

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 53334 / February 17, 2006

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 2378 / February 17, 2006

ADMINISTRATIVE PROCEEDING
File No. 3-10528

In the Matter of
Scott K. Barton, CPA

: ORDER GRANTING APPLICATION FOR
: REINSTATEMENT TO APPEAR AND PRACTICE
: BEFORE THE COMMISSION AS AN ACCOUNTANT
: RESPONSIBLE FOR THE PREPARATION OR
: REVIEW OF FINANCIAL STATEMENTS REQUIRED
: TO BE FILED WITH THE COMMISSION

On July 2, 2001, Scott K. Barton ("Barton") was suspended from appearing or practicing as an accountant before the Commission as a result of settled public administrative proceedings instituted by the Commission against Barton pursuant to Rule 102(e) of the Commission's Rules of Practice.¹ Barton consented to the entry of the findings, and imposition of the remedial sanctions set forth in the July 2, 2001 order, without admitting or denying the findings. Barton also settled an injunctive action on which the 102(e) proceeding was based.

From 1981 through August 1996, Barton was employed as Controller of Paracelsus Healthcare Corporation ("Paracelsus"). The Commission alleged, in its injunctive action, that Barton participated in misconduct by which Paracelsus inflated its quarterly and annual earnings in filings with the Commission from at least 1993 through August 1996. Specifically, the Commission alleged that Barton and others created and used "cookie jar" reserves which were inappropriate under generally accepted accounting principles ("GAAP") because no probable and reasonably estimable exposures justified their creation, and because their later decrease artificially boosted Paracelsus' earnings and concealed a decline in earnings. Additionally, the

¹ See Accounting and Auditing Enforcement Release No. 1417, dated July 2, 2001.

Rule 102(e)(5)(i) provides:

"An application for reinstatement of a person permanently suspended or disqualified under paragraph (e)(1) or (e)(3) of this section may be made at any time, and the applicant may, in the Commission's discretion, be afforded a hearing; however, the suspension or disqualification shall continue unless and until the applicant has been reinstated by the Commission for good cause shown." 17 C.F.R. § 201.102(e)(5)(i).

Commission alleged that Barton and others failed to disclose all material facts regarding the misconduct to Paracelsus' auditors.

This order is issued in response to Barton's application for reinstatement to practice before the Commission as an accountant responsible for the preparation or review of financial statements required to be filed with the Commission.

In any future capacity as a preparer or reviewer, or a person responsible for the preparation or review of financial statements required to be filed with the Commission, Barton has stated that he will have his work reviewed by the independent audit committee of any company for which he works, or in some other manner acceptable to the Commission, while practicing before the Commission in this capacity. Barton is not, at this time, seeking to appear or practice before the Commission as an independent accountant. If he should wish to resume appearing and practicing before the Commission as an independent accountant, he will be required to submit an application to the Commission showing that he has complied and will continue to comply with the terms of the original suspension order in this regard. Therefore, Barton's suspension from practice before the Commission as an independent accountant continues in effect until the Commission determines that a sufficient showing has been made in this regard in accordance with the terms of the original suspension order.

Rule 102(e)(5) of the Commission's Rules of Practice governs applications for reinstatement, and provides that the Commission may reinstate the privilege to appear and practice before the Commission "for good cause shown." This "good cause" determination is necessarily highly fact specific.

On the basis of information supplied, representations made, and undertakings agreed to by Barton, it appears that he has complied with the terms of the July 2, 2001 order suspending him from appearing or practicing before the Commission as an accountant, that no information has come to the attention of the Commission relating to his character, integrity, professional conduct or qualifications to practice before the Commission that would be a basis for adverse action against him pursuant to Rule 102(e) of the Commission's Rules of Practice, and that Barton, by undertaking to have his work reviewed by the independent audit committee of any company for which he works, or in some other manner acceptable to the Commission, in his practice before the Commission as a preparer or reviewer of financial statements required to be filed with the Commission, has shown good cause for reinstatement. Therefore, it is accordingly,

ORDERED pursuant to Rule 102(e)(5)(i) of the Commission's Rules of Practice that Scott K. Barton, CPA is hereby reinstated to appear and practice before the Commission as an accountant responsible for the preparation or review of financial statements required to be filed with the Commission.

By the Commission.

Nancy M. Morris
Secretary