

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 53445 / March 8, 2006

Administrative Proceeding  
File No. 3-11914

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In the Matter of	:	Order Directing Appointment
	:	of Tax Administrator
Gerald T. Malone	:	
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By order dated April 28, 2005, the Commission ordered respondent Gerald T. Malone (“Malone”) to pay disgorgement and penalties. Pursuant to that order, on May 3, 2005, Respondent Malone paid a total of \$150,001 of disgorgement and penalty to the Commission (the “Distribution Fund”). The Commission has solicited proposals from several tax firms, and has determined that Damasco & Associates, located in San Francisco, California, is best suited to act as tax administrator in this proceeding.

Accordingly,

IT IS ORDERED that:

- A. Pursuant to Rule 1105(a) of the Commission’s Rules on Fair Fund and Disgorgement Plans, Damasco & Associates be appointed as tax administrator (the “Tax Administrator”) for the Distribution Fund with limited authority and power to: (1) act as the administrator for tax purposes for the qualified settlement fund (“QSF”); (2) prepare, sign, and file the necessary tax returns and tax-related documents for the Distribution Fund; (3) obtain the necessary tax-related documents and identifiers, such as an employee identification number, on behalf of the Distribution Fund; (4) perform other tax-related and reporting duties on behalf of the Funds as required by Department of the Treasury regulations relating to QSF administrators; and (5) communicate on behalf of the Distribution Fund on matters set forth in this paragraph.
  
- B. The bond requirement of Rule 1105(c) of the Commission’s Rules on Fair Fund and Disgorgement Plans is waived for good cause shown, specifically, as further described below, because the Tax Administrator shall never have custody or control of the Distribution Fund;

- C. The Tax Administrator shall submit, at least 30 days prior to any date on which a tax payment is required on behalf of the QSF, or as soon as is practicable, documents showing the amount necessary to satisfy the tax liability of the QSF as well as all other documents supporting such amount. The Tax Administrator shall submit the documents to the Office of Financial Management (“OFM”), Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312, with a copy to the assigned staff member. OFM shall pay the amount of the documented taxes to the Tax Administrator by check or wire transfer from the fund. Such tax payments will come first from any earnings or interest in the QSF, and second, if necessary, from the principal of the QSF. The Tax Administrator, in turn, shall be responsible for paying the taxes to the IRS and the relevant state taxing authority, if any, on behalf of the Distribution Fund.
  
- D. The Tax Administrator shall comply with all reporting requirements applicable to a qualified settlement fund as defined in Treasury Regulations Section 1.468B-1(a), as amended, and shall file on a timely basis all required federal, state, and local tax returns, and shall contemporaneously provide copies of such filings to the assigned Commission staff member.
  
- E. The Tax Administrator shall keep records and bill each QSF for the services provided to it. Each bill shall be reviewed by the assigned Commission staff member. After the staff has approved the bill for payment, OFM shall pay the bill of the Tax Administrator by check or wire transfer from the fund. Payment shall come first from any earnings or interest in the QSF, and second, if necessary, from the principal of the QSF. The fees billed shall be as agreed upon in the Tax Administrator’s engagement letter accepted by the Commission on March 8, 2005.

By the Commission.

Nancy M. Morris  
Secretary