UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT of 1934
Release No. 53162 / January 20, 2006

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 2367 / January 20, 2006

ADMINISTRATIVE PROCEEDING
File No. 3-12155

In the Matter of

HERBERT J. MORTLAND, CPA and MORTLAND & CO., P.C.,

Respondents.

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 that public administrative proceedings be, and hereby are, instituted against Herbert J. Mortland, CPA ("Mortland") and Mortland & Co., P.C. ("Mortland & Co.") (hereinafter referred to collectively as "Respondents") pursuant to Rule 102(e)(1)(ii) of the Commission's Rules of Practice.[1]

II.

In anticipation of the institution of these proceedings, Respondents have 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 them and the

[1] Rule 102(e)(1)(ii) provides, in pertinent part, that:

> The Commission may . . . deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have engaged in unethical or improper professional conduct.

subject matter of these proceedings, which are admitted, Respondents consent 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 Respondents' Offer, the Commission finds[2] that:

A. SUMMARY

These proceedings arise out of the diversion of approximately $4.5 million of customer funds to pay proprietary trading losses of Rocky Mountain Securities & Investments, Inc. ("Rocky Mountain"), a broker-dealer that became registered with the Commission in 1980 and ceased operations on February 3, 2003. Through the diversion of customer funds, Rocky Mountain violated the net capital, customer reserve, books and records, and notice provisions of the Securities Exchange Act of 1934 ("Exchange Act"). Rocky Mountain also made false filings with the Commission and sent its customers a materially false financial statement.

B. RESPONDENTS

1. Herbert J. Mortland, a certified public accountant licensed in the State of Missouri, is the owner of Mortland & Co., an accounting firm with offices in Clayton, Missouri.

2. Mortland & Co. performed the audit of the financial statements of Rocky Mountain for the fiscal year ended June 30, 2002, and certain supplementary reports, including Rocky Mountain's Computation of Aggregate Indebtedness and Net Capital and Rocky Mountain's Computation of Reserve Requirement (the "2002 audit").

C. FACTS

1. On August 27, 2002, Rocky Mountain filed its June 2002 financial statements and supplementary reports, accompanied by Mortland & Co.'s audit report and supplemental report, with the Commission on Form X-17A-5. Rocky Mountain's financial statements and supplementary reports, and Mortland & Co.'s audit report and supplemental report, were mailed to Rocky Mountain's customers.

2. Mortland & Co.'s audit report contained an unqualified opinion representing that Mortland & Co. had conducted an audit in accordance with Generally Accepted Auditing Standards ("GAAS") and that Rocky Mountain's financial statements fairly presented the financial position and results of operations of Rocky Mountain in all material

[2] The findings herein are made pursuant to Respondents' Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

respects and that those financial statements had been prepared in conformity with Generally Accepted Accounting Principles ("GAAP"). In fact, Mortland & Co. had not conducted the audit in accordance with GAAS and Rocky Mountain's financial statements had not been prepared in conformity with GAAP.

3. At the time Mortland conducted the 2002 audit, he was on notice that securities trading by Rocky Mountain through its proprietary accounts in 2000 had generated approximately $600,000 in losses that were not recorded in Rocky Mountain's books and records, rendering the firm's net capital and customer reserve calculations, among other things, materially inaccurate.

4. Mortland & Co. and Mortland failed to conduct the 2002 audit in accordance with GAAS, as follows:

a. Mortland's audit opinion was based upon his sample review of certain underlying accounting data, but did not take into account conflicting data available to him that would have revealed material discrepancies in the proprietary securities positions reflected in Rocky Mountain's books and records. In performing audit procedures, Mortland also did not consider data available to him that cast doubt on the customer fund balance reflected in Rocky Mountain's books and records.

b. Rocky Mountain's computations of net capital, aggregate indebtedness and customer reserve requirements were materially inaccurate because the firm's books and records reflected materially inaccurate proprietary securities positions and a materially inaccurate balance in the customer funds account. Because of Mortland's audit failures with respect to Rocky Mountain's proprietary securities positions and customer funds account, Mortland failed to detect Rocky Mountain's materially inaccurate computations of net capital, aggregate indebtedness and customer reserve requirements.

c. Mortland & Co.'s supplemental report, referenced in Paragraph III.C.1., represented that Mortland & Co. found no material inadequacies in Rocky Mountain's practices and procedures. Mortland's audit should have, but did not, reveal the material inadequacies existing at Rocky Mountain during the relevant time frame.

d. Mortland had made loans to Rocky Mountain's head securities trader, which remained outstanding during the 2002 audit. The outstanding loans from Mortland to the head trader compromised Mortland's and Mortland & Co.'s independence. Rocky Mountain's unrecorded securities trading losses in 2000 and the resulting obligation of Mortland to conduct the 2002 audit with an appreciation for the heightened level of risk presented by Rocky Mountain's trading department aggravated Mortland's lack of independence.

5. Based on the foregoing, the Commission finds that Mortland & Co. and Mortland engaged in improper professional conduct pursuant to Rule 102(e)(1)(ii) of the Commission's Rules of Practice.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Mortland's and Respondent Mortland & Co.'s Offer.

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

A. Mortland and Mortland & Co. are denied the privilege of appearing or practicing before the Commission as accountants.

B. After three years from the date of this order, Respondent Mortland 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 Mortland'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 Mortland, 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 Mortland, 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 Mortland 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 Mortland acknowledges his responsibility, as long as Respondent Mortland 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. After three years from the date of this order, Respondent Mortland & Co. may request that the Commission consider its reinstatement by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as an independent accountant. Such an application must satisfy the Commission that:

1. Respondent Mortland & Co. 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;

2. Respondent Mortland & Co. has been inspected by the Board and that inspection did not identify any criticisms of or potential defects in the firm's quality control system that would indicate that any of its employees will not receive appropriate supervision;

3. Respondent Mortland & Co. 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

4. Respondent Mortland & Co. acknowledges its responsibility, as long as Respondent Mortland & Co. 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.

D. The Commission will consider an application by Respondents Mortland and/or Mortland & Co. to resume appearing or practicing before the Commission provided that their state CPA licenses are current and they have 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 Respondents' character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

By the Commission.

Nancy M. Morris
Secretary