

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 58553 / September 16, 2008**

**ACCOUNTING AND AUDITING ENFORFCEMENT**  
**Release No. 2880 / September 16, 2008**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-13200**

<b>In the Matter of</b>	:	
<b>Nancy R. Heinen,</b>	:	<b>ORDER INSTITUTING ADMINISTRATIVE</b>
<b>Respondent.</b>	:	<b>PROCEEDINGS PURSUANT TO RULE 102(e)</b>
	:	<b>OF THE COMMISSION’S RULES OF</b>
	:	<b>PRACTICE, MAKING FINDINGS, AND</b>
	:	<b>IMPOSING REMEDIAL SANCTIONS</b>
	:	
	:	

**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 Nancy R. Heinen (“Heinen” or “Respondent”) 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 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 her and the subject matter of these proceedings, and the findings contained in Section III. Paragraph 4 below, which are

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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 attorney . . . 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.

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. Heinen, age 51, is an attorney licensed to practice in California. From September 1997 through May 2006, Heinen was Senior Vice President, General Counsel and Corporate Secretary of Apple, Inc. ("Apple").

2. Apple was, at all relevant times, a Delaware corporation headquartered in Cupertino, California that designed, developed and manufactured personal computers, portable digital music players, and related products. At all relevant times, Apple's common stock was registered with the Commission pursuant to Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and was listed on the NASDAQ National Market.

3. On April 24, 2007, the Commission filed a Complaint against Heinen in the United States District Court for the Northern District of California, entitled *SEC v. Nancy R. Heinen* (Civil Action No. 5:07-cv-02214-JF). On May 16, 2007, the Commission filed an Amended Complaint in that action.

4. On August 26, 2008, the court entered an order permanently enjoining Heinen, by consent, from future violations of Section 17(a) of the Securities Act of 1933 ("Securities Act") and Sections 10(b), 13(b)(5), and 16(a) of the Exchange Act and Rules 10b-5, 13b2-1, 13b2-2 and 16a-3 thereunder, and from aiding and abetting violations of Sections 13(a), 13(b)(2)(A), 13(b)(2)(B), and 14(a) of the Exchange Act and Rules 12b-20, 13a-1, 13a-13, and 14a-9 thereunder. Heinen was also ordered to pay \$1,575,000 in disgorgement, plus \$400,219.78 in prejudgment interest; and a \$200,000 civil money penalty.

5. The Commission's Amended Complaint alleged, among other things, that on two occasions in 2001 Apple issued large stock options grants to top executives at the company, but in each case improperly backdated the grants to make it appear that they had been made at an earlier date, when Apple's stock price was lower. As a result, the Amended Complaint alleged, Apple failed to recognize and thereby concealed from investors millions of dollars of expenses related to the issuance of the options. The Amended Complaint alleged that Heinen, as Apple's General Counsel and Corporate Secretary, participated in causing the options to be backdated and in preparing corporate records that concealed the backdating. In addition, the Amended Complaint alleged, Heinen received options on 400,000 shares of Apple stock in one of the backdated grants, and thus personally benefited from the backdating.

### IV.

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

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

Heinen is suspended from appearing or practicing before the Commission as an attorney for three (3) years. Furthermore, before appearing and resuming practice before the Commission, Heinen must submit an affidavit to the Commission's Office of General Counsel truthfully stating, under penalty of perjury, that she has complied with the Order; that she is not the subject of any suspension or disbarment as an attorney by a court of the United States or of any state, territory, district, commonwealth, or possession; and that she has not been convicted of a felony or misdemeanor involving moral turpitude as set forth in Rule 102(e)(2) of the Commission's Rules of Practice.

By the Commission.

Florence E. Harmon  
Acting Secretary