

OFFICIAL TRANSCRIPT
PROCEEDINGS BEFORE
THE SUPREME COURT
OF THE
UNITED STATES

CAPTION: SILVIA S. IBANEZ, Petitioner v. FLORIDA
DEPARTMENT OF PROFESSIONAL REGULATION,
BOARD OF ACCOUNTANCY, Respondent.

CASE NO: No. 93-639

PLACE: Washington, D.C.

DATE: Tuesday, April 19, 1994

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1 IN THE SUPREME COURT OF THE UNITED STATES

2 -----X

3 SILVIA S. IBANEZ, :

4 Petitioner :

5 v. :

6 FLORIDA DEPARTMENT OF : No. 93-639

7 PROFESSIONAL REGULATION, :

8 BOARD OF ACCOUNTANCY, :

9 Respondent. :

10 -----X

11 Washington, D.C.

12 Tuesday, April 19, 1994

13 The above-entitled matter came on for oral
14 argument before the Supreme Court of the United States at
15 10:09 a.m.

16 APPEARANCES:

17 SILVIA S. IBANEZ, ESQ., Winter Haven, Florida; on behalf
18 of the Petitioner.

19 LISA S. NELSON, ESQ., Deputy General Counsel, Department
20 of Business and Professional Regulation, Tallahassee,
21 Florida, on behalf of the Respondent.

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1 PROCEEDINGS

2 (10:09 a.m.)

3 CHIEF JUSTICE REHNQUIST: We'll hear argument
4 now in 93-639, Silvia S. Ibanez v. the Florida Department
5 of Professional Regulation.

6 Ms. Ibanez.

7 ORAL ARGUMENT OF SILVIA S. IBANEZ

8 ON BEHALF OF THE PETITIONER

9 MS. IBANEZ: Mr. Chief Justice, and may it
10 please the Court:

11 This case presents an important commercial
12 speech issue. Specifically, whether the Board of
13 Accounting censure of Petitioner's truthful communications
14 in attorney advertising violate her First Amendment
15 rights.

16 The truthful speech in question consists of the
17 CPA and the CFP credentials, which communicate licensure
18 status. Petitioner is indeed a CPA, licensed in good
19 standing by the State of Florida. Petitioner is indeed a
20 CFP licensee in good standing. The Board has acknowledged
21 and agreed in accepting these findings of facts.

22 The Board says, no, that these truthful
23 communications are somehow not -- are somehow misleading.
24 In doing so, it charges Petitioner with a deceptive
25 advertising statute and regulations. It does so by using

1 a contrived rationale. It uses a complex hypothetical, an
2 irrelevant argument, that attempts to transform what is
3 truthful speech into violative conduct.

4 The record is devoid of anyone having been
5 misled. The record is absolutely devoid of any violative
6 conduct. The record does disclose that no one has been
7 misled as to Petitioner's truthful speech contained within
8 her attorney advertising. Thus, the Board is punishing
9 Petitioner for truthful speech. There are no charges as
10 to conduct. And the BOA's, the Board of Accounting's,
11 censure of Petitioner's truthful speech provides no
12 latitude. It constitutes a ban.

13 QUESTION: Ms. Ibanez, may I inquire of you?
14 You -- do you acknowledge that you engage in public
15 accounting on occasion?

16 MS. IBANEZ: Your Honor, the record is clear,
17 the Petitioner has maintained that she does not practice
18 public accounting; she practices law. She does this by
19 choice, because she is authorized to practice public
20 accounting. The Board, however --

21 QUESTION: If you did practice public
22 accounting, do you recognize that you have to abide by the
23 regulations of the Board of Public Accounting?

24 MS. IBANEZ: Your Honor, I believe that anyone
25 who practices public accounting or doesn't practice public

1 accounting is subject to Chapter 473. Yes, Your Honor.

2 QUESTION: And did you take a different position
3 earlier in the litigation?

4 MS. IBANEZ: No, Your Honor. I believe that the
5 entire record of the rule challenge proceedings clearly
6 states that Petitioner understands that Chapter 473 has
7 two different layers of regulation. The first layer
8 covers all CPA's good moral conduct, continuing education
9 requirements and so forth and so on.

10 There is a second layer of regulation that, by
11 the express provisions of Chapter 473 and some other
12 rules, are conditioned on the practice of public
13 accounting.

14 QUESTION: Reading the briefs, I got the
15 impression that the position you've taken has shifted
16 somewhat during the course of the proceedings.

17 MS. IBANEZ: Your Honor, I believe the record is
18 clear that in the rule challenge proceedings, a lot of
19 hypothetical questions were posed -- that was not the
20 disciplinary proceeding -- and the questions, I believe,
21 and the answers are consistent. The record --

22 QUESTION: And does the Board take the position
23 that your law firm somehow has to be licensed or
24 authorized as -- by the Board of Accounting for
25 accountancy?

1 MS. IBANEZ: Your Honor, it appeared that
2 initially the Board thought so. It included a charge in
3 the amended complaint. But even after hearing
4 Petitioner's opinions in the rule challenge proceeding, it
5 decided to withdraw that charge just a few mere days
6 before the disciplinary hearing. The record is clear.

7 So, there has been no --

8 QUESTION: And while I have you interrupted, the
9 CFP designation after your name in the advertisement, how
10 is somebody reading that ad supposed to verify what that
11 means and whether you're a member in good standing of
12 whatever that organization is?

13 MS. IBANEZ: Your Honor, the record is clear, at
14 the disciplinary transcript found at the joint appendix,
15 that the public is very well aware and informed about the
16 CFP credentialing -- considers it quite valuable.

17 Mr. Robert Goss, the expert witness, spoke about
18 the hundreds of calls that they get about referrals from
19 the CFP organization. It is a national, bona fide
20 organization. There are strict requirements as to a
21 comprehensive examination to be --

22 QUESTION: But does -- your advertisement at
23 least doesn't make any explanation about what that is or
24 who has issued the certificate, I take it?

25 MS. IBANEZ: Your Honor, the CPA and CFP, within

1 the context of attorney advertisement, and in the case of
2 a multiple-licensed professional such as Petitioner is,
3 clearly could disclose some disclaimers in connection to
4 the --

5 QUESTION: Excuse me. The question I asked was
6 whether your advertisement, the one at issue here, had any
7 explanation about the CFP designation?

8 MS. IBANEZ: No, Your Honor.

9 QUESTION: Thank you.

10 QUESTION: Well, could -- could the State
11 require some explanation of the certified financial
12 planner designation?

13 MS. IBANEZ: I believe that the State could
14 certainly require, as to the CPA, some disclaimer. And
15 that disclaimer is the threshold issue. And that
16 disclaimer would cover the CFP issue. The CFP issue would
17 come later. Because this is in the context of attorney
18 advertising, Your Honor.

19 QUESTION: I'm not sure that I understood your
20 answer. I think it was a concise answer. But you're
21 saying that the State could require this of an -- of an
22 accountant, but not of an attorney?

23 MS. IBANEZ: Your Honor, I believe in the
24 context of attorney advertisement the CPA credential,
25 which is the credential regulated by the Board, certainly

1 the Board regulate for some disclaimer language. It has
2 not done so here.

3 QUESTION: In other words, your position, then,
4 is that a State may require some sort of disclaimer or
5 explanation of the use of the term C -- certified
6 financial planner, CFP, either when that is used by
7 someone in conjunction with advertising their services as
8 an attorney, or in advertising their services as an
9 accountant?

10 MS. IBANEZ: Yes, Your Honor, with the following
11 qualification if I may, because it's the CPA credential
12 that's the threshold issue. If there was a disclaimer or
13 additional information required of a CPA licensee within
14 attorney advertising that would say, for example, not
15 engaged in public accounting, or a positive disclaimer
16 that says, attorney engaged in the practice of law, then
17 that disclaimer would serve as to all other multiple
18 credentials, whether Petitioner includes two, three or
19 four credentials that are all, on its face, truthful
20 communications, rather than require Petitioner to add
21 disclaimers to every credential. I believe that would
22 only confuse the public.

23 QUESTION: Of course, I don't understand why
24 there's concern about lack of information as to what the
25 letters mean. After all, physicians use M.D. There are a

1 lot of people that don't know what that means. And I -- I
2 don't recall anybody ever requiring an explanation of M.D.

3 And now we're developing the practice among
4 lawyers of using E-S-Q, Esquire.

5 MS. IBANEZ: Yes, Your Honor.

6 QUESTION: May I ask -- you said there are two
7 levels of regulation by the Accountancy Board, and you
8 comply with one about your general qualifications. And I
9 gather you do not comply with the different level?

10 MS. IBANEZ: Your Honor, Petitioner has not been
11 charged as to whether she complies or doesn't comply
12 regarding the allegation of unlicensed firm status; only
13 when she is confronted directly, and not indirectly, can
14 she be afforded her due process rights. And then there
15 can be a conclusion, and not a summary conclusion, about
16 whether she has violated this provision or not.

17 QUESTION: What -- just help me out a little bit
18 -- what is the nature of the reg -- the second layer of
19 regulation? What are we talking about anyway? What do
20 they require that arguably you may or may not do? I'm not
21 asking you to plead guilty, but what is it that we're
22 talking about here?

23 MS. IBANEZ: Your Honor, as I understand the
24 Board's position, Chapter 473, in various of its statutes
25 and in some of its regulations thereunder, actually couch

1 the regulations and the statutes with the phrase "only if
2 engaged in the practice of public accounting." So,
3 apparently there is some concern from the State that in
4 some areas this would apply to only CPA's in public
5 accounting and not to other CPA's engaged in the practice
6 of law or banking or other professions.

7 QUESTION: But I still don't understand what
8 this second layer of regulation regulates. What does it
9 make you do or forbid you from doing? I mean, what -- how
10 could you possibly violate that? I don't even understand
11 that.

12 MS. IBANEZ: Well, I could possibly think of one
13 example in the area of contingency fees, for example.
14 There is a provision that says CPA's may not accept in the
15 form of remuneration contingency fees. That is a
16 regulation of conduct. Certainly the Board can regulate
17 conduct.

18 QUESTION: I see.

19 MS. IBANEZ: It has an ample regulatory arsenal
20 to regulate conduct. It has --

21 QUESTION: But that would be contingency fees
22 for performing accounting services?

23 MS. IBANEZ: Yes, Your Honor.

24 QUESTION: I see. And you're saying if you took
25 a contingency fee for handling a lawsuit, that should not

1 violate that provision?

2 MS. IBANEZ: Yes, Your Honor. And that is not
3 part of the record. These are hypothetical musings of the
4 Board.

5 QUESTION: Were you ever told -- was Petitioner
6 ever told expressly what she must do to bring herself into
7 compliance with the regulation that she was censured for
8 violating?

9 MS. IBANEZ: No, Your Honor. The record is
10 clear that she was never even given the opportunity. The
11 Board uses the phrase, "refuse" -- "she refuses to comply,
12 she refuses to comply." There is nothing in the record to
13 show that she's ever been offered -- first of all, she was
14 never charged -- and then she was never offered to then
15 comply because of the charge.

16 QUESTION: Is --

17 MS. IBANEZ: She could not have refused if she
18 was not offered.

19 QUESTION: In -- in your view, does the State
20 have a valid interest in -- in prohibiting the -- the --
21 the formation of an accounting firm which includes
22 non-accountants -- or non-CPA's, I should say?

23 MS. IBANEZ: I believe there are some provisions
24 under Chapter 473.

25 QUESTION: Well, I know there's a provision, but

1 do you -- do you agree that it is a valid provision?

2 MS. IBANEZ: Yes, Your Honor. I have -- I have
3 no problems with any of the regulations of the Board of
4 Accounting.

5 QUESTION: Including the regulation that
6 requires separate firm registration?

7 MS. IBANEZ: Yes, Your Honor. All those
8 regulate conduct. And I believe those are perfectly
9 permissible.

10 QUESTION: Okay.

11 QUESTION: Do you happen to know whether in
12 Florida CPA's can list -- who are practicing CPA's --
13 they're accountants -- can they list the fact that they're
14 lawyers?

15 MS. IBANEZ: Excuse me. If I understand the
16 question --

17 QUESTION: Could a CPA with -- perhaps I should
18 ask your opponent this rather than you -- but could a CPA,
19 without violating the regulations, who is a practicing
20 CPA, does tax work and audits and all that sort of stuff
21 -- could such a CPA put on his or her business card, also
22 a member of the Florida Bar?

23 MS. IBANEZ: I am not quite sure what the answer
24 would be to that question. I believe that Professor John
25 Sullivan, in the rule challenge proceedings, indicated

1 that CPA's in accounting practices may certainly add J.D.
2 or Esquire, along with CPA. So, when the shoe is on the
3 other foot, it is all right.

4 QUESTION: Well, from a constitutional
5 standpoint, what's your answer to that question?

6 MS. IBANEZ: I believe it is constitutionally
7 permitted.

8 QUESTION: In other words, there is a
9 constitutional right for an accountant to say that -- who
10 is practicing as an accounting -- to list on their
11 letterhead or in their professional announcement the fact
12 that they are an attorney?

13 MS. IBANEZ: Yes, Your Honor, I think that this
14 Court's commercial speech cases in the area of attorney
15 advertising clearly articulate the doctrine of truthful
16 speech, on its face, passive speech, non-coercive,
17 relevant to the listener -- because the public interest is
18 very well served by providing them more information, not
19 less.

20 QUESTION: One other question. Since you
21 indicate -- I think this was your position -- that a
22 disclaimer or an explanation of CFP might be required,
23 should this case be remanded?

24 MS. IBANEZ: No, Your Honor. I believe the
25 Board's position in its order is clear -- they use the

1 advertising rule, subsection (i), which is an absolute
2 prohibition on the use of the word "certified."
3 Subsection (i) does not give leeway for adding
4 disclaimers.

5 In addition, this case represents a separate
6 discipline. So, even though the case of Peel v. Illinois
7 Regulatory Commission certainly applies to this case and
8 provides protection -- constitutional protection to the
9 speech in this case, it certainly goes beyond. We're in
10 an era where many individuals and professionals seek
11 higher education, seek to better themselves for their own
12 reasons, but mostly so that they can offer additional
13 competence to the public. It --

14 QUESTION: Ms. Ibanez, do I understand your
15 answer to Justice Kennedy to say that you -- you were
16 faced with a total prohibition, and there might not be any
17 controversy if the Board came back with something specific
18 -- you might agree with it and there might not be any
19 controversy? Is that --

20 MS. IBANEZ: Yes, Your Honor. If I may clarify.
21 Because there are multiple licenses here, whether there
22 were two or three, if the threshold issue is, can the
23 State regulate an ad or restrict the CPA credential by
24 adding more information and more -- and a disclaimer,
25 certainly that is always a possibility and consistent with

1 this Court's decisions.

2 However, to the extent that there are additional
3 licenses, to what point does -- at what point does it
4 begin to chill the speech? If there are two credentials
5 or three credentials, is the professional then supposed to
6 add a disclaimer to each credential, or just the threshold
7 credential that the Board of Accountancy was trying to
8 clarify?

9 QUESTION: But that remains hypothetical at this
10 point, because we don't have any specifics of what a
11 clarification might be.

12 MS. IBANEZ: Yes, Your Honor, right now it is
13 hypothetical. The Board could have chosen that route to
14 add more information to the CPA credential. It certainly
15 could have regulated a disclaimer or an asterisk regarding
16 CPA.

17 It has not done so. But it may certainly do so.

18 And that is a more reasonable form of regulation
19 than totally inhibiting and suppressing truthful speech
20 that deserves constitutional protection.

21 The Petitioner's speech is truthful. No one has
22 been misled. It is non-coercive. It communicates
23 valuable information. The truthful speech deserves
24 constitutional protection, not so much to protect
25 Petitioner, but to protect listeners. This Court has said

1 time and time again, it is the listeners' rights that we
2 are protecting here, not so much the speakers.

3 The public interest is well served by providing
4 disclosure of relevant information, to help potential
5 clients. And certainly this is the context presented
6 before the Court -- attorney information in attorney
7 advertisement.

8 So, it is definitely directed to potential legal
9 clients. Certainly, it is relevant to their
10 decision-making process in helping them choose a lawyer.

11 The Federal Trade Commission has a staff report
12 that we have cited in our brief regarding the additional
13 information disclosures that should be encouraged and not
14 censured when an attorney attempts to help in this
15 decision-making process that only benefits the marketplace
16 of ideas.

17 The Central Hudson test, which is a balancing
18 test well known and applied by this Court in the attorney
19 advertising cases, requires a balancing test. When the
20 speech is truthful, as it is here, and deserves
21 constitutional protection, then the State has a heavy
22 burden. The State must have a constitutionally adequate
23 reason to suppress Petitioner's commercial speech.

24 The State, in this case the Board of Accounting,
25 has not met its burden. As recent as in the 1993 decision

1 of Edenfield v. Fane, this Court has reiterated that the
2 burden of providing substantial government interest in
3 suppressing Petitioner's truthful speech must directly
4 advance the government's goal -- in this case, the Board
5 of Accounting's interest.

6 In this case, there is no substantial government
7 interest.

8 QUESTION: Well, I -- I think when you come to
9 the use of cert -- CFP, which stands, I guess, for
10 certified financial planner --

11 MS. IBANEZ: Yes, Your Honor.

12 QUESTION: I would think that at the very least
13 you would have to acknowledge there is a potential there
14 that the public will be misled into thinking that somehow
15 the State has certified you as a certified financial
16 planner. And, in fact, this is a certificate issued by
17 some private organization, as I understand it. And so, I
18 would think there would be that much of a concern there at
19 the State level that might justify either an outright ban
20 or some kind of a disclaimer.

21 MS. IBANEZ: Yes, Your Honor. But the
22 substantial government interest, I believe, answers the
23 question as to which credential should this additional
24 disclaimer or information be provided to. Certainly, the
25 Board does not own the word "certified."

1 So, whether -- whether it's certified pilot,
2 certified financial planner, certified engineer, it
3 certainly cannot be the word "certified" that does it.

4 So, the interest as to disclaimer and more
5 information, I believe, is to the threshold question of,
6 can the Board of Accounting -- could it have regulated in
7 a more reasonable way? Is there a more reasonable fit?
8 And, yes, a disclaimer to the CPA credential. And that
9 would have cured any possibility of potentially misleading
10 effect regarding any of the other credentials.

11 QUESTION: How could that -- how could that be?
12 What disclaimer attached to the CPA would make it clear
13 that the CFP is not a State credential?

14 MS. IBANEZ: Justice Scalia, very simply, if
15 there is an asterisk to a CPA credential, not engaged in
16 public accounting --

17 QUESTION: Yes.

18 MS. IBANEZ: That would cure all misleading
19 effects. Because the advertising rule says at subsection
20 (2), this only applies to public accounting advertising.
21 And this is attorney advertising. So, that disclaimer
22 would cure not only as to the CFP credential, but as to
23 any other credential.

24 QUESTION: Well, it would -- it would prevent
25 you from misleading any people looking for accountants.

1 It would not prevent you from misleading people looking
2 for lawyers. But you're saying that's none of the Board's
3 business, I suppose?

4 MS. IBANEZ: Your Honor, anyone looking for
5 lawyers has found a lawyer under the attorney advertising
6 and has found a lawyer that complies --

7 (Laughter.)

8 QUESTION: But -- but the person looking for the
9 lawyer sees "CFP" next to "CPA" and knows that CPA is a
10 State-conferred certificate and assumes that CFP is a
11 State-conferred -- and you say, that's okay because people
12 looking for lawyers deserve what they get -- is that it?

13 (Laughter.)

14 MS. IBANEZ: Your Honor, I -- I will agree with
15 -- with Your Honor, but what I would like to say is, if
16 the Florida Bar, who is also the State, regulates attorney
17 advertising -- and I believe we all agree on that -- and
18 they have already indicated that the credential from a
19 recognized institution is all right with them, then
20 obviously the attorney who uses CFP in the Bar's -- in
21 advertising rules, in compliance with the Bar's rules, is
22 perfectly in compliance. And they do not require a
23 disclaimer.

24 QUESTION: What you're saying is that -- that
25 people who are being misled are people in the market for

1 lawyers, not people in the market for accountants -- if
2 there is any misleading?

3 MS. IBANEZ: Yes, Your Honor. Which we do not
4 believe they are misled.

5 QUESTION: And the Florida Bar takes the
6 position that you're not misleading anybody?

7 MS. IBANEZ: Correct, Your Honor.

8 QUESTION: The Petitioner would not be before
9 this Court if she were attorney-at-law and CFP and not
10 CPA?

11 MS. IBANEZ: Correct, Your Honor.

12 There must be a reasonable fit between the goals
13 of the legislature and the means chosen. And what were
14 the goals of the legislature?

15 The legislators -- legislature spoke clearly.
16 At section 473.322 of Florida's statutes it says, a CPA
17 who holds an active license may append credentials after
18 his or her name to designate status, connote status. This
19 is speech. This is passive, truthful speech. It's not
20 conduct.

21 I urge the Court not to travel this winding,
22 complex road with twists and turns that the Board of
23 Accountancy has put before the Court regarding
24 hypothetical conduct that it has not even charged
25 Petitioner with.

1 QUESTION: May I ask you one other factual
2 question about this winding road?

3 I'm still somewhat un -- I don't really
4 thoroughly understand the second layer of regulation
5 referred to earlier. Is there a procedure in the Florida
6 regulation of accountants whereby they not only regulate
7 the individual -- you have a license as a CPA, as I
8 understand it -- but if you did want to practice
9 accounting, would you have to get a separate license to
10 have your firm also licensed?

11 MS. IBANEZ: Your Honor, in the rules which are
12 in the rule challenge portion of the proceedings in the
13 exhibits at R.377 to 700, you will find rule 21A-20.006,
14 Florida Administrative Code, that says a CPA may practice
15 as a sole proprietor.

16 So, if a CPA-attorney, such as Petitioner, or
17 others --

18 QUESTION: Well, that's not my question. My
19 question is, supposing you got another person who is also
20 an accountant, you are a CPA, your other person is also a
21 CPA, but you want to practice as a firm of X and Y, do you
22 have to get a third license for the firm to do that?

23 MS. IBANEZ: The license needs to be, yes, with
24 the firm, as I understand it.

25 QUESTION: You do. I see. And that's what

1 their really -- their -- their complaint is -- that you
2 don't have such a license.

3 MS. IBANEZ: Yes, Your Honcr. But that --

4 QUESTION: And you say you don't need it because
5 you're not practicing accounting?

6 MS. IBANEZ: Correct.

7 And -- and certainly the record has been
8 somewhat misinterpreted regarding the attorneys and CPA's
9 out there who have chosen to practice dual professions.
10 Certainly, those are practicing dual professions and, of
11 course, need to license their firm. That is not the case
12 before the Court.

13 The public interest is certainly well served by
14 protecting commercial speech.

15 Why?

16 Because it assures free flow of information to
17 the public. In turn, this helps consumers to make more
18 informed and rational decisions. It also encourages
19 competition, which benefits the public. It also benefits
20 small and large benefits alike.

21 For, in this marketplace of large law firms, the
22 sole practitioner -- the small businessman, the
23 businesswoman -- needs to have the opportunity to
24 truthfully disclose any distinguishing and differentiating
25 factors.

1 QUESTION: Let me -- I hate to be asking these
2 stupid little questions, but I wanted -- if -- if you just
3 want to be a sole practitioner as a CPA, do you need two
4 licenses or one?

5 MS. IBANEZ: As a sole practitioner?

6 QUESTION: Yes.

7 MS. IBANEZ: Without being incorporated?

8 QUESTION: Without, yes, being incorporated or a
9 partnership.

10 MS. IBANEZ: Possibly the Board can answer that
11 question better than I, but as I understand it, the sole
12 practitioner needs to be individually licensed.

13 QUESTION: Period?

14 MS. IBANEZ: I believe so.

15 QUESTION: Okay.

16 MS. IBANEZ: The public is not easily misled.
17 The Board of Accounting would have this Court believe that
18 the public can be easily misled. But that is not so.
19 That merely follows a paternalistic argument that has been
20 rejected by this Court.

21 The public needs truthful, relevant information
22 to make informed decisions. And Petitioner and others
23 like her, multiply licensed in good standing,
24 communicating truthful speech, should be encouraged and
25 not censured for disclosing it.

1 If there are no further questions of the Court,
2 I would reserve the rest of the time for rebuttal.

3 QUESTION: Very well, Ms. Ibanez.

4 Ms. Nelson, we'll hear from you.

5 ORAL ARGUMENT OF LISA S. NELSON

6 ON BEHALF OF THE RESPONDENT

7 MRS. NELSON: Mr. Chief Justice, and may it
8 please the Court:

9 The Petitioner contends that the Florida Board
10 of Accountancy refuses to allow her to advertise her
11 status as a CPA. That is not actually the case.

12 The State intends to demonstrate that we are
13 here because of Petitioner's refusal to offer her services
14 as a CPA in a manner that complies with the law. Although
15 she is individually licensed as a CPA, the firm which she
16 -- through which she provides accounting services and
17 which she is advertising does -- is not.

18 QUESTION: She claims she is not providing
19 accounting services.

20 MRS. NELSON: Your Honor --

21 QUESTION: What is there in the record that
22 shows that she is providing accounting services?

23 MRS. NELSON: The record is very clear and
24 Ms. Ibanez admitted during hearing that she is providing
25 exactly the same kind of services now -- tax

1 representation, interpretation of financial records,
2 representation before the IRS --

3 QUESTION: Is that the practice of accountancy
4 under Florida law?

5 MRS. NELSON: Yes, it is.

6 The practice of accountancy is governed by a
7 title act. Chapter 473 is a title act in Florida, which
8 means that the practice of the attest function is -- can
9 only be practiced by a certified public accountant.

10 QUESTION: So, then -- then a lawyer who
11 represents people in tax matters is practicing accounting?

12 MRS. NELSON: Not necessarily. Because the
13 definition of the practice of public accounting in Florida
14 has two components. The first component is the offering
15 of accounting services or -- or consultant management
16 services. The second --

17 QUESTION: And tax representation is included
18 among them?

19 MRS. NELSON: If it's within those.

20 The second prong is to also hold yourself out as
21 a certified public accountant. If you are simply a lawyer
22 who is providing those services, unless you are providing
23 the attest function, you may do so. You are not
24 practicing public accounting under Florida law, because it
25 is a title act, unless you -- unless you both perform the

1 service --

2 QUESTION: She could do -- she doesn't do audit
3 and attest, right?

4 MRS. NELSON: That is correct.

5 QUESTION: That's undisputed?

6 MRS. NELSON: That is correct.

7 QUESTION: Are you saying to us now that she
8 could do everything that she's doing -- the tax
9 representation -- if she were merely a lawyer?

10 MRS. NELSON: Yes.

11 QUESTION: She could do those functions?

12 MRS. NELSON: Yes.

13 QUESTION: But if she is also certified as a CPA
14 --

15 MRS. NELSON: If she holds herself out --

16 QUESTION: She can't?

17 MRS. NELSON: If she holds herself out as a CPA,
18 then she can do those things. But she must adhere to all
19 of the regulations under Chapter 473. It's a two-pronged
20 test.

21 QUESTION: Well, do you -- do you have -- what
22 -- what is -- what is your evidence that she is not
23 adhering to them? The only think I gather that's apparent
24 on the face of the record is that she did not separately
25 register her professional corporation. Do you --

1 MRS. NELSON: That is true. And that was
2 alleged in the administrative complaint.

3 QUESTION: Then why didn't you -- why didn't the
4 Board simply go after her to revoke her CPA license
5 because she had failed to register her corporation?

6 MRS. NELSON: We originally did have a charge --
7 or the administrative complaint was amended to add that
8 charge to the -- the charges against her. However, it was
9 withdrawn because the hearing officer felt that that
10 amendment was untimely.

11 However, the conduct in this case and the speech
12 in this case are inextricably intertwined because of the
13 definition of public accounting. The administrative
14 complaint, as it was --

15 QUESTION: Well, they may inextricably
16 intertwined, but do you not understand -- is there any
17 reason -- let me put it this way -- why the Board cannot
18 go after her for failing to -- to register her corporation
19 and fight it out as a matter of fact and fight it out as
20 to the validity of the regulation, if she contests it --
21 and I don't know that she does --

22 MRS. NELSON: Yes, they could.

23 QUESTION: Without -- without raising any First
24 Amendment problem?

25 MRS. NELSON: They could do that, as well as

1 what they have done in -- in raising the advertising
2 violations here. But in this particular case, what she is
3 doing is advertising that she can provide these services
4 through a professional association. And that professional
5 association is not licensed. That is an unlawful act.

6 This Court --

7 QUESTION: But -- but my understanding is that
8 that wasn't a part of the complaint that was retained
9 before the Board.

10 MRS. NELSON: Yes, it was, Your Honor. If you
11 look at page 33 of the record, in the allegations that are
12 in the record, on paragraphs eight and nine, it
13 specifically indicates that the respondent provides or
14 offers to provide services to the public through her firm,
15 called Silvia S. Ibanez, P.A., which firm is not licensed
16 by the Florida Board of Accountancy.

17 QUESTION: Are you referring to the Joint
18 Appendix?

19 MRS. NELSON: No; in the record itself. I don't
20 believe that the administrative complaint is in the Joint
21 Appendix. But it's on page 32 and 33 of the record. And
22 the respondent --

23 QUESTION: My understanding is that the only
24 rulings that were before the Board after the complaint was
25 amended was, first, that this CFP designation was

1 misleading, and the second, that the CPA designation was
2 misleading.

3 MRS. NELSON: That is true.

4 QUESTION: Is that an incorrect statement?

5 MRS. NELSON: No, Your Honor. Those are the
6 conclusions of law that they reached. But the allegations
7 of fact that were part of the complaint also indicated
8 that the respondent holds herself out to the public as a
9 CPA in this unlicensed firm by appending the CPA
10 designation after her name.

11 QUESTION: Well, but if the conclusions of law
12 -- which was the basis of the -- the Board's action --
13 were simply that CPA and -- and CFP were misleading, why
14 isn't -- that's -- that's all that's before us.

15 MRS. NELSON: No, Your Honor. Their conclusion
16 was that her advertisement, because she doesn't comply
17 with this requirement, is misleading. Because she is
18 misleading the public by -- by letting the public believe
19 that she is in conformance with the requirements of law,
20 when in fact she is not.

21 QUESTION: Can you read the finding on which
22 you're relying that says just that?

23 MRS. NELSON: It says in the Joint Appendix --

24 QUESTION: This is a finding as distinguished
25 from a charge.

1 MRS. NELSON: Yes. In the Joint Appendix, in
2 the final order of the Board -- which is found at
3 approximately page 180 and --

4 QUESTION: Approximately?

5 MRS. NELSON: Excuse me. On page 185 of the
6 Joint Appendix it specifically indicates that respondent
7 is unwilling to acquiesce in the requirements of Chapter
8 473 and Chapter 21A, Florida Administrative Code, by
9 complying with those requirements, which are the
10 requirements in Chapter 473. She does not license her
11 firm as a CPA firm.

12 QUESTION: Now --

13 QUESTION: She is -- she is a CPA?

14 MRS. NELSON: Yes, she is, individually.

15 QUESTION: Is there -- in the -- in the view of
16 the Board, is there any way that she can distinguish
17 herself legitimately from a non-CPA? She's an
18 attorney-at-law, she advertises as an attorney-at-law.
19 She is also a CPA. Is there a way that she can present
20 that credential to the public -- that she is in fact a
21 CPA, which is undisputed?

22 MRS. NELSON: There are two answers to that
23 question, Justice Ginsburg. The first is if she licensed
24 her firm, then there would be no problem whatsoever. The
25 second is if her business card indicated Silvia Ibanez,

1 Attorney, CPA, and stopped there, there would also be no
2 problem. The Board has absolutely no problem with the
3 designation of Attorneys and CPA's together. It is her
4 advertisement of her status in conjunction with the
5 unlicensed firm that makes this advertisement misleading.

6 QUESTION: How does it mislead? It seems to me
7 you confuse the Board's power to compel licensing of the
8 firm with the Board's power to prohibit speech because it
9 misleads the public in some detrimental way. How is the
10 public detrimentally misled? Let's assume that she's
11 failed to license her -- her full -- her whole firm. The
12 public sees "CPA." She is a CPA. How has the public been
13 harmed?

14 MRS. NELSON: Because the public is allowed to
15 believe that she can offer these services through the
16 professional association that she is advertising when in
17 fact that is unlawful.

18 QUESTION: Well, the worst that can happen then
19 is that some member of the public calls up and says, I
20 want you to perform an audit function for me. And she
21 says, well, my firm is not licensed as a CPA firm and I
22 can't go that far. I mean, that's the extent of the
23 misleading.

24 If she then goes ahead and says, all right, I
25 will do it, the Board may very well have a complaint for

1 her failure to conform to the Board's regulations by -- by
2 registering the firm. But I -- the extent of the possible
3 misleading of the public in your answer, it seems to me,
4 is -- is in the suggestion that might lead them to call
5 her up and get a "no" answer.

6 MRS. NELSON: Your Honor, there are two answers
7 to that. The first is that the disclaimer that she may
8 give by telephone is not in conjunction with the
9 advertisement itself. And the public has already had to
10 take the step to either call her or go to her office.

11 QUESTION: No. But I think my point was that
12 what you call misleading does not run a very high risk of
13 anybody being seriously misled in any way that's going to
14 harm them unless she goes a further step and starts
15 performing acts which she is not -- which she is not
16 licensed to do.

17 And your claim is not that she has performed
18 acts, but simply that the advertising is misleading.

19 MRS. NELSON: Your Honor, any time that she
20 performs any of the services which fit within the
21 definition of public accounting, which she has indicated
22 she does perform through this firm, she is committing an
23 unlawful act. And the public is misled by believing that
24 they can obtain and do obtain --

25 QUESTION: But you said she could have on her

1 card Attorney, CPA. That's what a member of the public
2 sees.

3 MRS. NELSON: Yes.

4 QUESTION: Now, what is it that a member of the
5 public would see differently from her current card than it
6 would see -- I mean, if it gets Attorney, CPA, it's still
7 going to have the problem with it, well, a CPA can audit,
8 so I'll call her up and ask her to audit. I don't see the
9 difference from the public perception in a card that says
10 Attorney, CPA, and a card that says what this card says,
11 in terms of misleading or deception of the public.

12 MRS. NELSON: Because the public is led to
13 believe that she can provide these services through the
14 P.A., which she in fact cannot do.

15 QUESTION: Through the?

16 MRS. NELSON: Through the professional
17 association. And the professional association --

18 QUESTION: My, that's a very refined misleading.
19 The public is going to think that she can provide the
20 services through the association instead of individually.
21 And this is what the Board is protecting the public
22 against?

23 MRS. NELSON: Yes. Because there are
24 ramifications that attach to providing your services as a
25 sole proprietor that are different than those from

1 providing your services --

2 QUESTION: Do I understand this, to be sure, the
3 card I guess is at page five of the Joint Appendix and it
4 gives her name and her -- her degrees and so forth, and
5 then says law offices, and then Silvia S. Ibanez, P.A.
6 Now, if after the words "law offices," there were a
7 parenthesis, and said not engaged in public accounting,
8 parenthesis, then you'd have no problem?

9 MRS. NELSON: That would not be a truthful
10 statement, because the Board found that she was in fact
11 practicing public accounting.

12 QUESTION: You are engaged in accounting if you
13 are -- if you are -- if you are an accountant and practice
14 law?

15 MRS. NELSON: If you provide accounting services
16 and --

17 QUESTION: Well, not distinctively accounting
18 services, whatever the Board chooses to define as
19 accounting services -- if you do those acts and are an
20 accountant.

21 MRS. NELSON: Using accounting skills, and you
22 hold yourself out as P.A. and CPA.

23 QUESTION: I suppose the Board could say that
24 just addition and subtraction are accounting skills and
25 that anyone who performs addition and attraction and has a

1 CPA is practicing accounting if it wants?

2 MRS. NELSON: I don't think there's been any
3 interpretation --

4 QUESTION: It hasn't moved to that yet?

5 MRS. NELSON: No, it has not.

6 (Laughter.)

7 QUESTION: So, where -- so, where we are is
8 this: If John Doe, who is an attorney and not an
9 accountant, and has simply advertises that he's an
10 attorney, does exactly what Ms. Ibanez is doing, the Board
11 has no problem?

12 MRS. NELSON: None at all.

13 QUESTION: All right. But the minute you have a
14 double qualification and you advise the public that you
15 are also a CPA, then that's prohibited?

16 MRS. NELSON: Only if you do so in terms of
17 providing those services through an entity that it not
18 licensed if that entity needs to be licensed.

19 QUESTION: So -- so, what you are accomplishing
20 in order to protect the public is not allowing her to
21 disclose her additional qualification?

22 MRS. NELSON: No, she may --

23 QUESTION: And your position is: that protects
24 the public?

25 MRS. NELSON: She may disclose her additional

1 qualification if she complies with the other requirements
2 of Chapter 473, which she has chosen not to do.

3 QUESTION: And those other requirements are to
4 get a license for the firm?

5 MRS. NELSON: Yes.

6 QUESTION: Well, she -- as I -- I'm sorry --

7 QUESTION: What is entailed in getting a license
8 for the firm? I mean, are there qualification
9 examinations for the firm that are different from her
10 individually?

11 MRS. NELSON: She has to submit an application,
12 pay a fee of \$150, and she has to provide proof of
13 insurance for the professional service corporation. Which
14 she does not have to do individual.

15 QUESTION: Does an individual seeking a CPA
16 license have to provide proof of insurance?

17 MRS. NELSON: No, they do not.

18 QUESTION: I take it, under no circumstance is
19 she -- could she add the CFP designation, because, as I
20 understand it, one of the regs is that one may not add any
21 term -- and I presume any abbreviation indicating a term
22 -- with the word "certified" on it if the certification is
23 not a State certification? So, the -- the prohibition on
24 that, I take it, is absolute?

25 MRS. NELSON: The prohibition there is only in

1 conjunction with the CPA designation.

2 QUESTION: Yes, yes.

3 MRS. NELSON: It is not -- and that is the only
4 time that it comes into play.

5 QUESTION: But I mean that's -- that's the --
6 that's the only way she wants to use it. So, if she holds
7 herself out as a CPA, assuming she may otherwise do that,
8 I take it there are no circumstances in which she could
9 also add CFP?

10 MRS. NELSON: No, that is not true, Your Honor.
11 The rule specifically indicates that if she were to seek
12 approval from the Board to do so, and the Board were to
13 grant that approval, she could certainly do it.

14 QUESTION: But I --

15 MRS. NELSON: The Board has also --

16 QUESTION: I thought that was under a separate
17 section. I don't have it in front of me.

18 MRS. NELSON: No.

19 QUESTION: That -- that applies to the -- to the
20 prohibition against using the term "certify"?

21 MRS. NELSON: Yes, Your Honor, it does. It's on
22 page 209 of the Joint Appendix. And the -- the Board --

23 QUESTION: And which -- which section is the
24 provision for Board approval of a deviation here? Is that
25 under (g)?

1 QUESTION: (i).

2 MRS. NELSON: Actually, it's a combination; (i)
3 is the one that specifically talks in terms of the term
4 "certified." The Board order, however, made it very clear
5 that since 1982, the Board had interpreted that section as
6 being a specialty designation that if someone sought
7 approval from the Board, they may be allowed to do so.

8 In fact, no organization --

9 QUESTION: How has the Board made this known?
10 Is it in a separate reg, or informal announcements or
11 what?

12 MRS. NELSON: They have -- they have formal
13 opinions which are available by public record. It was
14 also a finding of fact by the hearing officer in this
15 particular case. I think it may be provided through their
16 newsletters, which are required to be --

17 QUESTION: Is -- is -- does the record -- excuse
18 me -- does the record contain any citation to any formal
19 opinion in which it -- the Board has indicated that (i) is
20 subject to this dispensation?

21 MRS. NELSON: Yes. And the hearing officer so
22 found --

23 QUESTION: It is --

24 MRS. NELSON: There are multiple opinions by the
25 Board.

1 QUESTION: But does the -- does the hearing
2 officer's finding cite one of the -- the letter rulings?
3 I -- I don't want to take a lot of your time if you're not
4 sure.

5 MRS. NELSON: I do not believe that they
6 specifically cite an individual opinion. But they do make
7 the specific finding that the Board has, since 1982, taken
8 that position. And there were multiple exhibits in this
9 case which were formal opinions of the Board that were
10 submitted both by Ms. Ibanez and by intervenors in the
11 rule challenge case.

12 In this particular instance, there has been no
13 effort by either the parent organization or by Ms. Ibanez
14 to seek approval by the Board. In addition, the Board --
15 the Board's opinions have indicated that this is also
16 treated as a specialty designation in many instances, and
17 a disclaimer is available for specialty designations,
18 which would indicate that this is not a specialty that is
19 granted by a govern -- or affiliated with a government
20 entity, whether State or Federal.

21 In this particular instance, Ms. Ibanez's
22 advertisement does not have the approval of the Board, nor
23 does it have the disclaimer that is required under the
24 rule. This --

25 QUESTION: Are you suggesting that had there

1 been a -- the disclaimer, which you see as required under
2 the rule, she would have been in compliance?

3 MRS. NELSON: I think there's a great
4 possibility that would be the case. She should seek
5 approval from the Board directly, but I think if there had
6 been the disclaimer, we would not be here.

7 QUESTION: Well, but if you look at the rule --
8 the regulation -- on its face, it says in (i) that use of
9 the word "certified" is prohibited.

10 MRS. NELSON: Because of the confusion that is
11 created with the use of the word "certified."

12 QUESTION: Okay. But I mean, you're -- you're
13 here today telling us, don't pay any attention to what the
14 regulation says, because maybe she could have done
15 something else, and maybe the board would have authorized
16 it. Is that what I'm hearing you saying?

17 MRS. NELSON: No, Your Honor. What I'm saying
18 --

19 QUESTION: I mean, the Board seem -- the -- the
20 regulation seems clear on its face as a ban.

21 MRS. NELSON: Yes, Your Honor. However, the
22 Board has interpreted that these other avenues are
23 available to her, and those interpretations are available
24 to the public. I do think, however, that it could be
25 banned in this particular instance because of the

1 confusion that can be generated by the use of exactly the
2 same term in certified public accounting, which connotes
3 State licensure, and the term "certified" in certified
4 financial planner, which has no government affiliation.

5 And unlike the situation that was presented to
6 this Court in Peel, there is no indication on the
7 advertisement at all as to who grants the CFP designation.
8 At least in Peel you had the designating authority or
9 designating agency revealed to the public. In this case,
10 the only member of the public who testified at all
11 regarding the CFP had no idea what it was.

12 So, there was absolutely no public knowledge
13 that was demonstrated --

14 QUESTION: Well, that can't be misleading then.
15 I mean, if I don't know what it means, I'm not being
16 misled.

17 (Laughter.)

18 QUESTION: The only -- the only person who is --
19 how can you possibly be misled if you have no idea what it
20 means?

21 MRS. NELSON: I think that while that person
22 didn't know what it was, I think there is still the
23 potential there, at least a potential there, that it is
24 misleading because they clearly knew what certified meant
25 in terms of a certified public accountant. They just

1 didn't know what CFP meant.

2 QUESTION: But her card doesn't say "certified,"
3 it says "C."

4 QUESTION: "C," they don't know what "C" --

5 QUESTION: Maybe that means College of something
6 or other.

7 (Laughter.)

8 QUESTION: Could somebody who is in an
9 accounting firm advertise -- and let's assume it's
10 truthful -- on the card, in the yellow pages, J.D.?

11 MRS. NELSON: Yes.

12 QUESTION: This is somebody who is in a firm
13 that's qualified to do audit and attest and all the rest,
14 and that person has whatever is the designation of the
15 accounting firm and then J.D.

16 MRS. NELSON: That is perfectly permissible.

17 QUESTION: And that's -- well, you don't care
18 because that's another profession and you don't care about
19 it?

20 MRS. NELSON: The Board does not seek to
21 regulate the practice of attorneys.

22 QUESTION: May I just go back to an earlier
23 question? Assuming just for the sake of argument -- and
24 maybe more than just for the sake of argument -- that the
25 Board has these interests and that some of the objectives

1 are perfectly legitimate, why isn't the Board sufficiently
2 and why isn't the public sufficiently protected if the
3 Board simply proceeds to revoke the CPA license of the
4 person who does not abide by the rules?

5 MRS. NELSON: I think the public would be
6 protected in that particular instance. And the proper
7 course in this case would have been to charge her with
8 both.

9 QUESTION: So, you can -- you can accomplish
10 everything you claim that you ought to be able to
11 accomplish without regulating speech.

12 MRS. NELSON: Not entirely, because -- because
13 of the very definition of the practice of public
14 accounting, as it is defined in Florida -- and Ms. Ibanez
15 has not challenged that definition --

16 QUESTION: Well, who cares about definitions if
17 she is not using the term "CPA"? I mean, if you are -- if
18 the Board is correct and the Board revokes her CPA
19 license, and she stops using CPA because she is no longer
20 is one, then why -- why does -- why does an abstract
21 interest in definitional matters help the public one way
22 or the other?

23 The fact is, you can accomplish as much public
24 protection by going after the CPA license as you can
25 possibly accomplish even on the rosiest First Amendment

1 view to you of trying to regulate speech.

2 MRS. NELSON: If in fact -- if in fact her
3 license was revoked and she quit using the title, then
4 yes, that interest would be served.

5 QUESTION: And if she didn't quit using the
6 title and she was no longer a CPA, you would have a very
7 different First Amendment case, wouldn't you?

8 MRS. NELSON: Yes, we would.

9 QUESTION: May I ask the question about the
10 insurance requirement for if you practice as a
11 professional corporation?

12 MRS. NELSON: Yes.

13 QUESTION: Is it different for a lawyer who
14 practices as a professional corporation? Does the Florida
15 Bar require insurance and so forth?

16 MRS. NELSON: I have no idea.

17 QUESTION: You don't?

18 MRS. NELSON: Working for State government, I
19 don't have --

20 QUESTION: I just wonder if -- if the insurance
21 policy she had with the -- with the -- to protect her from
22 legal malpractice would have been adequate to satisfy your
23 insurance requirement to also say you're a CPA even though
24 you're not practicing accounting.

25 MRS. NELSON: As I indicated, I don't know what

1 the requirements are under the Florida bar.

2 QUESTION: I see.

3 MRS. NELSON: However, the fact would remain
4 that even if she had that insurance for the purposes of
5 her law practice, the Board would never have that
6 assurance unless she actually submitted an application and
7 provided that information to them.

8 QUESTION: Yes.

9 MRS. NELSON: And they would therefore not be
10 performing their regulatory function.

11 If the Court has no other questions, we would --

12 QUESTION: Thank you, Mrs. Nelson.

13 Ms. Ibanez, you have four minutes remaining.

14 Could you tell us how one does go about getting
15 a CFP?

16 REBUTTAL ARGUMENT OF SILVIA S. IBANEZ

17 ON BEHALF OF THE PETITIONER

18 MS. IBANEZ: Yes, Mr. Chief Justice.

19 There is a comprehensive examination over
20 several days' time. There are educational requirements
21 and components.

22 QUESTION: What is the organization that gives
23 the designation?

24 MS. IBANEZ: It was called, up until February,
25 the IBCFP. It has undergone a name change. It is now

1 called the Certified Financial Planning Board of
2 Standards. And the Certified Financial Planning Board of
3 Standards has a coordination with multiple universities
4 and colleges and institutions of higher education across
5 the United States -- I believe, according to their amicus
6 brief, over 50 at this point -- that, in coordination with
7 the universities, there is an educational component and,
8 at the end of all the educational requirements having been
9 met, then there is a certification component.

10 The Certified Financial Planning Board is a
11 national licensing nonprofit body. It has a Federal
12 trademark over the use of CFP and over the use of
13 certified financial planner. And there are a code of
14 ethics to comply with, which are also in the record --
15 were submitted in the disciplinary hearing, a strict code
16 of ethics. There are also continuing education
17 requirements to ensure that the CFP licensee continues to
18 stay up to date and continues to stay informed.

19 QUESTION: Is -- is your failure to have a CPA
20 license for your firm and to comply with CPA requirement
21 -- i.e., insurance -- an issue that's before this Court
22 and that's before the Board in its proceedings?

23 MS. IBANEZ: No, Your Honor, it's not an issue
24 before this Court.

25 QUESTION: Was it an issue before the Board?

1 MS. IBANEZ: No, Your Honor. Those are
2 hypothetical situations that could have been confronted in
3 this case.

4 QUESTION: So, the Board's order was not
5 predicated on your failure to comply with requirements for
6 CPA's?

7 MS. IBANEZ: As I understand it, no, Your Honor.
8 They also made reference to forgoing certain
9 remuneration. That was also hypothetical -- at the same
10 record page that Counselor Nelson already cited to. These
11 were hypothetical.

12 In the footnote to that same record reference it
13 said, it could have simply charged Petitioner. Indeed,
14 why did it not?

15 In such a confrontation there would have been
16 some complex regulatory determinations. And the Florida
17 Bar's conflict with the rules, and the CPA Board's rules.
18 And out of that there would have been some -- some, I'm
19 sure, some rationale. But that did not happen in this
20 case.

21 That is another case for another day. It is not
22 the case before the Court today.

23 The Court was asking about accounting skills.
24 If I may make reference to one of the informal opinions
25 that is available, and the Court may make public notice,

1 in 1991, early 1991, CPA Price, business owner, sole
2 business owner of a beauty salon, asked if she could use
3 CPA. She was denied. She was told because she offered
4 services to the public and uses accounting skills, the
5 beauty salon could be engaged in the practice of public
6 accounting.

7 Your Honor, this shows that this is an absolute
8 ban. This -- this poor woman -- this CPA business owner,
9 who is owning her own shop and is indeed licensed, was
10 told she could not use it.

11 Petitioner is duly licensed as a CPA and is duly
12 licensed as a CFP. She has not refused in any way, shape
13 or form to comply. There is only one thing she's refused
14 to do. She refuses to refrain from exercising her First
15 Amendment rights.

16 If there are no further questions, may it please
17 the Court.

18 CHIEF JUSTICE REHNQUIST: Thank you, Ms. Ibanez.

19 The case is submitted.

20 (Whereupon, at 11:03 a.m., the case in the
21 above-entitled matter was submitted.)

CERTIFICATION

Alderson Reporting Company, Inc., hereby certifies that the attached pages represents an accurate transcription of electronic sound recording of the oral argument before the Supreme Court of The United States in the Matter of:

SILVIA S. IBANEZ, Petitioner v. FLORIDA DEPARTMENT OF PROFESSIONAL REGULATION, BOARD OF ACCOUNTANCY, Respondent.

CASE NO.: 93-639

and that these attached pages constitutes the original transcript of the proceedings for the records of the court.

BY *Ann Marie Federico*

(REPORTER)

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