *not mentioned* in the work of Kleinman and Palmon, although it did feature in the work of Kleinman and Hossain. Kleinman and Hossain argue that the terminal values of academics include obtaining a greater understanding of the financial accounting standard-setting process, as well as doing research—or engaging in argumentation—that supports the development of more theoretically adequate financial accounting standards. The authors go on to note that the academics' operational goals may include "further developing their own professional skills and understanding, as well as fostering their own professional reputations by taking part in a potentially public process." (p. 18). Unlike auditors, clients, and others, academics are used to the hurly-burly of stated positions contested by others. The publishing process exposes academics to contrary opinions (i.e., those of the reviewers) with each round. While making presentations at conferences, challenges from discussants and the audiences are routine. The wise academic regards the challenges not as threats but as opportunities to incorporate other, discrepant, insights into the next iteration of the paper before submission to a publisher. In contrast, perhaps to the corporate world, an academic's career is furthered if he/she attends to meaningful comments and further develops his/her paper. Individuals outside the academy, however, may take such challenges as threats. Further, academics have as part of their classroom role development of positions to present to the class, marshalling of evidence to support those positions, and developing responses to the questions asked of the class. In that sense, the academics are perhaps more used to, and feel less threatened by, the search for truth through active intellectual engagement than the others herein described.

7 Conclusion and Recommendations

In 1958, the then head of the prestigious auditing firm of Arthur Andersen, Leonard Spacek, suggested the creation of an accounting court. The seeming motivation behind this suggestion was Spacek's lack of confidence in the quality of accounting principles being issued by the Committee on Accounting Procedures (Zeff 2001). Academicians have touted Spacek's idea of an accounting court to hear disputes between auditors and clients and to develop a body of knowledge and theory useful in setting better accounting standards since 1958. It was not, however, positively received by the practitioner or regulatory community of Spacek's, day.

Since 1958, however, Spacek's idea of an accounting court has lived on in the academic accounting literature. Learned articles have appeared (e.g., Friedland 2004; Beresford 2004; Kleinman et al. 2012) arguing the need for an accounting court to help deal with the current standard process's shortcomings. These academic arguments never gained traction outside academe, never having been echoed in the practitioner (other than Arthur Andersen house organs) or regulatory community publications.

In this paper, we use the Kleinman and Hossain (2009) characterization of accounting environment participants' operational goals and terminal values (based on value group theory developed in Shakun 1988) to explore why the accounting court suggestion never took flight. We argue that common conditions of existence came between the operational goals and terminal values expected of players in the accounting standard setting domain and their willingness to seek the specified terminal values. In this paper, we concentrate on the accounting world as it exists today, populated by today's players and today's concerns. Future efforts to investigate the absence of the accounting court should consider incorporating a timeline of events, analyzing how those events affected or failed to affect the introduction of an accounting court.

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