

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Release No. 57444 / March 6, 2008

ACCOUNTING AND AUDITING ENFORCEMENT  
Release No. 2796 / March 6, 2008

ADMINISTRATIVE PROCEEDING  
File No. 3-12984

In the Matter of  
  
RICHARD D. NYE, CPA,  
  
Respondent.

ORDER INSTITUTING PUBLIC  
ADMINISTRATIVE PROCEEDINGS PURSUANT  
TO RULE 102(e) OF THE COMMISSION'S RULES  
OF PRACTICE, MAKING FINDINGS, AND  
IMPOSING REMEDIAL SANCTIONS

**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 Richard D. Nye ("Respondent" or "Nye") 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 Public 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. Respondent Richard D. Nye, age 52, has held a Texas CPA license since 1979. He served as Cornerstone Propane Partners, L.P.'s ("Cornerstone's") vice president of finance and administration from January 1998 until November 2002, and as acting CFO from July 2001 until June 2002.
2. Cornerstone, a Delaware limited partnership, formerly with headquarters in Watsonville, California, was at one time one of the nation's largest propane marketers, and at the time of the alleged conduct discussed herein, its units were traded on the New York Stock Exchange and were registered under Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act").
3. On February 22, 2008, a final judgment was entered against Respondent permanently enjoining him from future violations of 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 and 13a-13 in civil S.E.C. v. Keith Baxter, et. al. (Civil Action 05-3843 RMW, N.D. Cal.). Respondent was ordered to pay a \$25,000 civil money penalty and was barred as an officer or director of a public company for three years.
4. The Commission's complaint alleged, among other things, that Respondent signed public filings for Cornerstone during 2000 and 2001, including the Form 10-K for 2000 and three Forms 10-Q for 2001. The complaint alleged that he knew or was reckless in not knowing the public filings at issue failed to conform with Generally Accepted Accounting Principles ("GAAP"). The complaint further alleged that Cornerstone's subsidiary Coast Energy Group ("CEG") had suffered a comprehensive failure to accurately and timely record transactions on its books and records. The complaint further alleged that as a result Cornerstone's financial statements for the periods at issue were not presented in conformity with GAAP because, among other things, CEG's material transactions had not been properly recorded and the company's accounting records did not accurately reflect CEG's transactions. The complaint further alleged that Cornerstone issued a false press release and Form 10-K for 2001 that included materially false statements regarding the nature and origin of a \$9.8 million write-off associated with Cornerstone's financial statement problems and that Nye knew or was reckless in not knowing that the statements were false.

#### IV.

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

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

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

B. After three years from the date of this Order, Nye 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 Nye'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. Nye, 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. Nye, 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 Nye's or the firm's quality control system that would indicate that Nye will not receive appropriate supervision;

c. Nye 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. Nye acknowledges his responsibility, as long as Nye 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 Nye 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 Nye's character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

By the Commission.

Nancy M. Morris  
Secretary