

**UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 57165 / January 17, 2008**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 2768 / January 17, 2008**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-12932**

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In the Matter of	:	
MARK E. SULLIVAN,	:	ORDER INSTITUTING ADMINISTRATIVE PROCEEDINGS PURSUANT TO RULE 102(e) OF THE COMMISSION'S RULES OF PRACTICE, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS
Respondent.	:	
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**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted against Mark E. Sullivan (“Respondent” or “Sullivan”) pursuant to Rule 102(e)(3)(i) of the Commission’s Rules of Practice.<sup>1</sup>

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the

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<sup>1</sup> Rule 102(e)(3)(i) provides, in relevant part, that:

The Commission, with due regard to the public interest and without preliminary hearing, may, by order, . . . suspend from appearing or practicing before it any . . . accountant . . . who has been by name . . . permanently enjoined by any court of competent jurisdiction, by reason of his or her misconduct in an action brought by the Commission, from violating or aiding and abetting the violation of any provision of the Federal securities laws or of the rules and regulations thereunder.

purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, and the findings contained in Section III (3) below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions ("Order"), as set forth below.

### III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

1. Sullivan, age 46, was a certified public accountant licensed to practice in the Commonwealth of Massachusetts from 1986 to 1993. He served as Director of World-Wide operations for Applix , Inc. ("Applix") from 2001 to 2006.

2. Applix was, at all relevant times, a Massachusetts corporation with its principal place of business in Westborough, Massachusetts. Applix was engaged in the business of developing and distributing enterprise management software. At all relevant times, Applix's common stock was registered with the Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act"), and traded on the NASDAQ SmallCap Market.

3. On January 9, 2008, a final judgment was entered against Sullivan, permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933, Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5 and 13b2-1 thereunder, and aiding and abetting violations of Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, 13a-11 and 13a-13 thereunder, in the civil action entitled Securities and Exchange Commission v. Alan C. Goldsworthy et. al, Civil Action Number 06 CV 10012 JGD, in the United States District Court for the District of Massachusetts. Sullivan was also ordered to pay a \$25,000 civil money penalty.

4. The Commission's complaint alleged, among other things, that Sullivan, with the former CEO and former CFO of Applix, engaged in a fraudulent scheme which resulted in Applix filing materially false and misleading financial statements in the company's annual report on Form 10-K for the fiscal year ended December 31, 2001, in the company's quarterly reports on Form 10-Q for the first three quarters of fiscal year 2002, in an S-8 registration statement filed on July 25, 2002 and a Form 8-K filed February 5, 2003. The Complaint alleged that Sullivan engaged in improper accounting practices that materially increased Applix's annual and quarterly revenue and decreased its net loss in a departure from generally accepted accounting principles ("GAAP"). These practices included, among other things, prematurely recognizing revenue on the sale of a not-yet available products and prematurely recognizing revenue on a sale as to which there was a right of return.

#### **IV.**

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanction agreed to in Respondent Sullivan's Offer.

Accordingly, it is hereby ORDERED, effective immediately, that:

A. Sullivan is suspended from appearing or practicing before the Commission as an accountant.

B. After three years from the date of this order, Respondent may request that the Commission consider his reinstatement by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as:

1. a preparer or reviewer, or a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission. Such an application must satisfy the Commission that Respondent's work in his practice before the Commission will be reviewed either by the independent audit committee of the public company for which he works or in some other acceptable manner, as long as he practices before the Commission in this capacity; and/or

2. an independent accountant. Such an application must satisfy the Commission that:

(a) Respondent, or the public accounting firm with which he is associated, is registered with the Public Company Accounting Oversight Board ("Board") in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;

(b) Respondent, or the registered public accounting firm with which he is associated, has been inspected by the Board and that inspection did not identify any criticisms of or potential defects in the respondent's or the firm's quality control system that would indicate that the respondent will not receive appropriate supervision;

(c) Respondent has resolved all disciplinary issues with the Board, and has complied with all terms and conditions of any sanctions imposed by the Board (other than reinstatement by the Commission); and

(d) Respondent acknowledges his responsibility, as long as Respondent appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the Board, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

C. The Commission will consider an application by Respondent to resume appearing or practicing before the Commission provided that his state CPA license is current and he has resolved all other disciplinary issues with the applicable state boards of

accountancy. However, if state licensure is dependent on reinstatement by the Commission, the Commission will consider an application on its other merits. The Commission's review may include consideration of, in addition to the matters referenced above, any other matters relating to Respondent's character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

By the Commission.

Nancy M. Morris  
Secretary