

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. Hurley, age 36, was a certified public accountant licensed in the State of Massachusetts. He was employed as the assistant controller of Enterasys Networks, Inc. ("Enterasys") from October 1998 through November 2002.²

2. Enterasys was headquartered in New Hampshire and engaged in the business of providing telecommunications switches and related products. Its stock was registered with the Commission and listed on the New York Stock Exchange. Accordingly, Enterasys filed periodic reports with the Commission containing consolidated financial statements.³

3. On February 6, 2007, in the civil action entitled Securities and Exchange Commission v. Anthony L. Hurley, Civil Action Number 07cv022, in the United States District Court for the District of New Hampshire, a final judgment was entered against Hurley, permanently enjoining him from future violations of Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13b2-1 and 13b2-2 thereunder, and from 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 and 13a-13 thereunder. Hurley was also ordered to pay \$24,498 in disgorgement of ill-gotten gains from his sales of stock and bonuses while participating in the fraud, as well as \$7,526 in prejudgment interest.

4. The Commission's complaint alleged that Hurley and others engaged in a fraudulent scheme which resulted in Enterasys reporting inflated revenues for periods in 2000 and 2001. The Commission alleged, among other things, that Enterasys improperly recognized

² Enterasys was a wholly-owned subsidiary of Cabletron Systems, Inc. ("Cabletron") from February 2000 to August 6, 2001, at which time Enterasys merged into, and became successor to, Cabletron. As used in this Order, "Enterasys" refers to Cabletron (prior to the merger) and Enterasys (after the merger).

³ Enterasys became a private company on March 1, 2006, following its acquisition by two limited liability companies. On the same day, it filed a Form 15 with the Commission terminating the registration of its common stock under Section 12 of the Exchange Act. On March 2, 2006, Enterasys was delisted from the New York Stock Exchange.

revenues from sales tied to investment transactions that lacked economic substance. It contended that Enterasys funded the purchase of its own products by purchasing equity interests in other companies that used the investment proceeds to pay for Enterasys products. The Commission alleged that Hurley knowingly participated in the fraudulent scheme by allowing Enterasys to improperly recognize revenue and by misrepresenting material information to or concealing material information from Enterasys' outside auditors.

IV.

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

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

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

B. After five 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 dependant 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